

Application for Second Marriage Dispensation And its Relevance to Child Protection (Study In The Jurisdiction Of Wonosobo Religious Court)

Nila Amania^{1✉}, Yusriyadi², Yunanto³

¹Fakultas Syariah dan Hukum Universitas Sains Al-Qur'an Wonosobo, Indonesia

² Fakultas Hukum Universitas Diponegoro, Indonesia

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Abstract

This study aims to find out why there is still a request for a second dispensation and how the second marriage dispensation is implemented in terms of the principle of child protection. This research is an example of empirical juridical research, which is research done in the field by looking at the laws that are in place and how they are used in people's lives. The study's results show that different ways of interpreting the rules in Article 7 paragraph 1 of Law 16/2019 have led to several KUA in Wonosobo still requiring prospective brides under the age of 19 to submit a second marriage dispensation, even though they are already widowed or widowers. According to the rules, a dispensation for marriage only needs to be filed once. This is because a person is considered legally competent after getting married. On the other hand, when considering the principle of child protection, filing for a second dispensation for marriage is required. This study was made so that the Religious Courts and KUA, as well as anyone else who was interested, could use it as a guide to understand how important it is to have the same ideas about applying for a second marriage dispensation.

A. Introduction

Children are a country's future. Ensuring that children grow up well, are guaranteed their rights, and receive protection at every stage of their growth and development is a major investment that the state can make. Article 20 of Law Number 35 of 2014, which is an amendment to Law Number 23 of 2002 about Child Protection (UU 35/2014), says: "All parties, including the state, government, local government, community, family, and parents, have obligations and responsibilities to protect children."

Among the child protection issues that many face is underage marriage. The Center for Gender and Sexuality Studies in In-

onesia did a study in 2015, and the results showed that Indonesia had the second-most child marriages in Southeast Asia. 7.3 million Indonesian women are married underage.¹ Undang-undang Nomor 16 Tahun 2019 sebagai perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang perkawinan (UU 16/2019), mensyaratkan batas usia minimal perkawinan adalah 19 tahun bagi laki-laki maupun perempuan. Perkawinan anak di bawah umur sendiri memiliki banyak kerugian dan tidak sedikit yang berakhir dengan perceraian.

1 Subdirektorat Statistik Rumah Tangga, *Kemajuan Yang Tertunda: Analisis Data Perkawinan Usia Anak Di Indonesia* (Jakarta: Badan Pusat Statistik Indonesia, 2015).

Child marriage has a detrimental effect on women's reproductive systems, particularly in terms of health. Female reproductive organs that are fertile correspond to the age of psychological growth, which is at least 21 years. Due to the immaturity of the reproductive organs, getting pregnant when there is less risk of disease in reproduction is dangerous if it happens.² In addition, child marriage has violated children's rights, especially their right to education. Education is a venue for the development and exploration of knowledge. Child marriage will interrupt the education of young people. It is unlikely that they will be able to go to school for more than high school. Not to mention that, from a social standpoint, women are viewed as future moms who will exclusively care for their children, leading many to believe that they do not require a higher education. Due to their low education and expertise, the couple will likely employing authoritarian parenting approaches, which are detrimental to their children, when they have children.³

Even though there are many negative impacts related to child marriage, in practice in the community the need to get married immediately is still high, both because awareness of going to school is low, because the person already has a permanent job, because of fears of approaching adultery, and because the girl has become pregnant out of wedlock. Whatever the motivation, one cannot just get married because there is a minimum age limit for marriage.

There is still an opportunity to deviate from the legally mandated minimum age for marriage. Article 7 paragraph 2 of Law 16/2019 provides a way for parties who will get married but are not yet 19 years old. By submitting a marriage dispensation to the court, the Religious Court for those who are Muslims and the District Court for those who are non-Muslims, Marriage dispensation is given to those who have urgent reasons.⁴

2 Akh Syamsul Muniri and Nur Shofa Ulfiyati, "KONDISI ANAK PEREMPUAN DAN DAMPAK PERKAWINAN ANAK (Studi Pandangan Ulama Perempuan Indonesia)," *al-Mawarid Jurnal Syari'ah & Hukum* 3, no. 1 (2021): 1–12.

3 Ibid.

4 Syeh Sarip Hadaiyatullah and Nurul Huda,

After the judge grants permission for the marriage, the marriage will happen. The following issue is that not every marriage goes as to plan. Frequently, this also ends in a divorce. Also, marriage at a young age is highly vulnerable to complications due to economic and psychological aspects; it still requires parental assistance and supervision.

The high number of divorces in Indonesia is related to young marriage; divorce is dominated by couples aged 20-30 years.⁵ This is due to the instability of a teenager's emotions, which increases the risk of partner conflicts. In addition, domestic violence is usually the result of a disparity in the relationship between young husbands and wives.⁶

At the Wonosobo Religious Court, the rise and fall in the number of applications for marriage dispensation can be seen in the following Figure 1.

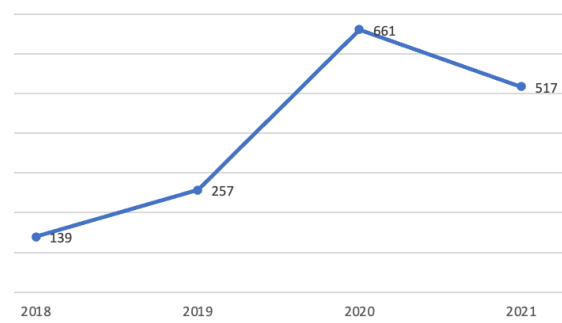


Figure 1. The number of applications for marriage dispensation

Based on the results of the interview, it can be seen that the Wonosobo Religious Court still accepts the second marriage dispensation application. This is because they received an application for a second dispensation.

"Praktek Hukum Acara Dispensasi Kawin," *ASAS* 12, no. 01 (2020): 150–166.

5 Ani Yumarni and Endeh Suhartini, "Perkawinan Bawah Umur Dan Potensi Perceraian (Studi Kewenangan KUA Wilayah Kota Bogor)," *Jurnal Hukum Ius Quia Iustum* 26, no. 1 (2019): 193–211.

6 Fachria Octaviani and Nunung Nurwati, "Dampak Pernikahan Usia Dini Terhadap Perceraian Di Indonesia," *Jurnal Ilmu Kesejahteraan Sosial HUMANITAS* 2, no. 2 (2020): 33–52.

"There are still a number of second-marriage dispensation requests due to different interpretations among the KUA." Even though you should have already been married, you should not be required to apply for a second dispensation. However, as we have received a letter of denial from the KUA and the request for a second marriage dispensation, we will process it. The judge decides whether or not the request will be accepted. There are no specific numbers because it is not possible to separate between the first and second applications for a marriage dispensation, but the number of 2nd applicants reached twenty during 2021."⁷

When a child married under this dispensation is divorced and his age has not yet reached the age limit for marriage, does he need to apply for a remarriage dispensation? For example, a child gets married at 16 years old, gets divorced at 17 years old, and remarries at 18 years old.

The first problem to be examined in this research is why there is still a request for a second marriage dispensation. The next problem is whether or not it is necessary to ask for a second marriage dispensation based on the principle of protecting children.

This research is included in qualitative research. At the Wonsobo Religious Court, qualitative research allows researchers to understand society more closely and see a community according to the way they see the world of the community itself.⁸ The scope of this research is empirically juridical, which will examine normative legal regulations related to marriage dispensation, its procedures, the relationship with child protection regulations, and their relation to their application in the field in the process of applying for a second marriage dispensation.⁹

This research is based on interview-derived primary data sources. The stages in this

7 Wawancara dengan Panitera Pengadilan Agama Wonosobo, "Masih Ada Permohonan Dispensasi Kawin Kedua," March 16, 2022.

8 Robert Bodgan and Teven J. Taylor, *Dasar-Dasar Penelitian Kualitatif*, Terjemahan A. Khozin Afandi. (Surabaya: Usaha Nasional, 1993), 31.

9 S. H. I. Jonaedi Efendi, S. H. Johnny Ibrahim, and M. M. Se, *Metode Penelitian Hukum: Normatif Dan Empiris* (Prenada Media, 2018), 149.

study included interviews with authorized officials within the Before registering marriages, they talked to the Religious Courts and KUA in the Wonosobo Regency area to find out what they thought about who should get a marriage dispensation. Secondary data will also be used in this study. This will come in the form of literature about the topic being looked at. These data will be analyzed descriptively to reach a conclusion.

B. The Application for a Second Marriage Dispensation

In Law 35/2014, it is stated in Article 1 that what is classified as a child is someone who has not reached the age of 18—including children who are still in the womb. In contrast to the classification of children in Law No. 39 of 1999 concerning Human Rights (UU 39/1999), Article 1 Paragraph 5 states that what is meant by a "child" is someone who is under 18 years of age and is not married, including children who are still in the womb. In the category of children according to human rights law, there is an emphasis that, apart from age, a person is called a child when he is not married.

Article 98, paragraph 1, of the Compilation of Islamic Law says that a child is considered an adult when he or she is 21 years old, as long as the child is not physically or mentally disabled or has never been married. Whereas in Article 330 of the Civil Code (KUHPerdata), it is stated that the minimum age for a person to take legal action is to have reached 21 years of age or have been married. At the age of 21, a person can be said to be an adult or legally competent, as well as being under the age of 21 but already married. Someone who is married will not become a child or immature again, even if the marriage has been dissolved before someone reaches adulthood. This is what the Supreme Court Circular Letter No. 3 of 1963 says, which says that a woman who is married is considered to be able to take care of her own legal matters.

In Indonesian positive law, there is legal pluralism about the minimum age limit related to the age of the child. This means that

there are different minimum ages for maturity. This legal pluralism has the effect of not having one uniform reference as the basis for determining whether someone is a child or an adult. When figuring out how old a child is, the point of view that is used as a guide is returned to the rules that apply to the problem.¹⁰

In term of marriage, Law 16/2019 in Article 7 paragraph (1) only emphasizes that "Marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) years." In the next paragraph, it is stated, "In the event of deviation from the age requirement as referred to in paragraph (1), the parents of the man and/or the parents of the woman can request dispensation from the Court with very urgent reasons accompanied by sufficient supporting evidence."

The provisions in the marriage law have an impact on different interpretations between one KUA officer and another in the Wonosobo area. It needs to be understood that the process of registering a marriage through the KUA, until an age-related rejection because the applicant is too young, as follows:

1. When someone wants to register a marriage, they must meet the requirements specified in Article 5 Paragraph 1 of Minister of Religion Regulation Number 11 of 2007 concerning Marriage Registration (PERMENAG 11/2007), with the following provisions:

"Notification of the will to marry is done in writing by filling out the Notification Form and is accompanied by the following requirements:

- a. A certificate for marriage from the head of the village;
- b. Birth certificate;
- c. Approval of the bride and groom;
- d. Certificate of parents (mother and father) from the village head;
- e. Parents' written permission is required for prospective brides under the age of 21;

- f. Permission from the court if the parent referred to in letter E is not available;
- g. Dispensation from the court for prospective husbands who have not reached the age of 19 and for prospective wives who have not reached the age of 16 (adjusted after the amendment to the Marriage Law became 19, the same for prospective wives and prospective husbands);
- h. If the prospective bride and groom are members of the TNI or POLRI, a letter of permission from his/her supervisor unit is required;
- i. Court decision for those who will polygamy;
- j. excerpt from the divorce registration book for those whose divorce occurred before the enactment of Law Number 7 of 1989 concerning the Religious Courts;
- k. Husband/wife death certificate for widows and widowers;
- l. Permission to marry from the embassy for foreign nationals."

2. In accordance with the provisions in Article 9 paragraph (1) of PERMENAG 11/2007, it is stated that "Marriage checks are carried out by Marriage Registrars (PPN) on prospective husbands, prospective wives, and marriage guardians regarding whether or not there are obstacles to marriage according to Islamic law and the completeness of administrative requirements";

3. In the presence of PPN, the marriage registration process is carried out by the prospective bride and groom. As long as the requirements of the laws and rules have been met, the marriage registration will be accepted and processed in the right way;

4. If the prospective bride and groom cannot fulfill the administrative requirements, one of which is related to the age of the prospective bride, who has not reached the minimum age limit according to the provisions of the law, the PPN will reject the registration of

10 Mhd Harahap, "Batas Kedewasaan Anak Untuk Cakap Hukum Dalam Perspektif Peraturan Di Indonesia," *JGSIMS: Journal of Gender and Social Inclusion in Muslim Societies* 1, no. 1 (2020).

the marriage. As stipulated in Article 12 paragraph (1) of PERMENAG 11/2007, it states that "in the event that the results of the examination prove that the conditions for marriage as referred to in Article 5 paragraph (2) are not fulfilled or there are obstacles to getting married, then the marriage should be rejected and cannot be implemented."

5. The form of PPN refusal is a letter of notification of obstacles or deficiencies in the requirements so that the parties can immediately complete them. If these deficiencies cannot be met, the KUA will issue a rejection letter for marriage registration (N-8). This letter N-8 will later be brought up by the parents as one of the conditions for applying for dispensation from marriage for their children, who are not yet old enough to get married.

About a child who has received a marriage dispensation, then divorced, and wants to have a second marriage where his post-divorce age has not yet reached the legal minimum age for marriage, several KUA still respond differently as to whether the child must get an N-8 letter to get a marriage dispensation from the court or the second marriage can be processed immediately. The following are the results of interviews with several KUA parties in the Wonosobo Regency Region:

1. KUA Kecamatan Kaliwiro

*"I ordered another trial (marriage dispensation) because the regulation is about age. This is different from the election law or other laws; the important thing is to be married. Even though he was divorced, because he was going to re-marry when he was not yet 19 years old, he still asked for another dispensation from the court. Why? Because the application was refused, if there is no dispensation letter, the marriage book cannot be printed. Everything is online through the marriage management information system (SIMKAH). Even if you are a widow and not old enough, the column for the number of the dispensation letter from the court must still be filled in."*¹¹

11 wawancara dengan Kepala Kepala KUA Kecamatan Kaliwiro, "Pendaftaran Perkawinan Bagi Janda/Duda Usia Dibawah 19 Tahun," April 12, 2022.

2. KUA Kecamatan Watumalang

*"According to the marriage law, KUA Watumalang follows the rule that if the parties are not old enough, an N-8 letter will be given that can be used to ask for a dispensation from marriage. However, if the underage child is a widow or widower, there is no need to apply for a re-marriage dispensation. Even though there is no explanation in the Marriage Law regarding the widow or widower who is still a child, this is a decision of the KUA Watumalang as the result of ijtihad on various considerations based on the relevant law."*¹²

3. KUA Kecamatan Wonosobo

*"At the KUA in the Wonosobo sub-district, age is the criterion for whether a marriage dispensation mechanism is needed or not. It doesn't matter if you've ever been married or not. because now the marriage registration uses an online system through the SIMKAH service. If the parties are less than 19 years old, the system will automatically reject them. When I was still on duty at the KUA Kejajar, there was a prospective bride who was less than 16 years old, and the KUA refused to let her apply for a dispensation from marriage. The marriage dispensation has been granted by the judge, and they are about to get married, but there is a change in the law where the age must be 19 years old, because the age is not suitable, so submit a re-marriage dispensation to the court."*¹³

4. KUA Kecamatan Mojotengah

*"When the marriage age was changed in Law No. 16 of 2019, especially Article 7, there shouldn't be a polemic; we have a boss. Our boss is the head of the office of the ministry of religion, where there is a special delegation in the field of KUA, namely the field of Islamic community development. In the meeting, it was decided that in the Marriage Law there are no special clauses such as KTP rules. if the KTP is 17 years old or married. Someone who is 16 years old but is married means that he can already get a KTP. In contrast to the Marriage Law, as long as they are not yet 19 years old, even though they have been married twice and have received two marriage dispensations, they still have to get a dispensation."*¹⁴

12 Wawancara dengan PPN KUA Kecamatan Watumalang, "Pendaftaran Perkawinan Bagi Janda/Duda Usia Dibawah 19 Tahun," March 23, 2022.

13 wawancara dengan Kepala KUA Kecamatan Wonosobo, "Pendaftaran Perkawinan Bagi Janda/Duda Usia Dibawah 19 Tahun," April 5, 2022.

14 Wawancara dengan Kepala KUA Kecamatan

Table 1. Second Marriage Dispensation Policy

No	KUA	Second Marriage Dispensation	The Reason
1.	KUA Kecamatan Kaliwiro, KUA Kecamatan Wonosobo, KUA Kecamatan Mojotengah	Required	Regardless of divorce status, based on the child's age: Based on the results of the meeting with the Ministry of Religion in Wonosobo, it was agreed that it was necessary to apply for a second marriage dispensation; Without a second marriage dispensation, the application for marriage registration is automatically rejected by the SIMKAH system;
2.	KUA Kecamatan Watumalang, KUA Kecamatan Garung	Not Required	Based on the status of children who have been married; Based on the Fatwa of the Wonosobo Religious Court, a second marriage dispensation is not required; Marriage registration is automatically rejected by the SIMKAH system in the absence of a second marriage dispensation, but it can be set through the Central SIMKAH admin.

5. KUA Kecamatan Garung

"That is also a question for us as practitioners because the articles in the Marriage Law are biased and there has been a fatwa from the Religious Court (Wonosobo). PA Wonosobo says that widows and widowers under the age of 19 do not need a dispensation. The fatwa states that if you are married and then divorced, then you will remarry at the age of less than 19 years and do not require dispensation from marriage. Regarding the SIMKAH website, it is still in the refinement stage. It's true that there are still problems; anyone under 19 years of age will be rejected by the system without a marriage dispensation. To anticipate this, the data can be set from the center via the SIMKAH admin in Jakarta. The process through the Central SIMKAH administration is not long, only a few days."¹⁵

The policy of the head of the KUA for deciding if a second marriage dispensation is needed can be seen to be based on the following Tabel 1.

Because the law is a human-created system, it contains gaps and flaws. Law is the result of thought, so it is an abstract system with elements that are immaterial and can-

Mojotengah, "Pendaftaran Perkawinan Bagi Janda/Duda Usia Dibawah 19 Tahun," April 19, 2022.

15 Wawancara dengan Kepala KUA Kecamatan Garung, "Pendaftaran Perkawinan Bagi Janda/Duda Usia Dibawah 19 Tahun," April 20, 2022.

not be touched. One of the characteristics of the legal system is that it is consistent when it comes to conflict. Because in the legal system there is interaction between its parts, it is possible for conflicts to occur, both between laws and regulations and between laws and court decisions, and between laws and customs.¹⁶ If there is a conflict, it must be resolved immediately. The legal system has provided legal principles to resolve conflicts that occur. Another feature of the legal system is that it must be complete. However, because human activities are very broad, both in number and type, when there is a shortage, ambiguity, or legal vacuum, the legal system can overcome these conflicts by way of legal discovery.¹⁷

Observing the problem of marriage dispensation in the field, there are variations in its execution, particularly with the advent of the second marriage dispensation as a result of incomplete restriction in Law 16/2019. Article 7 paragraph 1 specifies that a man and a woman must be 19 years old in order to marry. The following line states that if there is a divergence from this age, the parents may petition the court for a dispensation. The ab-

16 Abintoro Prakoso, "Penemuan Hukum," June 28, 2016, 32-34, accessed July 31, 2022, <https://repository.unej.ac.id/handle/123456789/75142>.

17 Ibid., 36.

sence of a provision on “already married” in the article suggests that the only criteria for providing a dispensation from marriage is the child’s age. This requires that the head of the KUA create different regulations and interpretations based on whether a second marriage dispensation is required. In order to overcome the disparity between these rules, it is necessary to review the relevant regulations.

There is no law that exists independently of the legal system. Existence of a law is always depend on the existence of other laws and regulations. Each statute is included into the whole legislative framework. Taking into consideration the definition of a child in Law 39/1999, a child is any non-married person under the age of 18 who is also not married. Thus, an already married and divorced individual who wishes to remarry while still a child does not require a second dispensation from marriage because he is already an adult and legally competent.

With the approval of the Marriage Law Amendment, the Supreme Court gave Supreme Court Regulation No. 5 of 2019 about Guidelines for Judicial Applications for Dispensation of Marriage (PERMA 5/2019). This regulation regulates how to evaluate applications for dispensation of marriage. Article 1 paragraph 1 of the Perma defines the term children. According to law, “a child is a person who has not yet reached 19 or who has never been married. This regulation is more specific in that, if a person has been previously married, he is no longer called a child and thus does not need a dispensation from marriage while being under 19 years old.

It makes sense that the Amendment to the Marriage Law is more important to the KUA than PERMA 5/2019, which is more geared toward judges who hear requests for dispensation from marriage.

C. Perlukah The Importance of the Second Marriage Dispensation

Maidin Gultom said that protecting children shouldn’t be overworked and that people should consider how it impacts the environment and the child so that it doesn’t have negative effects. Child protection should

not result into children becoming dependent on other people or acting irresponsibly. This protection must be taken out rationally, responsibly, and efficiently, representing an effective and efficient enterprise.¹⁸

Article 26 paragraph 1 of the child protection law covers the parental duties and responsibilities. One of these responsibilities is to prevent their children from marriage too early. Too-young marriage can result in the death of young mothers and infants, marital problems, and even the disintegration of the relationship. With children who are early to marriage, they are seen unable of building a happy family. When marriage is considered as only the ratification of biological need, many marriages in Indonesia, specifically those between individuals under the age of 18, are performed with the improper mentality. Society must realize that marriage at an early age has negative effects and that parental support must be improved.¹⁹

Marriage at an early age can effect the sustainability of the marriage. It can be difficult to achieve the goals of marriage, which can create the perception that marriage only brings sorrow. Domestic violence is also common between couples who are having kids, because the psychological condition has been unstable and causes difficult-to-control emotions. Child marriages are also liable to poverty because those who married at a young age have little income, and a large number aren’t even employed. Due to their low level of education, they have reduced chances of getting good work.²⁰ Alasan-alasan tersebut yang menyebabkan perkawinan mereka rentan terhadap perceraian.

One of the four rules of behavior is cal-

18 Maidin Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak*, vol. Cetakan Keempat (edisi revisi) (Bandung: Refika Aditama, 2014), 22.

19 Surmiati Ali, “Perkawinan Usia Muda Di Indonesia Dalam Perspektif Negara Dan Agama Serta Permasalahannya (The Teen Marriage In Indonesia On The Country Perspective And Religion As Well As The Problem),” *Jurnal Legislasi Indonesia* 12, no. 2 (2018).

20 Mubasyaroh Mubasyaroh, “Analisis Faktor Penyebab Pernikahan Dini Dan Dampaknya Bagi Pelakunya,” *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam* 7, no. 2 (2016): 385–411.

led “marriage dispensation.” The other three are “orders,” “prohibitions,” and “permits.” Dispensation is the permissibility of not doing something. Dispensation can occur in the form of not carrying out orders or, vice versa, carrying out prohibitions. So, the dispensation and the orders or prohibitions are in conflict, so they can’t both be done at the same time. When the law says that you have to be 19 to get married, “dispensation of marriage” means that you can get married before that age.²¹

By adding a marriage dispensation article in the Marriage Law, the government is trying to prevent getting marriage too complicated. The purpose of applying marriage dispensation rules is to legalize a marriage in anticipation of an emergency and to avoid bad results.²²

The Wonosobo Religious Court ruled that a second marriage dispensation application is unnecessary because those who have been married are declared adults. However, there are still those who apply for dispensation to remarry at the Wonosobo Religious Court because they keep getting a second refusal from the KUA because they are still under the age of 19 years old. The authors support the second, third, etc. marriage dispensations. It is hoped that this will serve as a reminder to judges and give them something to consider about, making harder for them to agree the marriage dispensation application.

The judge’s reason for accepting the request for dispensation from marriage is based on the reason to avoid harm from having an invalid relationship; the harm must be eliminated because every human being is not allowed to do harm, whether light or heavy. If one harm can cause another harm, then the lesser harm must be chosen. The supporting reason is that the parents have approved and the bride and groom have a consensual rela-

tionship.²³

The Religious Courts have a significant role in providing child protection and contributing to efforts to prevent child marriage. Since the Religious Courts have the power to accept, review, and decide on marriage dispensation applications, they carefully think about the law based on sociological, historical, and philosophical factors.²⁴ Due to the large number of marriage dispensation requests that the judge approved, it became known in the community that judges usually approve all marriage dispensation requests. This made people doubt that the judge’s decision would help the bride and groom.

The first was in Determination Number 49/Pdt.P/2022/PA, one of several marriage dispensation conditions that the Wonosobo Religious Court judges granted. According to the reason for the marriage dispensation being granted, “The panel of judges considered that the applicant’s child was fit and ready physically and spiritually to enter into marriage. And the two prospective bride and groom have a relationship; if they do not marry right away, it will be a sin. Then, relying on the *fiqhiyah* rule, which reads: Preventing damage takes precedence over taking a benefit.”

After checking the Designation Number 50/Pdt.P/2022/PA.Wsb, the Designation Number 51/Pdt.P/2022/PA.Wsb, the Designation Number 53/Pdt.P/2022/PA.Wsb, and the Determination Number 117/Pdt.P/2022/PA.Wsb, the reasons used by the judges in granting the request for a marriage dispensation are almost all the same. Only the identities of the parties differ.

With the implementation of the criteria for dispensation from a second marriage, the reality will show that there are a number of children who are married multiple times as a consequence of measures that divorce

21 Dani Ramdani, *Aspek Hukum Perlindungan Anak, Perkembangan Produk Hukum Dan Implementasinya Di Pengadilan*, Cetakan ke-1. (Jakarta: Prenada Media Group, 2020), 43.

22 Tiara Dewi Prabawati and Emmilia Rusdiana, “Kajian Yuridis Mengenai Alasan Pengajuan Dispensasi Kawin Dikaitkan Dengan Asas-Asas Perlindungan Anak,” *Novum: Jurnal Hukum* 6, no. 3 (2019): 1–10.

23 Riya Ika Sari, “PENETAPAN DISPENSASI KAWIN OLEH HAKIM DITINJAU DARI PERSPEKTIF HUKUM PERLINDUNGAN ANAK (Studi Kasus Di Pengadilan Agama Kabupaten Malang),” *Dinamika: Jurnal Ilmiah Ilmu Hukum* 28, no. 1 (2022): 3158–3174.

24 Mardi Candra, *Aspek Perlindungan Anak Indonesia, Analisis Tentang Perkawinan Di Bawah Umur*. (Jakarta: Prenada Media Group, 2018), ix.

happens before the age of 19. Even though they have become widows or widowers, the failure of marriage since the first marriage dispensation granted by the judge indicates that they are still incapable of marriage.

A marriage relationship requires independence from each individual who becomes a partner. Because having a married life requires full responsibility and commitment, young couples who marry before entering adulthood are unable of dealing with these challenges.²⁵ This should serve as a reminder for the judge when accepting an application for a marriage dispensation. The judge must carefully consider the application for marriage dispensation before giving a decision. Do not let easy marriage permission for children might result in divorce.

D. Conclusion

Article 7 (1) of the Marriage Law is interpreted differently by the KUA in Wonosobo Regency. This has led to different policies on how to get out of a second marriage. The KUA still needs an application for a second marriage dispensation because it is based on the age of the prospective bride and groom. However, the KUA does not need a second marriage dispensation because it is based on the status of the prospective bride as a widow or widower, so they are not considered children even though they are still under 19 years old.

Legally, a person who has already been married does not need a second marriage dispensation because they are an adult. However, for the sake of the child, a second marriage dispensation should be put in place. The fact that there is an application for a second marriage dispensation shows that child marriages are very likely to end in divorce. The number of applications for second marriage dispensation can be used as a reminder for judges to be more careful in granting marriage dispensation requests. Law 35/2014 on Child Protection also says that we should stop kids from getting married when they are

young.

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