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Analysis of Judges' Considerations in Marriage Dispensation Applications at the Tilamuta Religious Court

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ABSTRACT

This article analyzes the factors causing marriage dispensation requests and the judges' considerations in granting them at the Tilamuta Religious Court. The issue of marriage dispensation has become important following the change in the marriage age limit through Law Number 16 of 2019, which sets the minimum age at 19 years for men and women. This study uses an empirical juridical method with data collection techniques through observation, interviews, and document studies, then analyzed qualitatively. The results show that there were 322 applications for marriage dispensation at the Tilamuta Religious Court from 2020-2025, with the highest number in 2020 at 124 applications. Factors causing dispensation requests include pregnancy outside of marriage, concerns about adultery, and promiscuity. The judges' considerations in granting the request include legal and sociological aspects, including urgent reasons, supporting evidence, the child's physical and mental readiness, the opinions of the prospective bride and groom, and the socio-psychological impact if the request is granted or rejected. This article emphasizes that marriage dispensation should be positioned as a strict exception mechanism, not a path to normalizing child marriage.

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1. Introduction

Marriage in Indonesian law is understood as a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Almighty God [1]. This goal requires physical, psychological, social, and economic maturity of the prospective bride and groom. Therefore, limiting the age of marriage is an important instrument to prevent child marriage and protect children's rights from health, educational, economic, and psychological risks.

Amendments to the Marriage Law through Law Number 16 of 2019 raised the minimum age for marriage to 19 for both men and women [2]. This change aims to strengthen child protection and gender equality. However, the law still allows for marriage dispensations if there are compelling reasons accompanied by sufficient supporting evidence. Submissions for marriage dispensations then become a legal mechanism that must be carefully examined by judges to prevent them from becoming legitimate child marriages.

Data from the Tilamuta Religious Court shows 322 applications for marriage dispensation from 2020 to February 2025. In 2020, there were 124 applications, in 2021 76, in 2022 38, in 2023 35, in 2024 39, and 10 applications from January to February 2025. This data demonstrates that marriage dispensation remains a relevant legal and social phenomenon in the Tilamuta region. Although the number of applications decreased after 2020, a resurgence in 2024 indicates that the social factors causing child marriage have not been fully addressed.

Previous research has largely discussed marriage dispensation from a normative perspective, particularly the legal basis and application of Supreme Court Regulation No. 5 of 2019. However, empirical research is needed to examine how the factors driving applications and judges' considerations operate in local practice at the Tilamuta Religious Court. The novelty of this article lies in the use of application data from 2020-2025 and an analysis of judges' considerations from both a legal and sociological perspective. Thus, this article not only examines norms but also assesses how these norms are applied to the social reality of children and families.

Based on the background above, the problem formulation in this research is:

1. What are the factors causing the application for marriage dispensation at the Tilamuta Religious Court?
2. What are the judge's considerations in granting a marriage dispensation request at the Tilamuta Religious Court?

In line with the problem formulation above, the purpose of this research is to analyze the causal factors and considerations of judges in marriage dispensation cases. This article's contribution is expected to strengthen family law studies and provide input so that marriage dispensation examinations remain oriented toward the best interests of the child.

2. Research Methods

This study uses an empirical juridical legal research method. The juridical approach is used to analyze the Marriage Law, the Compilation of Islamic Law, the Child Protection Law, the Judicial Power Law, and Supreme Court Regulation Number 5 of 2019. The empirical approach is used to examine the practice of submitting and examining marriage dispensations at the Tilamuta Religious Court. The data sources consisted of primary and secondary data. Primary data were obtained through observation and interviews, while secondary data were obtained from case documents, recapitulations of marriage dispensation applications, laws and regulations, books, and journals. The data were analyzed qualitatively by grouping them based on the factors causing the application and the judge's considerations, then linking them to child protection norms, the principle of legal certainty, and expediency.

3. Results and Discussion

The analysis of the research findings focused on two main areas: the factors contributing to marriage dispensation requests and the judge's considerations in granting the request. The two are interconnected, as the reasons presented by the family serve as the judge's basis for assessing the existence of urgent circumstances. The legal norms used include the marriage age limit, guidelines for adjudicating marriage dispensations, and the principle of the best interests of the child.

3.1. Factors Causing Applications for Marriage Dispensation at the Tilamuta Religious Court

The primary reason for applying for a marriage dispensation at the Tilamuta Religious Court is an out-of-wedlock pregnancy. In this situation, parents typically apply to avoid social disgrace and grant legal status to their child's relationship. While this reason is often considered compelling, the judge must still assess whether marriage is truly the best option for the child. Pregnancy should not be automatically the sole reason for granting a dispensation, as children still have the right to education, health care, and protection from immature marriage.

The second factor is parental concern about adultery. Parents request a dispensation because they see their child's relationship has become close and are concerned it will violate religious and social norms. This factor shows that marriage dispensations are often used as a family response to social control. However, from a child protection perspective, these concerns must be examined proportionately. Marrying children does not always resolve moral issues, as child marriage can create new problems such as domestic conflict, school dropout, and economic dependence.

The third factor is promiscuity. Changes in communication patterns, social media, and weak family supervision have led some parents to choose marriage to stop relationships their children perceive as risky. This factor indicates that the root of the problem of marriage dispensations lies not only in the law, but also in family education and the social environment. Therefore, preventing child marriage requires collaborative work between the courts, families, schools, religious leaders, and local governments.

Data from 322 applications filed between 2020 and 2025 show that marriage dispensation is not merely an individual issue, but rather a social phenomenon. This finding aligns with previous research, which found that marriage dispensation is generally influenced by factors such as pregnancy, economic circumstances, social relationships, and social pressure. However, this study confirms that at the Tilamuta Religious Court, premarital pregnancy and concerns about adultery were the most prominent reasons. This article's findings emphasize that preventing marriage dispensation must begin before the case reaches the courts.

3.2. Judge's Considerations in Granting Marriage Dispensation Requests at the Tilamuta Religious Court

The judge's considerations in granting a marriage dispensation encompass both legal and sociological aspects. From a legal perspective, the judge refers to Law Number 16 of 2019 and Supreme Court Regulation Number 5 of 2019. The judge must ensure there are compelling reasons, sufficient supporting evidence, and hear statements from the child, prospective spouse, parents, and related parties. The obligation to hear the child's opinion is crucial to ensure the case is not solely determined by the parents' wishes.

From a sociological perspective, judges consider the child's condition, the relationship between the prospective bride and groom, their physical and mental readiness, family support, any pregnancy, and the potential impact of a denied application. These considerations demonstrate that judges are not solely applying the text of the law but also assessing the social consequences of the decision. However, sociological considerations must remain within the bounds of child protection principles to prevent social pressure from justifying child marriage.

The judge's role in marriage dispensation is not simple. Judges are torn between legal certainty in the form of a 19-year age limit and expediency in a specific, urgent situation. In these circumstances, judges must use careful legal reasoning. Granting a request must be justified with strong arguments, not simply because the family desires the marriage. The child's physical and mental readiness, educational continuity, potential domestic violence, and the prospective couple's financial capabilities must all be considered.

Compared with previous normative studies, these findings demonstrate that the judicial deliberations at the Tilamuta Religious Court are driven by a combination of norms and social facts. The author's position is that judges should consider dispensation as a strict exception. This article's findings emphasize that justice in dispensation cases is not solely measured by whether a request is accepted or rejected, but by the extent to which the decision protects the child's future.

4. Conclusion

Factors contributing to marriage dispensation requests at the Tilamuta Religious Court include out-of-wedlock pregnancy, parental concerns about adultery, and promiscuity. Data from 322 applications from 2020 to 2025 shows that marriage dispensation remains a social phenomenon requiring prevention, starting within the family and educational environment.

The judge's considerations in granting a marriage dispensation request include both legal and sociological considerations. Legally, the judge refers to the Marriage Law and Supreme Court Regulation No. 5 of 2019. Sociologically, the judge assesses the child's condition, the urgency, physical and mental readiness, and the socio-psychological impact. The author emphasizes that marriage dispensation should be positioned as a strict exception for the best interests of the child.

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