

## APPLICATION FOR MARRIAGE DISPENSATION FOR UNDERAGE PREGNANT WOMEN POST THE APPLICATION OF LAW NUMBER 16 OF 2019 CONCERNING AMENDMENT TO LAW NUMBER 1 OF 1974 CONCERNING MARRIAGE

Erni Djun'astuti <sup>a\*)</sup>, Alhadiansyah <sup>a)</sup>, Sugeng Susila <sup>a)</sup>, Marnita <sup>a)</sup>, Muhammad Tahir <sup>a)</sup>

<sup>a)</sup> Universitas Tanjungpura, Pontianak, Indonesia

<sup>\*)</sup>Corresponding Author: [erni.djunastuti@hukum.untan.ac.id](mailto:erni.djunastuti@hukum.untan.ac.id)

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**Abstract.** In essence, everything in this world God created in pairs, as well as humans. Nowadays, teenagers are very easily influenced by their friends and fall into promiscuity, in which they commit acts that are prohibited by religion and violate religious norms. This causes a lot of negative things for them, one of which is pregnancy outside of marriage, so that early marriage occurs. Early marriages that have not reached the age of 19 years can request dispensation from marriage to the Office of Religious Affairs and the Office of the Religious Courts. Marriage dispensation is a relief given by the court to prospective husbands or wives who wish to carry out a marriage, where the age of one or both of the prospective brides has not yet reached the age limit stipulated in Law Number 16 of 2019 concerning Amendments to the Law. Law Number 1 of 1974 Concerning Marriage. The problem in this study is "Application for Dispensation for Marriage for Underage Pregnant Women After the Enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage". The research method used by the author is this type of research is using Empirical or Sociological legal research, meaning that the research is carried out by the author by going directly to the research location to get results by using a result collection tool in the form of interviews. The results of this study indicate that the Religious Affairs Office of North Pontianak Subdistrict and Judges at the Pontianak Religious Court gave an emergency dispensation for being pregnant out of wedlock, namely because the judge had heard information from the Petitioner, Children, Prospective Husband/Wife, and Parents/Guardians of the Prospective Husband/ Wife and have considered the statements of the parties concerned, and have examined the terms and evidence submitted by the applicant. As well as the legal consequences of granting dispensation from marriage to minors due to pregnancy out of wedlock, namely by being granted dispensation from marriage, minors can carry out marriages, where previously minors could not carry out marriages that were registered by law, then they could because have received permission for dispensation of marriage, then the status and position of the child is clear, and the position of husband and wife is present.

**Keywords:** application for dispensation; marriage; religious court judge

### I. INTRODUCTION

Marriage in Islam is human nature so that a Muslim can carry the mandate of the greatest responsibility within himself towards the person most entitled to education and care. In addition, marriage has the greatest benefits for other social interests. These social interests are maintaining human continuity, caring for offspring, maintaining public safety from all kinds of diseases that can endanger human life and maintaining peace of mind [1]. Every human being definitely wants offspring or children as the next generation. Children are a very valuable gift for married couples, because having children is a very valuable treasure and also one of the goals of marriage that they foster and are expected to bring happiness to the family. Marriage is a sacred agreement (sacred bond) between a man and a woman to form a family. Marriage is a way for creatures to preserve life, after each partner is ready to play a positive role in realizing the goal of marriage [2].

In marriage there is an agreement between a man and a woman to lead a household life. Since entering into an agreement through a contract, both parties have been bound and since then they have obligations and rights that they did not have before. As a mandate from Allah, parents have the responsibility to care for, educate and fulfill their needs until adulthood, in accordance with Article 45 paragraph (1) of Law Number 1 of 1974 concerning Marriage which reads: "Both parents are obliged to care for and educate their children as well as possible." Underage women who become pregnant out of wedlock so that marriages occur because the woman is pregnant first. Pregnant out of wedlock is a phenomenon that is increasingly widespread in society lately, as if getting pregnant out of wedlock has become part of the culture that develops in our society, even today most people think that getting pregnant out of wedlock is commonplace, but not a few also think that it is still a disgrace that must be tightly covered up in order to avoid embarrassment, and some of them are looking for a solution by getting married [3].

In Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning marriage where in Article 1 paragraph (1) explains the provisions of Article 7 of Law Number 16 of 2019 amended so that it reads "Marriage is only permitted if a man and a woman has reached the age of 19 years". Provisions around the age limit for marriage look more stringent. There are several important points that characterize the restrictions on parties wishing to enter into a marriage [4], namely: first, in the elucidation of Article 7, it states the size of the urgent reason for the marriage to be carried out even though it does not reach the age limit of 19 years in the explanation. and was forced to get married. The prevention of child marriage is contained in the elucidation of Article 7 (3) "the granting of dispensation by the Religious Courts for those of Muslim faith and the District Court for those of other religions is based on the spirit of preventing child marriage, considerations of morals, religion, customs and culture, aspects psychological aspects, health aspects, and the impact it causes [5].

The age limit in getting married is very important or can be said to be very important. This is because in marriage requires psychological maturity. The age of marriage that is too young can result in an increase in divorce cases due to a lack of awareness to be responsible for married life for husband and wife [6]. A successful marriage is often marked by a readiness to assume responsibility. Likewise deciding to get married, they are ready to bear all the burdens that arise as a result of marriage, they are ready to bear all the burdens that arise as a result of marriage, whether it involves providing a living, educating children, or those related to protection, education, and good association [7]. Every rule of law certainly has provisions regarding the determination of the age of adulthood, as well as the provisions of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection [8]. As is the case in Article 1 In this Law what is meant by paragraph 1 Child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. This means that children are aged 0 to 17 (seventeen) years old, while adults are aged 18 (eighteen) years and over [9].

Marriage Dispensation is the granting of a marriage license by a court to a prospective husband or wife who is not yet 19 years of age to enter into a marriage . This rule is contained in Law Number 1 of 1974 concerning Marriage. Then the Law was revised by Law Number 16 of 2019 which took effect on October 15 2019. The new rules state that the minimum age of marriage is 19 years for both women and men [10]. The application for dispensation from marriage aims to implement the principles of ( best interests of the child, the right to life and development of the child, respect for the opinion of the child, human dignity and worth, non-discrimination, gender equality, equality before the law, justice, benefits and legal certainty). ensure a justice system that protects children's rights, increases parental responsibility in the context of preventing child marriage and identifies the presence or absence of coercion against children [11]. At present, early marriage is still being practiced by many people, especially in West Kalimantan. Underage marriages are used

as the main alternative as a shortcut to solve problems in the family. So this adds to the length of the case of underage marriages. Not only in terms of health, early marriage can also be said to have robbed the couple's teenage rights [12].

Where at that time it should have been filled with playing and learning activities to achieve a better future, but instead it was exchanged with the burden of marriage and taking care of children. Some of those who undergo early marriage tend to drop out of school, because inevitably they have to fulfill their responsibilities after marriage [13]. The Supreme Court issued Supreme Court Regulation Number 5 of 2019, specifically responding to how the court provides justice in handling cases of requests for marital dispensation in order to provide protection for children, so the Religious Courts stand by and rely on the process of handling them. Judges of the Religious Courts must have a presumption and consider the benefits and harms in determining the application for marriage dispensation [14]. The purpose of this research is to get data and information about the description Application for Marriage Dispensation for Underage Pregnant Women After Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage comes into effect [15].

## II. RESEARCH METHODS

research is Empirical or Sociological, meaning that the research is carried out by the author by going directly to the research location to obtain data using a data collection tool in the form of interviews [16]. The nature of this research is descriptive, namely to provide a clear, detailed and complete description of an event that occurred regarding the juridical review of the Application for Marriage Dispensation for Underage Pregnant Women After the Enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage Judge of the Pontianak City Religious Court . The approach that the writer uses in this research is the sociology of law approach. The legal sociology approach is an approach that analyzes how reactions and interactions occur when the norm system works in society [17]. In addition, there is also a sociological approach to law. This approach is constructed as a stable, institutionalized societal behavior that gains social legitimacy. The data collection carried out in this study was library research.

## III. RESULTS AND DISCUSSION

### *Data Analysis of Underage Pregnant Women's Marriage Dispensation Application After Law Number 16 of 2019 concerning Amendment to Law Number 1 of 1974 concerning Marriage*

In the Marriage Law basically, marriage is only permitted when a man and a woman are 19 years old, at which age a person is considered physically and mentally mature to enter into a marriage. However, as time has progressed, especially in this era of globalization, marriages are common at a relatively young age. It is evident from the data that the

authors obtained at the Pontianak Religious Court that the application for dispensation from marriage is increasing every year. Where this condition is feared will have an impact on the high mortality rate of mothers and also make them unable to maintain household continuity which will eventually lead to divorce, which is due to the condition of the bride and groom who are not mature biologically, mentally, psychologically, and it is difficult to control emotions.

Based on the provisions of Article 7 paragraph (1) of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage that marriage is only permitted if the male and female parties have reached 19 (nineteen) years, the Office of Religious Affairs (KUA) does not have the authority to marry off minors [18]. Legal considerations in accepting requests for dispensation from underage child marriages are to look at the benefits and harms. The judge can accept the request for dispensation if there is an urgent reason, such as being pregnant out of wedlock. By considering more harm if the marriage does not take place, the Judge can accept the request for dispensation. Because most marriage dispensations for those who are pregnant out of wedlock are accepted as long as they have obtained permission from the Religious Court as long as the requirements are complete and what is rejected is when the requirements are incomplete and there is no dispensation from the Religious Court, they cannot enter into a state marriage. That's why sometimes those who are rejected do marriages in betel terms. If the application is accepted, the court will issue a stipulation that a marriage can take place and that the marriage is legal according to religion and state. If the application for dispensation is received, the right to be able to enter into a marriage will be obtained, the state will recognize the marriage and be registered at the Office of Religious Affairs (KUA) for those who are Muslim and at the Civil Registry Office, competent in law, there is an inherent law, namely having responsibility for children and wife and the existence of laws that arise such as property, legitimacy and children, can then provide a clear relationship status to children [19].

Especially if the minor is pregnant out of wedlock, then the child born gets legal recognition. However, emotional maturity is a very important aspect to maintain the continuity of marriage. Household success is very much determined by emotional maturity, both husband and wife. With the marriage taking place, their social status in social life is recognized as husband and wife, and legally valid. The age of marriage that is too young can result in an increase in divorce cases due to a lack of awareness to be responsible for married life for husband and wife. A successful marriage is often marked by a readiness to assume responsibility. Once they decide to get married, they are ready to bear all the burdens that arise as a result of marriage, whether it involves providing a living, educating children, or those related to protection, education, and good association [20].

In interviews with sources, Mrs. Hj. Andriani, S.Ag, ME, as the Deputy Chairperson of the Pontianak Religious Court, cases of Underage Marriage Requests as many as:

1) In 2019 there were 35 cases (male and female)

- 2) In 2020 there were 109 cases (men and women)
- 3) In 2021 there were 83 cases (male and female)
- 4) In 2022 there were 67 cases (male and female) until early November 2022.

At the Pontianak Religious Court, those applying for a marriage dispensation from 2019 to 2020 have increased during the Covid-19 virus pandemic, dominated by couples who have entered maturity and are ready to marry and have a household. However, there are also not a few young couples who are not old enough to dispense with the KUA so they can get married. The reason is mostly because *Married by Accident* or pregnant out of wedlock. So forced to get married as soon as possible. And in 2021 to 2022 it has decreased after the Covid 19 pandemic has decreased. Application for Marriage Dispensation for Underage Pregnant Women after Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage at the Pontianak City Religious Court. And in interviews with sources by Mr. Syaiful Bahri, who served as the Junior Expert Head of the Office of Religious Affairs in North Pontianak District in the case of submitting an Application for Dispensation for Marriage for Underage Pregnant Women After the Enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 Year 1974 Regarding Marriage, at the Office of Religious Affairs in North Pontianak District in 2022 there were 4 people who proposed dispensation for February, 2 men and 2 women, for July 2022 there was 1 woman .

Based on the results of the author's interview with the Deputy Head of the Pontianak Religious Court who stated that, those who apply for dispensation from marriage due to pregnancy out of wedlock are generally granted. The reason for this is that the judge gives dispensation from marriage to the underage woman who is pregnant because the judge has heard the statements from the Petitioner, the Children, the Prospective Husband/Wife, and the Parents/Guardians of the Prospective Husband/Wife and has considered the information from the parties concerned. , and has examined the terms and evidence submitted by the applicant. Especially if you are already pregnant out of wedlock, the judge sees more of the risk of not being granted the marriage dissolution, so the judge decides to grant the request by prioritizing the benefit. Indeed, it is better to be married legally according to religion and according to the law to save the lineage of the child one is carrying, to provide a living, and so on, so that later he will get his rights as a child from his biological father. And If If is rejected on the grounds that he is still in school and there has not been a relationship outside of marriage and there is no emergency reason .

#### *Analysis of the Causes of the Request for Dispensation for Underage Pregnant Women After the Enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage Is Granted*

Most of them thought that the age limit for marriage in the Marriage Law had not changed from the beginning, namely at the age of 19 for men and women, whereas in the previous Law the age limit for marriage for men and women was distinguished, namely for men aged 19 years and for

women aged 16 years. Marriages that are carried out for someone who is not old enough can still be implemented, as stated in Article 7 paragraph (2) of the Marriage Law, namely: "in the event of deviation from the age requirement as referred to in paragraph (1), the parents of the / or the woman's party can ask for dispensation from the Court with very urgent reasons accompanied by sufficient supporting evidence books. Factors that cause underage marriages. Each region has different factors from other regions according to the socio-cultural conditions or habits that exist in that area. There are several factors that cause underage marriages. The first is the economic factor, that is, it is not possible for the person concerned to continue school and instead of running around, getting married is one of the choices taken. The second is because one of the parties already has a job. Even though he is not old enough, he is considered capable of supporting his family. The third factor is the lack of vision to continue to a higher level of education. And fourth, which is one of the factors that is quite influential is environmental factors and local culture. Many areas have a culture of underage marriage. So it is not uncommon to find applications for underage marriages. Based on the results of an interview with Mr. Syaiful Barry as the head of the Junior Expert at the Office of Religious Affairs in North Pontianak Utara District, it can be concluded that the factors that cause underage marriages are as follows:

- a) The factor of getting pregnant out of wedlock or what is known as an accidental marriage is one of the factors that is common in other areas, not only in North Pontianak District. In this case the couple had had a husband and wife relationship before there was a legal marriage bond both religiously and under state law. This is caused by various things such as promiscuity, low religious education, lack of supervision from parents, and the moral crisis that occurs among adolescents.
- b) Because a relationship that is too close means that a couple of lovers are too close to have a relationship without any boundaries regulated by shari'a or Islamic teachings. Because it is feared that something unwanted will happen (adultery), it is better for the parents to hasten the couple to get married.

In submitting a marriage dispensation at the Pontianak Religious Court. This factor occurs because nowadays there is no longer any distance between the opposite sex, be it friends or girlfriends, causing parents to worry about their children and also to avoid slander in society. In line with the explanation above, based on the results of the author's interview with the Pontianak Religious Court Judge who stated that, not all of the reasons for applying for a marriage dispensation were because they were pregnant out of wedlock, but there were also reasons for them having been in a relationship with their partner for too long, often both - alone, and feel confident in the couple to continue towards marriage. Seeing their son's style of dating who is too familiar with his partner makes his parents anxious and afraid that it will cause concern if something happens that leads to adultery, therefore his parents decide to marry their child to their partner to avoid committing adultery.

The number of applications for marriage dispensation at the Pontianak Religious Court, interviews with the vice chairperson at the Pontianak Religious Court, the authors found several considerations for judges in granting marriage dispensation at the Pontianak Religious Court. The basis for the judge's consideration in granting a marriage dispensation is as follows. Judge's Considerations In submitting a marriage dispensation application, of course there are several administrative requirements that must be met, in the Religious courts a policy applies that there are conditions that have been determined in accordance with the marriage dispensation procedure, including: The applicant who applies for dispensation of marriage at the Pontianak Religious Court is the parents of the prospective bride and groom who wish to obtain a permit for dispensation of marriage whose application is made in writing or orally. Then the application is submitted to the local Religious Court, according to the applicant's current address. There is no prohibition on marriage between the two bride and groom, in accordance with Article 8 of the Marriage Law. The authority of the Religious Courts Regulated in Article 49 of the Law on Religious Courts confirms that: "The Religious Courts have the duty and authority to examine, decide and settle cases at the first level between people who are Muslim in the fields of: marriage, inheritance, wills, grants, endowments, zakat, infaq, shadaqah, and sharia economics. One of the authorities of the Religious Courts in the field of marriage is the dispensation of marriage. This dispensation is an exception in terms of the application of the provisions of Article 7 paragraph (1) of the Marriage Law given by a court to a marriage performed by one or both bride and groom who have not yet reached the age of marriage.

Before the panel of judges decides on a marriage dispensation, the panel of judges will consider whether the request can be granted or not. The basic considerations of the panel of judges are as follows: first, the applicant submitting a marriage dispensation. During the trial, the panel of judges will consider whether the applicant applying for a marriage dispensation has the right to apply or not. Second, the reasons for applying for a marriage dispensation. The panel of judges in the trial will ask the reasons for the applicant's child, and the panel of judges will further investigate the reasons for the applicant's child listed in the petition, whether the reasons for the applicant's child and the applicant have similarities or not. Third, whether marriage is prohibited or not. For the two prospective brides who want to carry out the marriage whether there is a prohibition or not, as stipulated in the Marriage Law. Fourth, benefit and harm. If a couple is in love and has sexual relations outside of marriage causing the woman to become pregnant, the court will grant the request for dispensation from marriage. Because the dispensation from marriage given by the Religious Courts is to prevent further harm from happening, moreover there is a concern that if the marriage is not carried out, an underhand marriage will occur which will result in the disruption of future legal processes or the disruption of the legal rights of the child to be born.

*Legal Consequences for Underage Pregnant Women's Request for Dispensation After Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage comes into effect*

In this case, as the Judge of the Pontianak Religious Court, and Penghulu of the Religious Affairs Office of North Pontianak District, they are always accepted as long as the requirements are complete and with emergency reasons due to an accident or pregnancy out of wedlock and must be ready, physically, mentally healthy and have income and education, one of which is . If you are not pregnant but often have intercourse, then for this reason so that no major sin occurs, it is accepted, as long as the pillars of the conditions for a valid marriage are met. And in this case it is rarely rejected if it is rejected on the grounds that it is still in school and there has not been a relationship outside of marriage and there is no emergency reason. Carrying out underage marriages will mostly have a negative impact on these marriages, these impacts arise due to the immaturity of the age and the immaturity of the perpetrators of underage marriages. The negative impacts that arise tend not to care about adolescents who carry out early marriages and their parents, this occurs because of a lack of knowledge about marriage and the impacts that arise as a result of early marriage.

At the Pontianak Religious Court who applied for a marriage dispensation from 2019 there were 35 cases, in 2020 109 cases, in 2021 83 cases and until November 2022 there had been a decrease of 67 cases in Pontianak City. Carrying out underage marriages will mostly have a negative impact on these marriages, these impacts arise due to factors such as immaturity and immaturity of the perpetrators of underage marriages. The negative impacts that arise tend to be ignored by teenagers who carry out early marriages and their parents, this occurs because of a lack of knowledge about marriage and the impacts that arise as a result of early marriage. The advice given by the Judge to Parents/Guardians and the prospective bride and groom intend to prevent the occurrence of underage marriages which are increasing, and also the prospective bride and groom can reconsider entering into underage marriages, because of the impact of underage marriages not a little. When the application for marriage dispensation has been granted by the Court, it will have legal consequences for those who get the marriage dispensation stipulation. Based on the results of the author's interview with the Pontianak Religious Court Judge who stated that the legal consequence of granting a marriage dispensation is that by being granted a marriage dispensation, minors can carry out marriages, where previously minors could not carry out marriages that were registered by law, then they could because they have received permission to dispensation from marriage, then the status and position of the children are clear, and the position of husband and wife is present.

Carrying out underage marriages will mostly have a negative impact on these marriages, these impacts arise due to factors such as immaturity and immaturity of the perpetrators of underage marriages. The negative impacts that arise tend to be ignored by teenagers who carry out early marriages and their parents, this occurs because of a lack of

knowledge about marriage and the impacts that arise as a result of early marriage. The impact of early marriage can be described as follows:

- 1) The Impact of Early Marriage on Reproductive Health Early marriage will have an impact on the reproductive health of girls, because a girl's reproductive organs are not fully mature so they are not ready to have sexual intercourse with the opposite sex, and also the pelvic bones are still small and not strong enough so that they can be at risk when pregnant and giving birth. Women who marry early between the ages of 15-19 when they are already facing pregnancy are very prone to miscarriage and are twice as likely to be at risk of dying during childbirth than those aged 20 years and over.
- 2) The Impact of Early Marriage on Mental and Psychological Marriage at an early age will burden the couple with the responsibility of being a husband and wife, a father and mother, and other roles that should be carried out by adults. This marriage also increases the psychological and emotional burden for them. Children who marry early when there are problems in their household tend not to be able to resolve them maturely, tend to be selfish and do not want to give in to each other, resulting in conflicts that trigger fights and domestic violence. This can cause stress that can be detrimental to himself or affect the integrity of the couple's household.
- 3) The Impact of Early Marriage on Children. Babies born to young mothers are more prone to give birth to premature babies, with low baby weight and malnutrition. This is because mothers who marry at a young age are still in the process of growth, so that the fulfillment of nutrition for the fetus will be divided for their own bodies. Stress in pregnant women will increase the risk of miscarriage, premature babies, and so on. Marrying at a young age results in a mother's lack of mental and psychological preparation, thus making her less than optimal in carrying out her role as a mother and tends to be less good at implementing parenting styles for her child, which will ultimately have an impact on the growth and development of her child.
- 4) The Impact of Early Marriage on the Economy Early marriage can create a new cycle of poverty. Teenagers are often not well off or do not have decent jobs due to low education. This will result in married children still depending on their parents. This situation will last from generation to generation until poverty is formed. Unless women who marry early have partners who are more mature and have enough work and income to support their families, this economic impact may be avoided.
- 5) The Impact of Early Marriage on Education . Marriage often causes children to no longer attend school because they already have new responsibilities, namely as a wife and mother-to-be. There are several schools that do not accept girls who are married or even pregnant to attend school. This early marriage can eliminate the opportunity for children to get formal education in developing themselves.

*Analysis of What Efforts Did Religious Court Judges Take in Granting Dispensation to Marriage for Underage Pregnant Women After the Enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage*

Based on the results of an interview with Mr. Syaiful Barry as the head of the Junior Expert at the Office of Religious Affairs in North Pontianak District, the conditions and procedures that must be met by the prospective bride and groom in applying for a marriage dispensation are based on Minister of Religion Regulation Number 20 of 2019 concerning Marriage Registration issued by the Ministry of Religion to carry out orderly administration, transparency and legal certainty in the implementation of Islamic marriages. In Regulation of the Minister of Religion 20 of 2019 concerning Registration of Marriages, it regulates the registration of marriage wishes, examination of documents of the will of marriage, rejection of the will of marriage, announcement of the will of marriage, marriage agreements, implementation of registration of marriages to submission of the Marriage Book. With conditions must complete KTP, Deed, latest diploma, Family Card. And for special ones, such as a letter from outside, must make a request for the will of marriage, the approval of the two prospective bride and groom. For those under the age of 19, they must include a marriage dispensation from the Religious Court with other conditions if they want to marry less than 10 days of registration, there must be a dispensation letter from the Camat. In the Office of Religious Affairs, North Pontianak sub-district, the procedure for carrying out a marriage is that the most important thing is that the ruku is fulfilled and the conditions must be met so that it will be valid. The Office of Religious Affairs is not only legal but must be registered based on the applicable law.

Based on the results of interviews with Mrs. Hj. Andriani, S.Ag, ME as deputy chairman of the Pontianak Court stated that the meaning of urgent reasons and supporting evidence contained in Article 7 Paragraph (2) namely urgent reasons is a situation where there is no other choice and even though you have to carry out a marriage with very forced, while the supporting evidence is a statement proving that the child is underage and a statement from the doctor supporting the parents' statement that the marriage is very urgent to be carried out. This marriage dispensation means relief from a marriage age limit that has been regulated in the Marriage Law. To get this marriage dispensation, you must submit an application to the Religious Court for those who are Muslim or the District Court for those who are not Muslim. The religious court is one of the legal courts in Indonesia, which is special and authorized only in certain civil cases, the religious court is only for people who are Muslim and only covers certain Islamic civil cases. The conditions that must be met in filing a marriage dispensation application at the Religious Court are as follows:

- 1) Application letter
- 2) Photocopy of KTP of the parents/guardians concerned
- 3) Photocopy of the Applicant's Family Card
- 4) Photocopy of child's birth certificate/KTP
- 5) Copy of KTP Birth Certificate Prospective husband/wife

- 6) Photocopy of the child's last educational diploma and/or a certificate of still going to school from the child's school
- 7) Photocopy of Rejection Letter from the Local District Office of Religious Affairs
- 8) Paying Down Payment Fees, An Applicant Who Can't Able Can Submit an Application for Dispensation of Marriage for Free (Prodeo)

An application for a marriage dispensation must be filed by both parents of the child whose marriage dispensation is applied for, as applicants, unless one of them has died, and if both parents have died, the marriage dispensation application can only be submitted by a guardian who has been appointed based on a court order. An application for a marriage dispensation shall be submitted to the Religious Court whose jurisdiction covers the place of residence of the child for whom the marriage dispensation is being applied for. The Panel of Judges can only pass a decision on the case for the marriage dispensation application after hearing statements from both parents from both parties and both prospective bride and groom. A statement from the child being requested for dispensation his marriage that he is able to fulfill all the obligations arising from the marriage bond. Marriage dispensation is an exception in the case of marriage for both or one of the prospective bridegrooms or brides who are still underage. The Office of Religious Affairs has a clear position in accordance with Law Number 22 of 1946 where it is explained that marriages are supervised by Marriage Registrars, for couples who carry out marriages without the supervision of Marriage Registrars are subject to punishment because it is a violation. The purpose of registering marriages is found in his explanation, that marriages are recorded in order to obtain legal certainty and order. Efforts to Prevent Underage Pregnant Women in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974, that marriage in the Religious Affairs Office of North Pontianak District, one of which is by outreach from the local KUA in collaboration with schools and educational institutions such as the BRUS (School-Age Youth Guidance) program, BURN (Marriage-Age Youth Guidance), this is for teenagers who are still studying at tertiary institutions, BRH (Harmonic Guidance) for those who are married.

And in determining the application for marital dispensation it is one of the Religious Courts which has permanent legal force, the difference with the decision is that the stipulation applies to the applicant himself and to the person who obtains the rights from him. Based on the results of the author's interview with the Pontianak Religious Court Judge who stated that, those who apply for dispensation from marriage due to pregnancy out of wedlock are generally granted. The reason for this is that the judge gives dispensation from marriage to the underage woman who is pregnant because the judge has heard the statements from the Petitioner, the Children, the Prospective Husband/Wife, and the Parents/Guardians of the Prospective Husband/Wife and has considered the information from the parties concerned, and has examined the terms and evidence submitted by the applicant.

Especially if you are already pregnant out of wedlock, the judge sees more of the risk of not being granted the marriage dissolution, so the judge decides to grant the request by prioritizing the benefit. Indeed, it is better to be married legally according to religion and according to the law to save the lineage of the child one is carrying, to provide a living, and so on, so that later he will get his rights as a child from his biological father. However, if the party applying for the dispensation does not comply with the law, such as the application made is unclear or there are formal defects, then the application for dispensation for marriage is not accepted by the panel of judges. In the Pontianak Religious Court, those who apply for dispensation from marriage are not only due to pregnancy out of wedlock, there are several other factors such as avoiding adultery. The Marriage Law has regulated the husband's obligations contained in Article 34 Paragraph (1) which reads: "The husband is obliged to protect his wife and provide everything necessary for household life according to his ability". Not only regulated in the Marriage Law, the husband's obligations are also regulated in Article 107 of the Civil Code which reads: "Every husband has the obligation to accept his wife in the house where she is pregnant. He is also obliged to protect him and provide him with everything that is necessary and in accordance with his position and ability. In these articles it can be seen that a husband must be able to provide the things or needs that a wife needs.

The efforts made by judges to prevent underage pregnant women from submitting requests for dispensation, this is the duty of all parties, both parents, preachers and others, because judges themselves have no obligation to carry out socialization unless asked to do socialization. The Religious Courts are one of the executing bodies of judicial power whose duty and authority is to receive, examine, adjudicate, and decide on certain cases among people who are Muslim in order to uphold law and justice. Regulations regarding the Religious Courts have undergone several changes, the first regulation being Law Number 7 of 1989 concerning Religious Courts, then undergoing a second amendment namely Law Number 3 of 2006 concerning Religious Courts, and the last amendment which is still in use today is Law Number 50 of 2009 Concerning Religious Courts. According to the provisions of Article 49 of Law Number 50 of 2009 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts, "Religious Courts have the duty and authority to examine, decide and settle cases at the first level between people who are Muslim in the fields of: Marriage, Inheritance, Wills, Grants, Waqf, Zakat, Infaq, Sadaqah, and Sharia Economics. The main duties of the Religious Courts are contained in the provisions of Article 49 of Law Number 50 of 2009 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts, as explained in the authority of the Religious Courts above. In addition to the main duties, the Pekanbaru Religious Court also has functions, namely:

1. The function of adjudicating ( *judicial power* ), namely receiving, examining, adjudicating and resolving cases that are the authority of the Religious Courts at the first level (Article 49 of Law Number 50 of 2009).

2. The function of coaching , namely providing direction, guidance, and instructions to structural and functional officials under their ranks, both regarding judicial techniques, administration of justice, as well as general administration/equipment, finance, staffing, and development. (Article 53 paragraph (1, 2, 4 and 5) of Law Number 50 of 2009 jo. KMA Number KMA/080/VIII/2006).
3. Oversight function , namely to carry out inherent supervision of the implementation of the duties and behavior of Judges, Registrars, Secretaries, Substitute Registrars, and Bailiffs/Alternate Bailiffs under their ranks so that justice is carried out carefully and fairly (Article 53 paragraph (1, 2, 4 and 5) Law No. 50 of 2009) and on the implementation of general secretarial administration and development. (KMA Number KMA/080/VIII/2006).
4. The advisory function is to provide consideration and advice on Islamic law to government agencies in their jurisdictions, if requested. (Article 52 paragraph (1) Law Number 50 of 2009).
5. Administrative functions , namely administering justice (technical and trial), and general administration (staffing, finance, and general/equipment) (KMA Number KMA/080/VIII/2006).

For teenagers, they are not yet said to be mature human beings who have a mature mind. Not yet having the mature ability to resolve the conflicts they are facing, and not having mature thoughts about a good future), will greatly affect the psychosocial development of children, in this case, even conflict abilities, age is influential. For someone who wants to carry out a marriage but has not reached the age limit for marriage, the KUA cannot marry them if there is no marriage dispensation permit from the Court. Therefore, the KUA provides a letter of rejection of marriage to the prospective bride and groom to be submitted to the Court and becomes one of the conditions for applying for a marriage dispensation, so that the marriage is registered by law and obtains a marriage certificate, because marriages that are not recorded in a marriage certificate are deemed non-existent by the state and are not have legal certainty, so that the husband or wife cannot file civil legal actions relating to their household in the future. And if there are legal considerations for rejecting the dispensation of underage child marriages because they do not yet have reasons or considerations that are urgent. If the request for dispensation is rejected by the Court, minors cannot obtain the right to marry and be married off because it is not in accordance with Article 7 paragraph (1) of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage that marriage permitted if the male and female parties have reached the age of 19 years.

However, solutions or legal remedies for those who are denied the application for dispensation of marriage age, can be made by the Petitioner to claim their rights, namely: Revising the application In this case the rejected application for dispensation of marriage age must amend the application where the application must be the same as the evidence in court, so that the judge can determine the dispensation of

marriage age in accordance with applicable law. After the revision of the application is complete, the Petitioner may submit a re-application at the Religious Court. Cassation is an annulment of a decision by the Supreme Court. The Court of Cassation is the court that examines whether the *judex factie* is not wrong in carrying out the trial. The Supreme Court's cassation legal action is an effort to have the *judex factie* decision canceled by the Supreme Court because it was wrong in carrying out the trial. Cassation is an annulment of court decisions made at the last judicial level and which determines the actions of the courts and judges that are contrary to the law. Cassation is a legal remedy for a petition if the Petitioner is dissatisfied with the determination at the first level.

#### IV. CONCLUSION

Based on the results and discussion it can be concluded that: If the application is accepted, then the court will issue a stipulation so that a marriage can take place and the marriage is legal according to religion and state. If the application for dispensation is received, the right to be able to enter into a marriage will be obtained, the state will recognize the marriage and be registered at the Office of Religious Affairs (KUA) for those who are Muslim and at the Civil Registry Office, competent in law, there is an inherent law, namely having responsibility for children and wife and the existence of laws that arise such as property, legitimacy and children, can then provide a clear relationship status to children. Whereas in the request for marriage dispensation based on Minister of Religion Regulation Number 20 of 2019 concerning Registration of Marriages issued by the Ministry of Religion to carry out orderly administration, transparency and legal certainty in carrying out Islamic marriages. In Minister of Religion Regulation 20 of 2019 concerning Marriage Registration. With conditions must complete KTP, Deed, latest diploma, Family Card. And for special ones, such as a letter from outside, must make a request for the will of marriage, the approval of the two prospective bride and groom. For those under the age of 19, they must include a marriage dispensation from the Religious Court with other conditions if they want to marry less than 10 days of registration, there must be a dispensation letter from the Camat. As a result of carrying out underage marriages, most of them will have a negative impact on these marriages, these impacts arise due to the immaturity of the age and the immaturity of the perpetrators of underage marriage. The negative impacts that arise tend to be ignored by teenagers who carry out early marriages and their parents, this occurs because of a lack of knowledge about marriage and the impacts that arise as a result of early marriage. Impact of Early Marriage on Reproductive Health, Impact of Early Marriage on Mental and Psychological, Impact of Early Marriage on Infants, Impact of Early Marriage on the Economy and Impact of Early Marriage on Education.

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