

## APPLICATION OF REASONS FOR MARRIAGE DISPENSATION BY THE INDRAMAYU RELIGIOUS COURT

Rasji<sup>1</sup> & Ida Kurnia<sup>2</sup>

<sup>1</sup>Faculty of Law, Tarumanagara University, Jakarta  
Email: [rasji@fh.untar.ac.id](mailto:rasji@fh.untar.ac.id)

<sup>2</sup>Faculty of Law, Tarumanagara University, Jakarta  
Email: [idah@fh.untar.ac.id](mailto:idah@fh.untar.ac.id)

Enter : 20-09-2023, revision: 02-10-2023, accepted for publication : 06-10-2023

### ABSTRACT

*Marriage is the right of every Indonesian citizen who is at least 19 years old. However, in practice, many people who are not yet 19 years old want to get married. The Marriage Law contains these age requirements for those who are not yet 19 years old by submitting an application for marriage dispensation to the Religious Court provided there is an urgent reason. What is the perception of Indramayu Religious Court judges in applying very urgent reasons in terminating applications for marriage dispensation? This problem has been researched using empirical research methods. The results of the research state that there are five perceptions of judges in applying very urgent reasons when deciding on requests for marriage dispensation. The five perceptions are that the prospective bride and groom already have a very strong desire to get married, the prospective bride and groom have socialized intimately and intend to commit adultery, the prospective bride is already pregnant, the prospective bride is already physically and mentally ready, and there are no obstacles or prohibitions against marriage for the bride. These five perceptions are considered very urgent reasons, which are taken into consideration by the Religious Court judge in granting the marriage dispensation request.*

**Keywords:** *Marriage dispensation, reasons, judge's perception*

### 1. PREFACE

Indonesia is a pluralist country that has a diversity of religions, ethnicities, languages, cultures, customs, and so on. This diversity influences aspects of citizens' marriages, so that the marriage process is colored by each of these variations. However, in terms of marriage, the Indonesian State has created a legal unification of marriage or matrimony through Law Number 1 of 1974 concerning Marriage. This law becomes a legal basis for marriage for all ethnic groups and religious adherents in Indonesia. Included in this is the marriageable age requirement for a man and a woman. Initially the minimum age for marriage for a man was 19 years and for a woman was 16 years. In 2019, through Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, the State of Indonesia has changed the minimum age requirement for marriage for a woman to 19 years. With this change, the marriage age requirement for a man and a woman is the same, namely a minimum of 19 years.

Even though the minimum age requirement for marriage has been definitively determined, the Marriage Law still provides relaxation of the minimum age requirement for prospective marriage partners who are not yet 19 years old. This concession is an exception granted by law to men and women who are not at least 19 years old but already want to get married. This exception needs to be requested through a request for marriage dispensation to the Religious Court (for prospective brides who are Muslim) or the District Court (for prospective brides who are not Muslim). According to Article 7 of Law no. 16 of 2019, the requirement for submitting an application for marriage dispensation is that there is a "very urgent reason". The Marriage Law does not provide a definitive definition of "very urgent reasons". As a

result, the public interprets for themselves the meaning of the reasons for submitting a marriage dispensation application to the court. In the end, the Marriage Law leaves the interpretation of very urgent reasons to the court judge to grant or reject the request for a marriage dispensation.

One of the courts that receives, hears and decides on requests for marriage dispensation is the Indramayu Regency Religious Court. This court also experienced differences in interpretation regarding the reasons for requesting a marriage dispensation between the community and the court judge. This condition creates legal uncertainty for people who wish to apply for marriage dispensation to the court. This impact cannot be ignored, because it will lead to a prolonged polemic between the community and court judges. Therefore, it is necessary to find a solution so that the polemic does not continue for a long time. One important aspect to avoid this is the need to know the judge's perception in interpreting the reasons for requesting a marriage dispensation. Therefore, a very good issue to raise in this writing is what is the judge's perception in applying very urgent reasons to requests for marriage dispensation at the Indramayu Regency Religious Court?

The research and discussion of the problems above are very interesting for the general public. The aim is for the public to understand the judge's perception in applying the "very urgent reasons" for requests for marriage dispensation. The results of the research and discussion of this problem will become a reference for the community in submitting requests for marriage dispensation at the Religious Courts. Apart from that, the results of the research and discussion will also be a factor in people's self-control not to easily apply for a marriage dispensation, if there is no reason that meets the perception of the Religious Court judge.

## **2. RESEARCH METHOD**

The above problems have been researched using empirical legal research methods. Empirical legal research is legal research on experience data or field data which is primary data. This primary data was obtained through interview data collection techniques with judges at the Indramayu Religious Court and community members who submitted applications for marriage dispensation to the Indramayu Religious Court. The research data were analyzed using a qualitative analysis approach, namely an analytical approach that seeks to match the qualifications of the data with the qualifications of the research problem. The results of this analysis are the answer to the research problem.

## **3. RESULT AND DISCUSSION**

According to the Marriage Law, marriage or nikah is a spiritual and physical bond between a man and a woman as husband and wife. The goal is to form a happy and eternal household or family based on the belief in Almighty God. Through marriage, a man and a woman are tied into one family as husband and wife. Through marriage, a man and a woman are bound physically and mentally to fulfill each other's physical and mental needs for their family partners. Through marriage too, a man and woman want to have a happy life as an eternal family based on the belief in the Almighty God. Marriage is a legal way according to religion and according to the state for a man to have intimate relations with a woman or vice versa. Marriage will also maintain the destruction of a person's desires (Rasjid, 2010). Therefore, apart from fulfilling biological needs, marriage is also to provide physical and spiritual happiness for husband and wife, to provide a sense of security and comfort in the husband and wife relationship, as well as to recognize and protect family partners by the state.

Article 28D of the 1945 Constitution (UUD 1945) states that marriage also aims to continue offspring. The limited age of humans requires the next generation to continue their lineage, their family line, or their genealogy. Therefore, the state provides marriage as a way to legally continue the family lineage. Through this marriage, a promise is made between a man and a woman to live together as husband and wife, to give birth to offspring, and form a happy family. Therefore, according to Abdurrahman Al-Jaziri, marriage is a sacred agreement between a man and a woman, with the aim of forming a happy family. In marriage, there is free will between both parties to make promises to each other on the basis of mutual consent, and there is no element of coercion. The agreement is expressed in the form of consent and qabul, which is said by the prospective husband and prospective wife to become husband and wife (Saebani, 2009).

In Islamic terminology, as stated by Allah SWT in Qs. Al-Baraqaqah verse 235, Islam uses the words "marriage or marriage" to express marriage and marriage. Etymologically, marriage expresses the meaning of halal intercourse, contract and hugging, not haram (Saebani, 2009: 2). Therefore, marriage is one of the important, basic and most important principles in social life in a perfect society. Marriage is not only a very noble way to organize domestic life and procreate, but can also be seen as a way to convey help to one another. In fact, the marriage relationship is the strongest relationship in life and human life, not only between husband and wife and their offspring, but also between two families (Rasjid, 2010).

Through marriage, birth and catfish, the mating couple is united and firmly bound. Married couples have united to fulfill each other's physical and spiritual needs. Married couples have also united their will to give birth to offspring who will continue their family tree. Various physical and mental agreements between the two of them have confirmed their life in one family that is eternal and happy both physically and mentally (Santoso, 2016). The element of inner bonds in marriage has a very important role in forming a happy and eternal family (Kusuma, 2007), so that marriage does not only fulfill physical needs. To obtain these conditions, a man and woman who want to get married need to have physical and mental readiness and ability. Birth readiness and ability are the physical and economic readiness and abilities of the prospective bride and groom. Spiritual readiness and abilities are readiness and abilities related to psychology, mentality, thoughts and inner attitudes. One aspect that supports the readiness and ability of the prospective bride and groom is adulthood.

Indonesia has set adult age limits, but the limits vary. Law Number 35 of 2014 concerning Child Protection provides that the village age limit is 19 years or more. Article 7 of the Marriage Law provides that the minimum age limit for a man and a woman to get married is 19 years, so that the Marriage Law considers 19 years of age to be the adult age for entering into a marriage or marriage. An adult is a person who has the capacity to carry out legal actions. Marriage is a form of legal action, which is regulated by the Marriage Law. Therefore, a man and woman who are at least 19 years old have the disability to enter into marriage. For those who are not at least 19 years old, the Marriage Law prohibits them from getting married.

The adult age limit of 19 years to be able to carry out the legal act of marriage seems to be only of a principle nature, meaning that basically men and women who are allowed to marry are those who are at least 19 years old. However, the Marriage Law still provides leeway for a man and a woman who are not yet 19 years old to marry. This concession is provided by Article 7 paragraph (2) of Law no. 16 of 2019, which states that prospective brides and grooms who are not at least 19 years old can apply for a marriage dispensation to the

Religious Court. The Religious Courts are given the authority by the Marriage Law to grant dispensations or not to grant marriage dispensations to applicants. When the application for marriage dispensation is granted by the Religious Court, the prospective marriage partners are permitted to get married even though they are not yet 19 years old.

The Indramayu Regency Religious Court has received many requests for marriage dispensation from parents or guardians of prospective marriage partners who are not at least 19 years old. Data from the Indramayu Religious Court shows the high number of requests for dispensation by the public to the Indramayu Religious Court. In 2019 there were 302 requests for marriage dispensation, in 2020 there were 761 requests for marriage dispensation, in 2021 there were 625 requests for marriage dispensation, and in 2022 there were 572 requests for marriage dispensation at the Indramayu Religious Court. If the average is taken, there are 565 requests for marriage dispensation submitted by the public to the Indramayu Religious Court every year. The Indramayu Religious Court did not grant all requests for marriage dispensation submitted by the public. During these four years the Religious Court granted 96.8% of marriage dispensation requests and 3.2% of marriage dispensation requests were not granted by the Indramayu Religious Court.

Considering that the Marriage Law does not provide limitations on very urgent reasons, people who apply for dispensation use various reasons. Based on data on applications for marriage dispensation submitted to the Indramayu Religious Court, the reasons why applicants submit applications for marriage dispensation are: the prospective bride is pregnant before marriage, the prospective bride and groom have gone everywhere together, the prospective marriage partner is already living together, the prospective marriage partner is worried about committing adultery, the prospective marriage partner already likes and accepts it, the parents of the prospective marriage partner feel uncomfortable that their child is not married, the parents of the prospective marriage partner want to immediately release responsibility for their child, the prospective bride and groom already have economic capabilities (Nurwahyudin, 2023), people parents match their children (Sebyar, 2022), and parents want to change family life by marrying their children to rich people's children (Rasji et al., 2023).

The reasons put forward by applicants for marriage dispensation are not fully considered by the Religious Court judges. The chairman of the Religious Court stated that the court gave leeway to the public to submit reasons for requesting marriage dispensation, but the court would consider it, whether the reasons were considered or not (Salsabilah, 2021). The Indramayu Religious Court judge gave five perceptions in applying very urgent reasons to requests for marriage dispensation. The five perceptions referred to are that the prospective bride and groom have a strong desire to get married, the prospective female partner has been pregnant before marriage, the prospective bride and groom have had intimate relationships and are worried about committing adultery, the prospective bride and groom have the ability to marry, and/or there are no obstacles or prohibitions for both prospective bride and groom to get married (Rasji, 2023).

The five Indramayu Religious Court judges' perceptions regarding very urgent reasons are the basis for the Indramayu Religious Court judges' considerations in granting or rejecting requests for marriage dispensation. Religious Court judges interpret the various reasons put forward by applicants for marriage dispensation with the five judge's perceptions above, whether they can be considered as very urgent reasons, to grant or reject the application for

marriage dispensation. If the reasons for the request for marriage dispensation meet one or more of the judge's perceptions above, then the Religious Court will grant the request for marriage dispensation. On the other hand, if the reasons put forward by the applicant do not meet the perceptions above, then the Religious Court will not grant the request for marriage dispensation.

The decision of the Religious Court granting the request for marriage dispensation means that the Religious Court gives permission to prospective marriage partners who are not yet 19 years old to marry. On the basis of the court decision, prospective marriage partners register their marriage wishes with the Religious Affairs Office (KUA) by attaching the Religious Court Decision. The Religious Affairs Office receives and checks the correctness of the Religious Court's decision granting the marriage dispensation request. If proven correct, then the KUA accepts the registration of the marriage wishes of prospective marriage partners who are not yet 19 years old. Next, YOU invite the prospective bride and groom to get married in accordance with the wedding procedures according to the Islamic religion. However, the KUA requested that the marriage vows be carried out in the presence of an KUA official. Based on this procedure, the prospective bride and groom get married, the KUA official records the couple's marriage as legal husband and wife. Next, the KUA hands over the marriage book to the bridal couple as legal proof of the bridal couple's marriage from the state.

#### **4. CONCLUSION AND RECOMMENDATIONS**

Marriage dispensation for prospective brides and grooms who are not yet 19 years old is made possible by the Court Law. Parents or guardians of the prospective bride and groom who are Muslim can submit a request for marriage dispensation to the Religious Court, if there is a very urgent reason. The Marriage Law does not provide limitations on very urgent reasons, so there are differences in interpretation of very urgent reasons between marriage dispensation applicants and Religious Court Judges in Indramayu. The judge of the Indramayu Religious Court perceives that the reason for the urgent dispensation of marriage is that the prospective marriage partner already has a strong ability to marry, the prospective female partner is already pregnant, there are no prohibitions or obstacles to marriage for the prospective couple, the prospective marriage partner already has economic capabilities, and/or Prospective married couples are already intimately living together and are feared to be committing adultery. If the reasons for the marriage dispensation applicant match the judge's perception, then the judge is of the opinion that there is a very urgent reason, and the court judge grants the request for value dispensation. It is best if the applicant's reasons do not match the judge's perception, then the Religious Court judge considers that there is no very substantial reason for the court judge to reject the request for a marriage dispensation.

The Indramayu Regency Religious Court judge's perception of the urgent reasons for applying for a marriage dispensation is still loose, so many members of the public use it to apply for a marriage dispensation. As a result, the number of applications for marriage dispensation at the Indramayu Religious Court is the highest among other districts and cities in Indonesia. Therefore, it is best for the Indramayu Religious Court to tighten its perception of the very urgent reasons for entering into a marriage, by simply giving two perceptions, namely that the prospective female partner has become pregnant before marriage or the prospective partner has been living together committing adultery.

## REFERENCES

- Hadikusuma, H. (2007). *Indonesian marriage law*. Masdar Maju.
- Indonesia. (1945). Constitution of the Unitary State of the Republic of Indonesia of 1945.
- Indonesia. (1974). Law Number 1 of 1974 concerning Marriage.
- Indonesia. (2019). Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage.
- Rasji, R. (2023). *Research report on judges' and community's interpretation of very urgent reasons in deciding on applications for marriage dispensation in Indramayu regency*. LPPM Universitas Tarumanagara.
- Rasjid, S. (2010). *Islamic fiqh*. Sinar Baru Algensindo.
- Saebani, B. A. (2009). *Munakahat fiqh I*. Faithful Library.
- Santoso, S. (2016). The nature of marriage according to the marriage law, islamic law and customary law. *JUDICIAL: Journal of Legal Thought and Islamic Law*, 7(2), 412-434.
- Sebyar, M. H. (2022). Faktor-faktor penyebab permohonan dispensasi kawin di pengadilan agama Panyabungan. *Journal of Indonesian Comparative of Syari'ah Law*, 5(1).
- Yulianto, A. (2023, Januari 17). *Public relations of the Indramayu religious court, 564 children in Indramayu married early*. Rejabar. <https://rejabar.republika.co.id/berita/roltku396/564-anak-di-indramayu-nikah-dini>.