



Judicial Considerations in Child Marriage Dispensations: An Empirical Study of the Gorontalo Religious Court

Nur Insani^{*1}, Sumiyati Beddu², Rahmawati Rahman³, Arpin Arpin⁴, Mohd Al Adib Samuri⁵

¹²³⁴Universitas Ichsan Gorontalo, Indonesia

⁵Universiti Kebangsaan Malaysia, Malaysia

*Corresponding E-mail: dhinilaw@gmail.com

ABSTRACT

This research aims to determine the judge's considerations in carrying out his juridical function to adjudicate cases, whether they align with legal principles governing marriage and protecting children's rights, and how social stigma influences the judge's decision-making process in many instances. Interviews were conducted directly to create effective and efficient discussions to collect the primary data. In addition, data was obtained through literature and research studies, including regulations, documents, and related books. This paper examines a case study concerning a judge's decision to grant dispensation to a married couple not yet of legal age due to a request for parental guardianship submitted to the Gorontalo Religious Court in decision Number 10/Pdt.P/2021/PA. The findings show that the convergence of various legal aspects, cultural values, and social norms can influence judges' considerations in determining child marriage dispensations. The issue of child marriage in Indonesia is complex and needs serious attention. A legal framework must support objective legal principles, take into account the needs and interests of all parties, and overcome social stigma against child marriage.

How to cite:

Insani, N., Beddu, S., Rahman, R., Arpin, A., & Samuri, M. A. A. (2024). Judicial Considerations in Child Marriage Dispensations: An Empirical Study of the Gorontalo Religious Court. *Jurnal Ilmiah Al-Syir'ah*, 22(1), 25–41. <https://doi.org/10.30984/jis.v22i1.2066>

ARTICLE INFO

Article History:

Submitted/ Received 19 Oct 2022

First Revised 23 Des 2023

Accepted 10 June 2024

First Available online 30 Jun 2024

Publication Date 30 Jun 2024

Keyword:

Child marriage,

Dispensation,

Converge.

© 2024 Jurnal Ilmiah Al-Syir'ah



All publications by Jurnal Ilmiah Al-Syir'ah are licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License.

1. INTRODUCTION

The institution of marriage is crucial in society as it legalizes the relationship between a man and a woman, as emphasized in Article 1 of Law Number 16 of 2019, which amends Law Number 1 of 1974 concerning Marriage. It is defined as the spiritual bond between a man and a woman as husband and wife to form a happy and everlasting family or household based on the One and Only God. Meanwhile, Article 2 of the Compilation of Islamic Law (KHI) describes marriage as "*mitsaqan ghalidzan*," a sincere effort to obey Allah SWT's command and carry it out as a form of worship to Him (Bastomi, 2016). Therefore, through marriage, a happy and enduring family can be formed, emphasizing that the essence of marriage is to create happiness that is not merely temporary (Rizki et al., 2022) but an ongoing state, both physically and emotionally. This becomes a strong foundation for the stability and harmony of a family (Yuliatin, 2022), solely to realize a marital life characterized by *sakinah, mawaddah, and warrahmah* (Abror, 2020), as stated in the Quran, Surah Ar-Rum, verse (21).

The religious aspect establishes the validity of the marriage (Rahmi & Sakdul, 2016), as stated in Article 2, paragraph (1) of Marriage Law Number 1 of 1974, "Marriage is valid when performed by the laws of each respective religion and belief" (Nurhayani, 2018). Meanwhile, the social aspect relates to the administrative aspect, as stated in Article 2, paragraph (2) of Marriage Law Number 1 of 1974: "Every marriage shall be recorded according to the prevailing regulations." This registration is necessary to provide legal certainty and legal protection (Yuliatin, 2022), which means registration at the Office of Religious Affairs (KUA) for Muslims and the Civil Registry Office for non-Muslims (Simanjuntak, 2016). Therefore, marriage registration by the couple is crucial as it serves as official proof of the marriage's legality in religious and state law. Moreover, the marriage establishes the legitimacy of the offspring for maintenance, guardianship, and inheritance. It also explicitly establishes legitimate offspring relevant to maintenance, guardianship, and inheritance rights resulting from the marriage (Makmun & Pribadi, 2016). Child marriage in Indonesia is a complex problem that requires serious attention. Social stigma against child marriage must be overcome through a legal framework that is effective, comprehensive, upholds objective legal principles, and takes into account the needs and interests of all parties involved (Simanjuntak, 2016).

The importance of religious and societal perspectives on marriage highlights the crucial role of values and norms in guiding marital relationships. This encompasses moral obligations, social responsibilities, and the family's role in ensuring the continuity and happiness of a family (Ulfiyati, 2019). By incorporating these perspectives, the view of marriage becomes more holistic, emphasizing the deeper, more profound, and enduring aspects of the marital bond (Hidayatulloh & Janah, 2020). Beyond the legal aspects regulating marriage, understanding and respecting the religious and social dimensions of marriage are vital to comprehending the significance of this institution in society. Therefore, marriage is a legal act and a profoundly valued commitment to building enduring, happy, and meaningful relationships (Handayani et al., 2021).

The Islamic family law perspective on child marriage creates a seemingly contradictory situation. On one hand, from a health perspective, child marriage has clear negative consequences. However, from the viewpoint of Islamic family law, there is no strict prohibition against early marriage. In our opinion, this paradox is one reason why early child marriages are still common, especially in remote areas. In fact, in some regions, there is a known phrase, "better to be a widow than not

married," indicating that many girls prefer to marry early, even if they are aware of the possibility of ending up as widows, rather than remaining unmarried (Juhaidi & Umar, 2020).

The progress of technology in the modern era also adversely impacts children. Excessive exposure to inappropriate content like pornography and Western dating practices can significantly sway children toward such behaviors. This exposure may push them into adopting a more unrestricted lifestyle. One of the unfavorable results of today's youth's free-spiritedness is early marriage; this is often triggered by pregnancies caused by promiscuity (Zukifli, 2019). The issue of child marriage, or early-age marriage, is always a subject of lively debate, generating pros and cons, primarily between Islamic and Secular Nationalist camps (Juhaidi & Umar, 2020). The debates encompass various aspects, including the age limit for children, the ideal age for marriage, polygamy, and the clash of ideologies between Islamic ideology and secular nationalist ideology within the Marriage Law (Wantu et al., 2021). Law Number 1 of 1974 concerning Marriage is unique and filled with intricacies, polemics, conflicts of interests, and even the state ideology. These debates have diverse interests, including religious, customary, ethnic, and social groups. Despite the criticisms, some still praise the Marriage Law after nearly 45 years since it was enacted. Despite ideological debates within the Marriage Law, child marriage continues to be prevalent, ranking Indonesia as the seventh most child marriage-prone country in the world. Nowadays, the practice of child marriage is receiving broad attention from various international organizations, including the United Nations (UN) (Mustofa, 2019).

Based on Article 7 paragraph (1) of Law Number 16 of 2019, which amends Law Number 1 of 1974 concerning Marriage, marriage is only allowed if both the man and the woman have reached the age of 19 (nineteen) years (Aristoni, 2022). Previously, the law permitted marriage for men at 19 years and women at 16 years (Musfiroh, 2016). This amendment is based on the belief that at 19, individuals are considered to have reached a stage of maturity that enables them to make decisions and take responsibility for their actions. This applies to both men and women, who at this age are deemed mature enough to manage household responsibilities (Setyawan et al., 2023). In paragraph (2), if there is a deviation from these age provisions, the parents of the man and the woman may apply for a dispensation from the Court for compelling reasons, accompanied by sufficient supporting evidence. Paragraph (3) states that the Court's decision to grant a dispensation, as referred to in paragraph (2), will involve hearing the opinions of both prospective spouses (Ramadhita, 2014).

According to the author's analysis, the recommendations advocated by the National Population and Family Planning Board (BKKBN) regarding the ideal age for marriage is 21 years for women and 25 years for men. In general, people under 20 years old are immature physically and psychologically, and their primary concern is the well-being of their families and communities. Physical and mental preparedness, emotional maturity, and marital readiness are emphasized in this context. The aim is to create stable, harmonious families capable of making a positive contribution as a primary requirement for entering the institution of marriage. On the other hand, the Marriage Law, as the legal framework for marriage in Indonesia, also emphasizes the importance of physical and psychological maturity as primary requirements. Despite differences in the proposed ideal age limits by BKKBN and those regulated by the Marriage Law, both recognize the significance of physical and psychological maturity, contributing to the sustainability and happiness of marital relationships.

In the Islamic context, there is no explicit determination of the ideal age for marriage for both men and women. Instead, the guiding principle is the *baligh* (puberty) concept, indicating that an individual has reached physical maturity and can understand and take responsibility for their actions and decisions in life. The interpretation of Surah Al-Nur, verse (33) advises those with plans and desires for marriage, both males and females, to marry when they are capable. In summary, the recommendations by BKKBN, the Marriage Law, and Islamic principles all underscore the importance of physical and psychological maturity in the decision to marry. While they may differ in specific age limits, they converge on the shared goal of promoting the well-being and success of marital relationships.

The Chief Justice of the Supreme Court of the Republic of Indonesia established Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Requests for Marriage Dispensation to address the lack of clear legislation on this matter and to ensure smooth judicial functioning. Enacted on November 20, 2019, and promulgated on November 21, 2019, the regulation aims to protect children's rights, enhance parental responsibility, prevent child marriage, identify any coercion in marriage dispensation requests, and standardize the adjudication process in courts, adhere to the principles outlined in the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection (Bilalu et al., 2022).

A dispensation is a case where specific legal or statutory regulations are exempted. In the context of marriage, it involves making exceptions to the minimum marriage age requirements stated in Article 7, paragraph (1) of Law Number 1 of 1974 for prospective brides and grooms who have not yet reached the specified marriage age due to specific circumstances or conditions. Marrying at a young age has adverse effects and presents several challenges (Yetta et al., 2024; Turnip et al., 2022). *First*, couples who marry young face a higher risk of divorce, as mental readiness and age maturity are crucial for prospective spouses. *Second*, from a reproductive health perspective, there is a higher risk of maternal and child mortality, as women younger than 21 are not physically prepared for pregnancy and childbirth (Kurniati, 2021). *Third*, early marriages often lead to unstable economic conditions, resulting in poverty. *Fourth*, children who marry young are frequently exploited because they must work and care for children at an age when it is not appropriate (Hidayatulloh & Janah, 2020).

The authorized granting of child marriage dispensations requires severe and thorough deliberation. Despite the legal age of marriage, child marriages granted by the court are still prevalent in Indonesia, addressing issues of sexual abuse, early-age marriage, and natural harm. This study focuses on the perspectives and roles of Indonesia's women scholars concerning child marriages (Fauzi & Ismayawati, 2022). Islam serves as the foundation for ensuring, safeguarding, and protecting the welfare of humanity, with its commands and prohibitions obligatory for everyone, accompanied by consequences for disobedience. As divine gifts, children must preserve their dignity, nature, and future rights as they mature into adults. They should always receive assurances of life to support their continuous growth and development. Consequently, any action that threatens or violates children's rights, including violence, persecution, or exploitation, must be promptly addressed (Fauzi & Ismayawati, 2022). Islam inherently promotes the respect and protection of children's honor and rights, shielding them from factors that could jeopardize their future development. However, contemporary society's written and unwritten regulations make it challenging to fully realize children's rights, leaving them vulnerable and disadvantaged (Mursyid et al., 2024).

The judge's decision in granting a dispensation to couples not old enough to marry is due to the permission or submission of parents/guardians submitted to the Gorontalo Religious Court in decision Number 10/Pdt.P/2021/PA. In this case, the decision to grant or reject marriage dispensation remains the judge's authority because the judge has his considerations (Ulfiyati, 2019). According to judgment Number 10/Rev.P/2021/PA. Gtlo, on January 4, 2021, the guardians/parents filed a request for marriage dispensation with the registrar of the Gorontalo Religious Court for permission to marry the petitioners' children. This is partly because the applicant's child has been pregnant outside of marriage for four months, which has an impact on the married couple's inability to deal with domestic life. It is also related to the marriage age of the couple, who is still young.

Several previous studies have studied child marriage. As an example, a survey conducted by Fauzi & Ismayawati (2022) examines the possibility of child marriage being considered sexual violence or not, and the Islamic law review regarding the article regarding the criminalization of child marriage should be evaluated by applying the *ijbar* and *ikrah* rights more deeply. Second. A study by Zuhriah & Sukadi (2022) focuses on the strategies carried out in overcoming child marriage with the perspective of *maslahah* theory and empowering the role of the family through parental supervision, as well as improving the quality of formal education for students. Third. According to a study by Indriani et al. (2023), early marriage negatively impacts women's reproductive health. So, based on several previous studies, there are differences between the focus of prior research and current research. This research focuses on juridical analysis regarding judges' considerations in determining child marriage dispensations because child marriage dispensations are a context that requires careful consideration in terms of law, morals, and the welfare of the individuals involved. In making a decision, judges consider several factors, including the child's age, mental maturity, economic circumstances, and other factors relevant to the child's welfare. The novelty of this research is how the convergence between various legal aspects, cultural values, and social norms can influence the judge's considerations in determining child marriage dispensations.

2. METHODS

This research is a type of empirical legal research. Empirical legal research is oriented towards primary data (research results in the field). This study aims to examine one of the underage marriage decisions of the Gorontalo Religious Court. The researcher collects data from the question-and-answer process that takes place orally, where the questioner meets face to face and listens directly to information or information. Interviews are carried out freely and broadly to create an effective and efficient discussion (Efendi & Ibrahim, 2018). I also obtained information through literature studies or research by studying the regulations, documents, and books related to this issue. A sample study studies a portion or representative of the population. As a result, the study was classified as a sample study if part of the population participated in the research. Therefore, the study included only three participants: a judge, guardians, and married couples.

3. RESULTS AND DISCUSSION

The phenomenon of child marriage that occurs in several regions of Indonesia is an exciting issue to be debated, as various reasons, such as low levels of education and low-income employment, trigger it. Parents with limited income are more inclined to permit their children to

marry, which becomes a significant obstacle to encouraging their children to pursue higher education (Juhaidi & Umar, 2020). Economic factors also play a role, with families agreeing to marry off their children to alleviate financial difficulties (Aristoni, 2022). Additionally, the factors of shame and fear drive families to preserve their reputations after an out-of-wedlock pregnancy (Wantu et al., 2021).

According to data from UNICEF, Indonesia ranks seventh globally and second highest in the ASEAN region on the issue of child marriage. Both the BPS (Central Statistics Agency) and UNICEF note that child marriages in Indonesia are prevalent across almost all regions. The report reveals that approximately 23 percent of marriage cases occur below the age of 18, with the rate of child marriage in rural areas being nearly one-third higher compared to urban areas (Badan Pusat Statistik, 2020).

The enactment of Law Number 16 of 2019, which altered the minimum marriage age for women from 16 to 19 years old, has led to an increase in the number of marriage dispensation cases both in the Limboto Religious Court in Gorontalo Regency and the Gorontalo Religious Court. It was reported in 2023 that there were 227 cases of marriage dispensations recorded in the Limboto Religious Court in the Gorontalo Regency, where pregnant women often appeared. For this reason, the Limboto Religious Court has deemed it necessary to develop specific policies related to this matter (Maimunah et al., 2021). When a female applicant is already pregnant before marriage, it is essential to consider this aspect due to its relevance to the status and inheritance rights of the unborn child (Hinelo, 2023). Meanwhile, in 2019, the Gorontalo Religious Court settled 71 cases of marriage dispensation, whereas in 2020, 116 cases were resolved. With this increase, it is estimated that the number of marriage dispensation cases will rise 300% by the end of 2020 (Anwar, 2020).

The Gorontalo Religious Court, which examines and tries civil cases in the first instance in the trial of the Single Judge, imposed the determination of the Marriage Dispensation based on the Petitioner's application letter dated January 4, 2021, registered at the Registrar of the Gorontalo Religious Court on the same day with register Number 10/Pdt.P/2021/PA. Gtlo. The court considered the reasons and arguments presented in the pleadings, and based on these considerations, the Petitioners requested that the Chief Justice of the Gorontalo Religious Court (CQ) and the Panel of Judges immediately examine and adjudicate the case. Consequently, the court imposed the following determinations: granting the Petitioners' petitions, granting marriage dispensation permits to the Petitioners' children to marry their respective candidates, and charging legal case fees. Based on the author's interview with Mrs. Eli Nusi (the parent of the Child Petitioner) and the results of an interview with the Judge at the Gorontalo Religious Court, Mr. Djufri Bobihu, he said:

"This is the determination made in Number 10/Rev.P/2021/PA. Currently, the children of the Petitioners are 17 years old, and the witnesses are aware of their future husbands, that the children of the Petitioners have consented to marry without coercion, and that the children are four months pregnant." (Interview, Djufri Bobihu as Judge of Gorontalo Islamic Courts, Gorontalo 2023)

The primary reason for underage marriages is often because the female partner is already pregnant before the marriage takes place. This situation typically arises from a sexually active lifestyle, and families usually resort to marriage as a means to avoid social stigma. A significant

contributing factor is the lack of parental control over their children, allowing them to engage in social interactions indiscriminately without discerning which friendships are beneficial or harmful. Parents are concerned that as their children grow older, they may engage in promiscuous behavior, which is feared to lead to actions deemed sinful by religious standards. Adolescence is a period where teenagers explore their environment and develop relationships with the opposite sex, either through friendships or dating.

Children who have too far or intimate relationships with their partners will bring shame to their families. As a result of the surrounding community paying attention to this, the disgrace of the future husband and wife's family will spread by word of mouth, significantly impacting them. In determination Number 10/Rev.P/2021/PA. Gtlo, the judge, attempted to advise the Petitioners to withdraw their application for marriage dispensation but was unsuccessful. The Petitioners' children and future husbands were presented before the court, and testimony was provided supporting and affirming the Petitioners' arguments. Written evidence (evidence P.1 to P.4) was submitted by the Petitioners, which the Single Judge considered. Additionally, the Petitioner presented two witnesses who testified under oath, with their testimony meeting the formal requirements of the case.

Psychological factors are ways to recognize feelings, collect and analyze information, formulate thoughts and opinions, and take action. From these arguments, it can be interpreted that psychological factors are personal impulses that influence the selection of something, and social factors also play a role in influencing consumer behavior. In an interview with Judge Mr. Djufri Bobihu, he stated:

"In Determination Number 10/Rev.P/2021/PA. Gtlo, it was found that the individuals involved needed to be more suitable to establish a household due to their immaturity in terms of both age and psychology. However, the parents of the prospective husband and wife testified that their children possessed the necessary physical and mental readiness to enter into marriage." (Interview, Djufri Bobihu as Judge of Gorontalo Islamic Courts, Gorontalo 2023)

Several factors require a person to be mature enough to marry. It can also determine if a partner has the emotions, maturity, and feelings to establish a successful marriage. Besides requiring emotional maturity and maturity, age can also play a significant role in establishing a successful marriage, even at an early age or even in adolescence. It is imperative to consider maturity in terms of age first because early marriage has a detrimental effect on mental health. Psychological factors play a crucial role in marriage.

Emotional maturity is undoubtedly essential in a marital relationship as it significantly determines the perpetuation and harmony of the marriage. Poor emotional maturity can adversely impact the marriage relationship and potentially destroy it, which should be maintained in the long run (Nindyasari & Herawati, 2018). Social maturity is also crucial, as every marital relationship begins with an introduction period. This stage influences the marriage relationship that will occur later, so it is essential to fulfill social maturity by getting to know each other's traits before marriage. Additionally, mental maturity is vital since marriage is a long-term commitment. Every couple wants their marital life to be intertwined until death separates them; therefore, mental readiness

must be possessed by every couple. Every prospective partner must prepare an excellent mentality to ensure a solid and lasting marriage.

Having a role as a companion in a marriage relationship, of course, will be related between a man and a woman; each role of the husband and wife has a role as their companion, for example, a man who has a role in making a living while the wife has the role of taking care of the husband so that if each role is lived well, a good marital relationship will be established.

Early marriage and adolescent pregnancy lead to a higher likelihood of giving birth prematurely and having babies with low birth weight. Early marriage and teenage pregnancy are complex social issues that have severe implications for premature births. Assert that the practice of early marriage, sometimes involving individuals who have not reached the legal age of adulthood, can be considered a violation of children's rights and contravene the child protection norms established by legislation (Fenilie & Kalens, 2018).

In the social context, societal views on early marriage and teenage pregnancy can create stigma and rejection towards individuals involved. According to Hughes, G., & Bayeh (2016), communities often blame individuals engaged in early marriage and adolescent pregnancy as perpetrators of sins that can harm social structures and moral values. Therefore, policymakers are expected to provide a more effective legal framework to protect children's rights and reduce health risks associated with early marriage and teenage pregnancy.

Child marriage is a complex issue with social and economic implications, further complicated by traditions and cultures within various communities. The social stigma surrounding marriage after passing puberty, seen as shameful in certain circles, contributes to the prevalence of child marriage. Economic motives and the hope for improved social and financial security after marriage lead many parents to consent to early marriages. In reality, early marriage can have various impacts on those involved, both negative and far-reaching, affecting both personal and social aspects of their lives. Thus, early marriage does not necessarily guarantee family happiness, which is the fundamental goal of marriage; it can instead bring harm or even suffering to those who undergo it (Shufiyah, 2018; Tampubolon, 2021).

The family factor is that it has a significant role in preventing early marriage and providing education. From an early age, if necessary, from toddlerhood, children are approached by religious teachings, thus preventing promiscuity. When families have a healthy marriage, they tend to be able to give their children a healthier understanding of marriage. Based on the results of an interview with Judge Mr. Djufri Bobihu, he said that:

"In determination Number 10/Rev.P/2021/PA. Gtlo explained that the above factor was one of the factors or reasons for granting the Petitioner's application to marry off his child even though it had not reached the marriage age limit stipulated in the Marriage Act. Although he had tried to advise the petitioners to renounce his intention to apply for a marriage dispensation, it was unsuccessful. He, therefore, granted the Petitioner's application to marry off his child on the following grounds: Because the Petitioner's child and her future husband have been in a relationship for one year, and the two love each other so as not to happen unwanted things." (Interview, Djufri Bobihu as Judge of Gorontalo Islamic Court, Gorontalo 2023)

According to the author, the family is vital in a marriage. Parents' blessing is needed in a marriage, especially for the future wife. The guardian parents are obliged to marry their child (a

father) because parents are obliged and responsible for nurturing, educating, and protecting the child. Therefore, if the bride and groom and the family do not object to the marriage, it can be carried out with various considerations from the trial and determination of the judge. The wrong act of marrying young people who are still at an early age because there is a factor of excessive courtship. Because in Islam, the child born does not have the right to bear the name of his father and does not have the right to obtain an inheritance from his father. So, it is the same as if the child has no father.

Economic factors are one of the causes of early marriage. That is, there is no cost to continue school, causing them to think getting married is better than being unemployed. In addition, there are social, environmental, and educational factors (Shufiyah, 2018). Based on the results of an interview with Judge Mr. Djufri Bobihu, he said:

"In determination Number 10/Rev.P/2021/PA.Gtlo. He explained that the above factor was one of the factors or reasons for granting the Petitioner's application to marry off his child even though it had not reached the age limit of marriage stipulated in the marriage law. Therefore, he granted the Petitioner's application to treat his son because the prospective husband of the Petitioner's child had worked as a driver and earned a monthly income of Rp. 2.000.000,- (two million rupiah)." (Interview, Djufri Bobihu as Judge of Gorontalo Islamic Court, Gorontalo 2023)

The Chairman of the Court stated,

"In essence, no individual is permitted to engage in any form of harm, whether severe or minor, towards themselves or others. Harm should be eliminated, but it must not lead to any other minor or, more importantly, something more severe. Failing to marry will only lead to an increase in sin." (Interview, Mursidin as Chairman of Gorontalo Islamic Court, Gorontalo 2023)

Hence, to prevent such situations, judges, as integral components of the law enforcement system and legal practitioners, should prioritize the legal benefits when approving applications for marriage-age dispensation. At its core, a judge's consideration in granting marriage-age dispensation is that a judge is not bound by positive law. Judges can make legal interpretations with the understanding that if the law specifies certain matters for particular circumstances, it implies that those regulations are confined to those specific situations. There is no explicit prohibition of marriage below the legal age in the Marriage Law. Although there are age limitations for marriage prerequisites, their practical application is adaptable. This implies that if an urgent emergency necessitates harm prevention, dispensation must be granted, and the marriage must be immediately solemnized (Hidayatulloh & Janah, 2020; Rahmi & Sakdul, 2016). In conclusion, addressing child marriage in Indonesia requires a comprehensive approach that includes economic support, education, and strict enforcement of laws, coupled with societal change, to ensure the well-being and future of affected children.

4. CONCLUSION

Implementing Law Number 16 of 2019 in conjunction with Law Number 1 of 1974 concerning Marriage, which increases the minimum age for marriage for women from 16 years to 19 years,

has caused an increase in requests for marriage dispensation in the Religious Courts, especially in the Gorontalo area. This indicates the need for particular policies regarding marriage dispensations, especially in cases of pregnancy before marriage, because this situation is relevant to the status and inheritance rights of the child she is carrying. In carrying out their juridical functions, judges must ensure that every decision taken is in line with legal principles governing the marriage of minors and the protection of children's rights. Judges must consider the evidence and facts presented objectively and maintain their integrity from the influence of social stigma. Although social pressure and public opinion can influence it, judges must adhere to the principles of justice and decency to reach fair and correct decisions.

5. ACKNOWLEDGMENT

The author extends heartfelt gratitude to all who were vital in completing this research. Their support and contributions were instrumental in making this project possible. The author also profoundly appreciates the University of Ihsan Gorontalo for providing the necessary resources and facilities that enabled the effective conduct of this research.

6. REFERENCES

- Abror, K. (2020). *Hukum Perkawinan dan Perveraian*. Ladang Kata, Bantul Yogyakarta.
- Anwar, R. (2020). *5 Hari Kerja, Perkara Dispensasi Kawin Selesai di PA Gorontalo*. Mahkamah Agung Republik Indonesia, Direktur Jenderal Badan Peradilan Agama.
- Aristoni. (2022). Quo Vadis Marriage Dispensation in Indonesia: Judge's Decision in Preventing Child Marriage at the Jepara Religious Court. *De Jure: Jurnal Hukum Dan Syar'iah*, 14(2), 226–243. <https://doi.org/http://dx.doi.org/10.18860/j-fsh.v14i2.17408>
- Badan Pusat Statistik. (2020). Pencegahan Perkawinan Anak Percepatan yang Tidak Bisa Ditunda. *Badan Pusat Statistik*, 6–10.
- Bastomi, H. (2016). Pernikahan Dini Dan Dampaknya (Tinjauan Batas Umur Perkawinan menurut Hukum Islam Dan Hukum Perkawinan Indonesia). *Yudisia: Jurnal Pemikiran Hukum Dan Hukum Islam*, 7(2), 354–384. <https://doi.org/http://dx.doi.org/10.21043/yudisia.v7i2.2160>
- Bilalu, N., Jamal, R., Harun, N., & Subeitani, S. M. (2022). Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 6(2), 1–23. <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/12441/7391>
- Efendi, J., & Ibrahim, J. (2018). *Metode Penelitian Hukum: Normatif dan Empiris*.
- Fauzi, I., & Ismayawati, A. (2022). Child Marriage in Indonesia: Sexual Violence or Not? *De Jure: Jurnal Hukum Dan Syar'iah*, 14(2), 288–303. <https://doi.org/http://dx.doi.org/10.18860/j-fsh.v14i2.17850>
- Fenilie, A., & Kalens, R. (2018). Child marriage: A violation of human rights under international law. *Journal of Legal Studies*, 45(2), 215–231.
- Handayani, S., Nuraini, S., & Agustiya, R. I. (2021). Faktor-Faktor Penyebab Pernikahan Dini di Beberapa Etnis Indonesia. *Buletin Penelitian Sistem Kesehatan*, 24(4), 265–274. <https://doi.org/10.22435/hsr.v24i4.4619>
- Hidayatulloh, H., & Janah, M. (2020). Dispensasi nikah di bawah umur dalam hukum Islam. *Jurnal Hukum Keluarga Islam*, 5(1), 34–61.
- Hinelo, R. (2023). *Dispensasi Kawin Capai 227 Perkara, Kabupaten Gorontalo Rawan Pernikahan Dini?* TribunGorontalo.Com.
- Hughes, G., & Bayeh, E. (2016). Social stigma: The psychological and societal impact of unwanted pregnancies in adolescence. *Social Psychology Quarterly*, 30(4), 412–428.
- Indriani, F., Pratama, N. H., Sitepu, R. N. B., & Harahap, Y. A. (2023). Dampak Tradisi Pernikahan Dini Terhadap Kesehatan Reproduksi Pada Wanita: Literature Review. *Journal of Science and*

- Social Research*, 6(1), 1–8.
- Juhaidi, A., & Umar, M. (2020). Pernikahan Dini, Pendidikan, Kesehatan Dan Kemiskinan Di Indonesia : Masihkah Berkorelasi? *Khazanah: Jurnal Studi Islam Dan Humaniora*, 18(1), 1. <https://doi.org/10.18592/khazanah.v18i1.3585>
- Kurniati, I. dahlia. (2021). *Penetapan dispensasi kawin sebagai alternatif penyelesaian perkawinan dibawah umur karena hamil diluar nikah (Studi Penetapan Nomor 65/PDT.P/2021/Pa.Bantul di Pengadilan Agama Bantul)*. Universitas Islam Indonesia.
- Maimunah, M., Helim, A., Aina, N., & Adawiyah, R. (2021). Juridical and Sociological Considerations of Judges in Granting Marriage Dispensation after Enactment Law No. 16 Of 2019. *Jurnal Ilmiah Al-Syir'ah*, 19(2), 136–148.
- Makmun, M., & Pribadi, B. B. (2016). Efektifitas pencatatan perkawinan di Kantor Urusan Agama (KUA) Kecamatan Tembelang Kabupaten Jombang. *Jurnal Hukum Keluarga Islam*, 1(1), 16–32.
- Mursyid, S., Bilalu, N., & Subeitan, S. M. (2024). Between the Principles of Religion and Universal Justice: A Study of Judges' Opinions in the Matter of Hadhanah for Parents of Different Religions. *Proceeding Sharia International Conference, 10-12 Nov.*
- Musfiroh, M. R. (2016). Pernikahan Dini dan Upaya Perlindungan Anak di Indonesia. *De Jure: Jurnal Hukum Dan Syaria*, 8(2), 64–73. <https://doi.org/10.18860/j-fsh.v8i2.3731>
- Mustofa, S. (2019). *Hukum Pencegahan Pernikahan Dini "Jalan Baru Melindungi Anak."* Guepedia.
- Nindiyasari, Y., & Herawati, T. (2018). The relation of emotional maturity, family interaction and marital satisfaction of early age married couples. *Journal of Family Sciences*, 3(2), 16–29.
- Nurhayani, N. Y. (2018). Hukum Perdata. In *CV Pustaka Setia* (2nd ed.).
- Rahmi, A., & Sakdul, S. (2016). Fungsi Pencatatan Perkawinan Dikaitkan dengan Upaya Perlindungan Hukum terhadap Anak Setelah Putusan Mahkamah Konstitusi Nomor: 46/puu-viii/2010. *De Lega Lata: Jurnal Ilmu Hukum*, 1(2), 264–286. <https://doi.org/https://doi.org/10.30596/dll.v1i2.794>
- Ramadhita, R. (2014). Diskresi Hakim: Pola Penyelesaian Kasus Dispensasi Perkawinan. *De Jure: Jurnal Hukum Dan Syar'iah*, 6(1). <https://doi.org/https://doi.org/10.18860/j-fsh.v6i1.3192>
- Rizki, D., Oktalita, F., & Sodikin, A. (2022). Maqasid Sharia Perspective in Changes the Marriage Age Limits for Women According to Law Number 16 of 2019. *Al-Istinbath: Jurnal Hukum Islam*, 7(2 November), 487–508.
- Setyawan, E., Huda, M. C., Muamar, A., & Sukardi, D. (2023). *Legal Age for Marriage : SDGs and Maslahah Perspectives in Legal Policy Change in Indonesia*. 17(2), 183–198. <https://doi.org/https://doi.org/10.24090/mnh.v17i2.9506>
- Shufiyah, F. (2018). Pernikahan Dini Menurut Hadis dan Dampaknya. *Jurnal Living Hadis*, 3(1), 47–70.
- Simanjuntak, P. N. H. (2016). *Hukum Perdata Indonesia* (1st ed.). Prenada Media Group.
- Tampubolon, E. P. L. (2021). Permasalahan Perkawinan Dini di Indonesia. *Jurnal Indonesia Sosial Sains*, 2(5), 738–746. <https://doi.org/10.36418/jiss.v2i5.279>
- Turnip, I. R. S., Fuad, Z., & Nurhayati, N. (2022). The Current Development of Marriage Age Provisions in Indonesia and Malaysia: A Socio-Historical Approach. *Jurnal Ilmiah Al-Syir'ah*, 20(1). <https://doi.org/http://dx.doi.org/10.30984/jis.v20i1.1813>
- Ulfiyati, N. S. (2019). Pandangan dan peran tokoh Kongres Ulama Perempuan Indonesia (KUPI) dalam mencegah perkawinan anak. *De Jure: Jurnal Hukum Dan Syar'iah*, 11(1), 23–35.
- Wantu, S. M., Abdullah, I., Tamu, Y., & Sari, I. P. (2021). Early Child Marriage: Customary Law, Support System, and Unwed Pregnancy in Gorontalo. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 5(2), 780–803. <https://doi.org/10.22373/sjkh.v5i2.9573>
- Yetta, Y., Rajafi, A., & Subeitan, S. M. (2024). Understanding the Implications of Marriage Law Amendments: Marriage Dispensation Cases in Indonesian Religious Courts. *Al-Istinbath: Jurnal Hukum Islam*, 9(1), 121–136.
- Yuliatin, Y. (2022). Judges Considerations in Canceling Polygamous Marriages in Religious Courts.

Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan, 22(2), 179–187.
<https://doi.org/10.30631/alrisalah.v22i2.1244>

Zuhriah, E., & Sukadi, I. (2022). Strategi Penanggulangan Perkawinan Anak Pasca Putusan Mahkamah Konstitusi Nomor 22/PUU-XV/2017 Perspektif Teori Masalah. *De Jure: Jurnal Hukum Dan Syariah*, 14(1), 160–178. <https://doi.org/10.18860/j-fsh.v14i1.16076>

Zukifli, S. (2019). Analisis Yuridis Terhadap Permohonan Izin (Dispensasi) Nikah Bagi Anak Dibawah Umur. *JURNAL HUKUM KAJIAN Media Komunikasi Dan Informasi Hukum Dan Masyarakat*, 18(2).