

## **The Effectiveness of Application of Marriage Law in Polewali Mandar District: Polewali Religious Court Case Study**

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### **Abstract**

*This paper discusses the effectiveness of the implementation of Law of the Republic of Indonesia Number 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage in Polewali Mandar. There are at least three problems that are studied in this paper, namely, first, the problem of dispensation for marriage in the Polewali Religious Court after the enactment of Law Number 16 of 2019. Second, Judges' Considerations in Deciding on Marriage dispensation cases in the Religious Courts. Third, the Effectiveness of the Implementation of Law Number 16 of 2019 Against Marriage Dispensation Cases at the Polewali Religious Court. By using a qualitative descriptive method sourced from primary and secondary data through observation, interviews, and documentation techniques, it was found that there was a significant increase in cases of filing for dispensation for marriage after The enactment of Law Number 16 of 2019. Second, the judge's considerations in granting the marriage dispensation request judges are more dominant because they protect the benefit and avoid harm. In addition, Islam also recommends not to make it difficult for someone to get married. Third, the application of Law Number 16 of 2019 to the marriage dispensation is still less effective in the Polewali Mandar Regency community.*

**Keywords:** *effectiveness, marriage dispensation, age limit, marriage*

### **1. Introduction**

It is known that the policy of granting marriage dispensation to children who are still underage, marriage dispensation is the granting of the right to a person to marry even though his age has not reached the age limit for marriage caused by certain things in Indonesia. Marriage must be based on an agreement between the prospective bride and groom. Moreover, a prospective husband who does not reach the age of 19 years, or a prospective wife who has not reached the age of 19 years, must obtain a marriage dispensation from the Religious Court. Submission of marriage dispensation cases for those who have not reached the age of 19 for prospective husband and wife submitted by both male or female parents to the Religious Court where they live (Bakung, 2018).

The law that regulates marriage in Indonesia is set forth in the Act Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage in article 7 paragraph (1) that: "Marriage is only permitted if a man and woman have reached the age of 19 (Nineteen) years". If you have not reached the age of marriage, a dispensation from the Religious Court is required based on what is described in Article 7 paragraph (2) of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning

Marriage concerning marriage. the age provision as referred to in paragraph (1), the male parent and/or female parent may request a dispensation from the court with very urgent reasons accompanied by sufficient supporting evidence (Indonesia, 2019).

Regarding marriage dispensation regulations in Indonesia, it has been specifically regulated in PERMA Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation. The existence of this Supreme Court Regulation provides new directions in the settlement of marriage dispensation cases in the Court. in Article 1 paragraph 5 of PERMA Number 5 of 2019 it is explained that "Marriage dispensation is the granting of a marriage permit by the court to a prospective husband/wife who is not yet 19 years of age to carry out a marriage" (Indonesia, 2019).

According to the regulation, it can be understood that when there are some deviations from the marriage age for the prospective bride and groom who will carry out the marriage but have not met the minimum age limit for marriage, they must apply for a marriage dispensation to the court of first instance by the parents/guardians of the candidate. the bride for whom the marriage dispensation is being applied for, in the legal process carried out in the court of first instance, the legal product is then born, if given permission, the bride and groom can carry out the marriage.

Based on the Compilation of Islamic Law (KHI) Article 68 it is stated (Kelib, 1993) that "A marriage registrar is not allowed to carry out or assist in carrying out a marriage if he knows of a violation of the provisions of Article 7 paragraph (1), Article 8, Article 9, Article 10 or Article 12 of Law Number 1 of 1974 even though there is no marriage prevention".

The PERMA Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation has stipulated several basic legal concepts of the procedure for examining applications for marriage dispensations which have never been stipulated before. The substance of the PERMA describes the procedure for the dispensation of marriage cases that apply within the Religious Courts and General Courts, starting from the registration process, examination, settlement of cases, to legal remedies (Permana & Fanani, 2019).

The Supreme Court regulation provides a new direction as a guide to the dispensation of marriage, which we know that currently in Indonesia is a very emergency underage marriage. Underage marriage is a marriage that is carried out before reaching the legal age limit in carrying out a marriage. The impact of an underage marriage is not very good, especially for women, based on Law Number 16 of 2019 and PERMA Number 5 of 2019 which is the focal point for adding to the minimum age limit for marriage for women,

because a woman is of good health, psychological, and the physical aspect must be ready because women will experience what is called pregnancy, and will become a mother in the household, after knowing about the PERMA Number 5 of 2019, what the author knows that in the decision on the examination of the marriage dispensation is very concerned about the interests of a child as a prospective bride, and the judge is required to pay more attention to considerations in giving the Court's decision.

The emotional, biological and psychological maturity of the prospective bride is one of the principles used by the Marriage Act, because marriage has a very noble and holy purpose, namely forming a *sakinah* family and getting pious and pious offspring. Marriages that take place at a very young age or under age are feared to give birth to poor offspring, because of the lack of knowledge of the prospective bride and groom on how to take care of children so that children will grow and develop with less than optimal parenting patterns. Therefore, marriages that are not in accordance with the minimum age requirement for marriage must be minimized as small as possible to prevent these worries from occurring (Rahmat, 2000).

As for the issue of marriage dispensation, it can still be done, but only through the Court. This illustrates that the application for dispensation is more stringent as an effort to minimize the practice of underage marriage in Indonesia. The facts that occurred among the community showed that it was contradictory to the original purpose, where it was seen that there were still many people who applied for a marriage dispensation even though it had to be done through the courts. The number of requests for dispensation from marriage is very significant, so that it will become an obstacle to realizing efforts to minimize the practice of underage marriage in Indonesia.

In Polewali Mandar, West Sulawesi, until now there are still some practices of underage marriage, resulting in a high number of marriage dispensations there. Even though at that time the marriage age limit for women was still 16 years old and in 2019 there were 81 cases, because there was a change in the marriage age limit in November 2019, from 2020 to May it increased to 173 cases. Based on the background described above, there are problems regarding underage marriages which have an impact on increasing requests for dispensation cases at the Polewali Religious Court. Therefore, this paper focuses on the effectiveness of the implementation of Law Number 16 of 2019 Amendments to Law Number 1 of 1974 concerning Marriage in the Polewali Religious Court).

## **2. Theoretical Review**

The term legal effectiveness theory comes from the English translation, namely Effectiveness of the Legal Theory, Dutch is called Effectiviteit van de Juridische Theorie, German is Wirksamkeit der Rechtlichen Theorie. Hans Kelsen presents a definition of legal effectiveness, legal effectiveness is whether people actually act according to a way to avoid sanctions threatened by legal norms or not, and whether the sanctions are properly implemented if the conditions are met or not (Kelsen, 2013).

The concept of effectiveness in Hans Kelsen's definition is focused on the subject and sanctions. The subject who implements it is a person or legal entity. These people must carry out the law in accordance with the sound of the legal norms. must implement the law in accordance with the sound of legal norms. For those who are subject to sanctions, the legal sanctions are properly implemented or not.

Anthony Allot argues about the effectiveness of the law that the law will be effective if its purpose and application can prevent unwanted actions and can eliminate chaos. Effective law in general can make what is designed can be realized. If there is a failure, there is the possibility of easy correction. If there is a need to implement or apply the law in a different new atmosphere, the law will be able to solve it. Anthony Allot's concept of legal effectiveness is focused on its realization. Effective law in general can make what is designed can be realized in social life in society.

The theory of legal effectiveness is a theory that examines and analyzes the success and failure and the factors that influence the implementation and application of the law. There are three studies of legal effectiveness theory which include success in law enforcement, failure in implementation, factors that influence it.

Success in the implementation of the law is that the law made has achieved its purpose. The purpose of legal norms is to regulate human interests. If the legal norms are obeyed and implemented by the community and law enforcers, then the implementation of the law is said to be effective in its implementation. This can be seen in the community in implementing the rule of law.

The failure in the implementation of the law is that the legal provisions that have been stipulated do not achieve their intended purpose or are not successful in their implementation. Influencing factors are things that cause or influence the implementation and application of the law. The influencing factors can be studied from 2 aspects, namely: aspects of success and aspects of failure.

Factors that influence success include legal substance, legal structure, legal culture, and facilities. Legal norms are said to be successful if they are obeyed and implemented by the community and law enforcement officials themselves. Factors that influence the

failure in implementation are due to vague or unclear legal norms, corrupt legal officials or people who are not aware of or obey these legal norms. Facilities that support these legal norms are minimal, making it difficult to create the effectiveness of the law.

According to (Soekanto, 2007), the effectiveness of a law is determined by 5 (five) factors, namely the legal factor itself, law enforcement factors, target factors or facilities that support law enforcement, Community factors, namely the environment in which the law applies or is applied. Cultural factors as a result of creativity and taste based on human initiative in association.

### **3. Results and Discussion**

Law Number 16 of 2019 concerning Marriage, adheres to the principle that a prospective husband or prospective wife must be physically and mentally mature in carrying out a marriage. Marriage has the aim of getting good and healthy offspring and ending without divorce. Therefore, in Article 7 Paragraph (1) of Law Number 16 of 2019 concerning Marriage, the age limit for carrying out marriages has been set, namely 19 years for men and 19 years for women. Underage marriages are only permitted when they have obtained permission from the local Religious Court and have submitted an application for dispensation at the Religious Court for certain reasons.

Dispensation according to the legal dictionary is a decision that allows an act that is generally prohibited by the government to be carried out. Meanwhile, according to the Big Indonesian Dictionary (KBBI) dispensation is defined as an exception from the rules due to special considerations, exemption from an obligation or prohibition. Underage marriages cannot be permitted unless the marriage requires a marriage permit or marriage dispensation by the Religious Courts to be legalized at the Office of Religious Affairs.

Based on Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage in article 7 paragraph (1) that: "Marriage is only permitted if a man and woman have reached the age of 19 (Nineteen) years". If you have not reached the age to get married, a dispensation from the religious court is required as described in Article 7 paragraph (2) of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage concerning marriage. the age provision as referred to in paragraph (1), the male parent and/or female parent may request a dispensation from the court with very urgent reasons accompanied by sufficient supporting evidence.

Marriage is conceptualized by Law Number 16 of 2019 as an inner and outer bond between a man and a woman as husband and wife with the aim of forming an eternal and happy family and household based on the One Godhead. More specifically, the Compilation of Islamic Law states that marriage aims to realize a *sakinah*, *mawaddah*, and

rahmah household life. The goals of this marriage cannot be realized if the couple is not ready, both physically and psychologically.

The Marriage Law has been enforced for the Indonesian people for more than 30 years, but its implementation has not run optimally. This illustrates that sociologically the regulations in it have not been fully accepted and effectively applied. The study of legal effectiveness is the area of the discipline of sociology of law.

The Polewali Religious Court as part and at the same time an extension of the Supreme Court in the task of receiving, examining and adjudicating certain cases, in dealing with the issue of underage marriage still refers to the processes and procedures of the applicable legislation. Seeing the phenomenon that occurs in the community from year to year, there is an increasing number of teenagers who want to get married at a young age and apply for a marriage dispensation at the religious court. Therefore, the issue of dispensation for marriage needs special attention in avoiding things that are not desirable and in the context of law enforcement (Aisyah, 2017).

Based on the results of research through document searches, data and information regarding the marriage dispensation case were obtained at the Polewali Religious Court in the last three years, namely in 2019 to 2021. The data are as follows:

**Table 1**

**Data on Marriage Dispensation Cases entered in the Polewali Religious Court**

Year	Number of Cases
2019	122
2020	231
2021	133

Source: Polewali Religious Court

**Table 2**

**Number of Marriage Dispensation Cases at the Polewali Religious Court**

Year	Amount Case	granted	Rejected	Not Received	Revoked	Fall	Register
2019	122	114	0	4	1	2	122
2020	231	225	1	3	2	0	231
2021	133	125	3	3	0	0	133
<b>Total</b>		<b>486</b>					

Source: Polewali Religious Court

After the revision of the Marriage Law, there has been a significant increase in the number of applications for a marriage dispensation. This is due to the increase in the age limit for marriage for women to 19 years. This regulation change aims to overcome the emergency conditions of child marriage that occur in Indonesia. However, unfortunately, the increase in the number of applications for dispensation was not accompanied by strict rules, so most of them were accepted and granted by the judges. existing regulations, both Law Number 16 of 2019 or PERMA Number 5 of 2019 has a legal loophole that results in a marriage dispensation permit that is still wide open for any reason. It means, The practice of underage marriage after the revision of the Marriage Law will continue if the existing regulations do not limit the reasons behind the application for a marriage dispensation. The reasons in the application for dispensation must be limited to reasons of a very urgent nature to avoid multiple interpretations. Therefore, it is necessary to have regulations on dispensations that clearly state the main reasons that can be submitted by the parties and also which can be granted by the judge. This aims to give birth to legal certainty and minimize the practice of underage marriages that occur as a result of the marriage dispensation. Regarding the case of marriage dispensation, the judge's legal considerations in examining the case are very important because to be able to produce a perfect decision.

Various considerations of judges must be taken into account when examining, adjudicating, and deciding as well as resolving marriage dispensation cases in the Religious Courts, therefore judges can find legal facts juridically, sociologically, psychologically, as well as health. It's not just administrative readiness that meets. Especially after the revision of the Marriage Law was to suppress the existence of underage marriages.

Changes to the rules in Law Number 1 of 1974 concerning Marriage reach the age limit for marriage, improving the rules by increasing the minimum age limit for marriage for women. In this case, the minimum age for marriage for women is the same as the minimum age for marriage for men, which is 19 (nineteen) years. The age limit referred to is considered to have matured in mind and body to be able to carry out marriages so that they can realize the purpose of marriage properly without ending in divorce and obtaining healthy and quality offspring. It is also hoped that an increase in the age limit higher than 16 (sixteen) years for women to marry will result in a lower birth rate and minimize the risk of maternal and child mortality.

By looking at the phenomena that have occurred, is the Law of the Republic of Indonesia Number 16 of 2019 concerning Amendments to Law Number 1 of 1974

concerning Marriage effective in preventing applications for marriage dispensation cases in the Religious Courts.

In achieving the expected implementation of the law, the implementers must know what steps must be taken to support the implementation of the policy. The target of a policy must obtain information about the policy implemented starting from its goals and objectives. Therefore, the socialization of this policy is needed to support the success of implementing the policy. In law enforcement efforts need to be supported by qualified and competent resources. In this case, the resource in question is the ability of the implementer. The resources owned by the implementer are also one of the factors that make the policy successful. Supporting resources are human resources, namely implementer and financial competencies. the implementer in question is a judge. Judge as the party who implements and enforces the law. In the case of marriage dispensation, the judge appointed is a single judge without using attributes and the judge on duty is a junior judge. The classification of judges is contained in PERMA Number 5 of 2019. "As for PERMA Number 5 of 2019, the classification of judges is judges who have a Decree of the Chief Justice of the Supreme Court as child judges, attend training and/technical guidance on women dealing with law or certified in the juvenile criminal justice system or experienced in adjudicating child dispensation applications. However, if there is no judge as referred to above,

The existence of implementer resources, in the implementation of a policy is also supported by Disposition. Disposition is the attitude of implementing a policy. If the implementer wants effective results, then the knowledge of policy implementers must be balanced with the ability to implement a policy so as to minimize bias in practice. In the Polewali Religious Court, the authority in each position has been determined. This is in accordance with Book II of Guidelines for the Implementation of Duties and Administration of Religious Courts. The implementer of the policy in the case of marriage dispensation is the judge. Guidelines regarding marriage dispensation and the classification of judges adjudicating marriage dispensation cases have been listed in PERMA Number 5 of 2019.

One of the factors that influence the successful implementation of a policy is the bureaucratic structure. Even though there are resources available in implementing a policy, or the policy implementer understands everything that should be done and has the will to implement a policy, it is possible that the policy cannot be implemented if the existing bureaucratic structure is weak. The bureaucratic structure at the Polewali Religious Court is hierarchically organized. The chain of command at the Polewali



Religious Court flows from top to bottom. Each section has different duties and authorities. Further details on the bureaucratic structure can be found on the official website of the Polewali Religious Court.

Marriage as explained in article 7 paragraph 1 of the marriage law is to form a happy and eternal family based on God Almighty. The law has regulated everything about marriage, including the minimum age for marriage. The age referred to is 19 (nineteen) years for the prospective husband and wife. This is in line with the principle in the law that prospective husbands and wives must be mature in mind and body in order to realize the purpose of marriage properly so that it does not end in divorce.

In assessing a law is said to be effective if it has achieved its objectives. Based on the data described above, Law Number 16 of 2019 is still not effective in its implementation. This is supported by the findings in the research in the form of observations, interviews with one of the judges at the Polewali Religious Court and one of the theories of experts who have been presented regarding the review of the effectiveness of the law. The number of cases of filing for dispensation for marriage during the implementation of the revised Law. The journal entitled Effectiveness of Law Number 16 of 2019 concerning the Age Limit for Marriage (Case Study of the KUA of Sangkapura District) by M. Halilurrahman also supports the statement that the implementation of the Act has not been effective (Halilurrahman, 2021).

The Polewali Religious Court experienced a surge in applications for marriage dispensation. This is supported by data on case reports received and decided during 2019, 2020, and 2021. Every year the application for marriage dispensation always increases. In 2019 the number of applications for marriage dispensation received by the Polewali Religious Court was 122 applications and as many as 114 applications for marriage dispensation were granted. In 2020 the number of applications for marriage dispensation received by the Polewali Religious Court was 231 applications and as many as 225 applications for marriage dispensation were granted. In 2021 the number of marriage dispensation applications received at the Polewali Religious Court was 133 applications and 125 applications for marriage dispensation were granted.

Based on this, if it is associated with a legal product, in this case the Law of the Republic of Indonesia Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, in order to realize its objectives, the ineffective implementation of the Law of the Republic of Indonesia Number 16 of 2019 Regarding the Amendment to Law Number 1 of 1974 concerning Marriage, it is caused by the following factors:

**a. Legal Factor**

In this case, what is meant by law in a material sense is a written regulation that is generally applicable and made by legitimate central and regional authorities.

The fact that the high number of marriage dispensations in Polewali Mandar Regency shows that there are still many practices of marriage at an easy age. According to the Polewali Religious Court Judge, one of the causes of the high number of applications for marriage dispensation was due to changes or revisions to the Marriage Law Number 1 of 1974 into Law Number 16 of 2019 regarding changes in the age limit which had implications for the filing of marriage dispensation cases in the Religious Courts. Another factor that causes the high application for dispensation for marriage is the lack of attention to parents. Then, there was a pregnancy outside of marriage which resulted in the judge giving a dispensation even though he was still a minor and was caused by economic factors.

The increase in the marriage age for women after the enactment of Law Number 16 of 2019 concerning Marriage, has an impact on religious courts, namely increasing the application of marriage dispensations in the Religious Courts. The existence of an increase regarding the minimum age limit for marriage and the inclusion of provisions that provide opportunities to deviate from these provisions on the other hand, seems to suggest a less firm attitude of the state, given that the granting of dispensation for marriage is intended as a form of effort to provide protection in the context of preventing underage marriages. However, the law itself does not include sanctions or penalties for couples who marry at a young age,

Increasing the minimum age for marriage for women who are equal to men to 19 years in Law Number 16 of 2019 concerning Marriage as a form of effort to minimize until the abolition of underage marriages has even become ineffective and has become a house with an unsteady foundation, because in the fact of implementation as the data previously presented has shown that the number of requests for deviations from the marriage age limit in several regions in Indonesia, especially in the Religious Courts, is even higher than before since the issuance of the revised Marriage Law in October 2019, This provision is in vain because the rules regarding irregularities or dispensation for marriage are still possible and the level of public awareness in adhering to the minimum age limit for marriage is still very low.

Marriage dispensations related to underage marriage in practice have increased significantly. The increase in the minimum age limit for marriage to take place in the revision of the Marriage Law, namely Law Number 16 of 2019 concerning Marriage,

which is expected to be one of the efforts to suppress the abolition of the number of underage marriages in Indonesia, has not yet achieved optimal results. Since the revision of the Marriage Law, the number of marriage dispensations in Indonesia has even increased sharply. The government is not ready to face the consequences of increasing the minimum age limit for marriage which is followed by the permanent existence of the provisions regarding the granting of dispensation permits to the minimum age limit.

**b. Law Enforcement Factor**

Based on the researchers' research on dispensation cases submitted to the Polewali Religious Court, most of the dispensation applications were granted by the Panel of Judges. Based on the researcher's interview with one of the judges who tried the marriage dispensation case at the Polewali Religious Court, the reasons the panel of judges granted the marriage dispensation case were as follows:

In essence, the dispensation for underage marriages is a marriage that is carried out in which the prospective bride and groom or one of the prospective brides have not reached the minimum age limit, namely the minimum age limit as stipulated by Law Number 16 of 2019 concerning amendments to Law Number 1 1974 concerning marriage. However, the Polewali Religious Court can grant a permit for underage marriage for certain reasons, namely the consideration of the benefit, which means that if the marriage of the prospective bride and groom is not immediately held, it will be feared that actions that violate religious norms and applicable regulations will occur. The positive aspect is that underage marriage dispensation is expected to be able to help the prospective bride and groom avoid acts that are prohibited by religion and applicable law. The negative aspects are mental factors and age that are less supportive for the two prospective brides.

From the definition above, existing regulations or laws still apply in society, but due to certain things, a person based on the provisions may not comply with the provisions of the legislation. but the dispensation cannot be used for everyone, and is given for reasons or reasons that are specifically deviating from the provisions of the legislation.

The reason for the panel to grant the request of the application Based on Stipulation Number 630/Pdt.P/2021/PA.Pwl is to prevent the occurrence of acts prohibited by religion. The judge in his decision is actually not only trying to find the law for a particular case, but at the same time developing the rule of law. Because it is not uncommon to find an event for which the law is not found, therefore, the judge must make a law.

In making these rules, judges exercise legal discretion. the application of judge discretion can be seen in the decision-making process. At first, the judge tries to find the facts, then checks them out, then finds the law to be applied in the case in question. In a marriage dispensation, based on the evidence, the judge will confirm the fact that the legal reasons for the marriage dispensation have been fulfilled. After it is proven that there is a reason, the judge considers the law.

Based on the theory of legal effectiveness when viewed from law enforcement factors, it is considered not effective in implementing Law Number 16 of 2019 in the Religious Courts. This can be seen from the considerations of the judge above who granted the application for a marriage dispensation case on the grounds of concern that if not married immediately it could lead to acts that violate religious norms. The concerns of parents should not be used as an urgent reason for the judge in deciding the application for dispensation for marriage. Dispensation is given because it can give birth to different views for children their age, namely assuming that courtship does not have a severe punishment but with courtship they can finally get married and for parents it is the responsibility and role in maintaining, protecting, advising,

#### **c. Factors of Facilities and Facilities**

Based on the existing supporting facilities and facilities at the Polewali Religious Court, it is considered to be quite well established. However, there are still obstacles from the availability of existing advice and facilities, where the community still has limitations in terms of understanding technology and the unequal internet access in the Polewali Mandar district, especially in some remote villages and the conditions and situation of the Polewali Mandar district, which has a large area. sometimes difficult to reach. Therefore, the existence of good supporting facilities and facilities is not everything when there are other factors that affect the application of existing rules.

#### **d. Community Factor**

Society in this case as a determinant of the effectiveness or not of a law. How people receive, understand, and implement. The community here refers more to parents, and children and adolescents under age. Parents are currently required to be able to provide more supervision and attention to their teenage children. However, the role of parents is currently experiencing a decline. direction and supervision of parents in the association of young people is very necessary. In the case of the application for a marriage dispensation at the Polewali Religious Court, the applicant as a parent used the reason "worried about adultery, or further association.

It is true that the association of children who can no longer control it is better to get married because by marrying their children no longer sin and parents become calm, but by marrying off their children it shows that parents are not responsible for their children and for this marriage is not a problem. the right solution because it will have the potential to cause greater harm.

#### **e. Community Cultural Factors**

In the Polewali Mandar Regency community, which is still thick with the culture of rejecting applications, it is a taboo subject. In addition, many Indonesian people still think that the age of 20 is an old age for women, so that when a girl is in her teens, her parents are confused about finding a mate for their child.

Public understanding of the meaning of engagement is also the reason. In Pthe public perception that if you are engaged, you feel that you already have a bond above, it is just a courtship bond. So that they think they can do anything, like going anywhere together. In fact, this understanding is wrong. Many dispensations to marry because the woman is already pregnant with her fiancé. Here it needs to be emphasized to the community that engagement is not the same bond as marriage, and any bond that occurs before the marriage bond does not make the relationship lawful for both men and women.

Based on the theory of legal effectiveness when viewed from community cultural factors, it also affects the ineffectiveness of the implementation of Law Number 16 of 2019 at the Polewali Religious Court. So that the applicable law is sometimes not accepted and ignored by the community.

#### **Conclusion**

Article 7 paragraph 2 of Law No. 16 of 2019 concerning marriage dispensation is basically an anticipation of deviations that occur. The deviation in question is a deviation from paragraph 1 article 7 of Law No. 16 of 2019 concerning Marriage. Anticipation of marriage dispensation paragraph 2 article 7 of Law No. 16 of 2019 is intended for underage couples who are in an emergency situation, which should be predicted to rarely occur. However, with the fact that the number of cases of application for dispensation for marriage from year to year is increasing, it seems that it has come out of the emergency or urgent context that has been formulated from the start. Therefore, it is not surprising that when the marriage dispensation was then considered to open up opportunities in underage marriage, which was none other than due to the existence of a relationship that was too free and uncontrolled. As a result of promiscuity that led to adultery and parental concerns that made the judge have to decide to grant the application for dispensation for marriage, with legal considerations of benefit and avoiding harm. Another reference for judges of

the Religious Courts is that in Islam it has been stated not to make it difficult for someone to get married. And whether or not marriage dispensation cases in general depend on the condition of the community itself. As a result of promiscuity that led to adultery and parental concerns that made the judge have to decide to grant the application for dispensation for marriage, with legal considerations of benefit and avoiding harm. Another reference for judges of the Religious Courts is that in Islam it has been stated not to make it difficult for someone to get married. And whether or not marriage dispensation cases in general depend on the condition of the community itself. As a result of promiscuity that led to adultery and parental concerns that made the judge have to decide to grant the application for dispensation for marriage, with legal considerations of benefit and avoiding harm. Another reference for judges of the Religious Courts is that in Islam it has been stated not to make it difficult for someone to get married. And whether or not marriage dispensation cases in general depend on the condition of the community itself.

Article 7 of Law No. 16 of 2019 consists of 2 paragraphs. Paragraph 1 explains the minimum age limit to be able to get married, but paragraph 2 contains anticipation in case of deviation from paragraph 1. If analyzed from the theory of legal effectiveness, then the application of Law No. 16 of 2019 on dispensation for marriage is still not effective in the community. Polewali Mandar Regency. This is supported by incoming case data showing the high number of applications for marriage dispensation cases at the Polewali Religious Court.

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