



IMPLEMENTATION OF COUNSELING AND THE EFFECT OF COUNSELING RESULTS IN ADJUDICATING MARRIAGE DISPENSATION APPLICATIONS AT THE MARTAPURA RELIGIOUS COURT CLASS I B

¹ Abdul Haris, ²Dr. Budi Rahmat Hakim, MHI ³Farihatni Mulyati, MHI, ⁴Inawati, Lc., MA, ⁵Dr. Mariani, MH

^{1,2,3,4,5}Fakultas Syariah UIN Antasari Banjarmasin, Indonesia

E-mail: ¹Abdulharis@gmail.com, ²budirahmathakim@uin-antasari.ac.id, ³Farihatnimulyati@uin-antasari.ac.id, ⁴inawatimohammad@uin-antasari.ac.id, ⁵mariani@uin-antasari.ac.id

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Abstract

The objectives of this research are to understand the counseling implementation by PUSPAGA at the Martapura Religious Court and to ascertain the impact of counseling outcomes given by PUSPAGA on judges' deliberations in adjudicating marriage dispensation requests. This study employs an empirical research design utilizing a qualitative approach, generating descriptive data. The research is conducted at the Martapura Religious Court Class IB. The counseling process takes place after the parents of the couple submit a Marriage Dispensation request to the Religious Court. Subsequently, they are directed to undergo counseling at PUSPAGA, which is scheduled at the Religious Court. Those who submit requests outside the schedule either wait for the designated days or visit the office of the Department of Social Affairs, Women's Empowerment, Child Protection, Population Control, and Family Planning of Banjar Regency to obtain a counseling outcome letter, which is a requirement for the acceptance and processing of the request. The counseling outcomes provided by PUSPAGA to the panel of judges do not significantly influence their decisions to grant or deny dispensation, as the counseling outcomes, which are in the form of minutes of the session, do not hold substantial weight in court proceedings. However, if the counseling outcomes include recommendations regarding the suitability of marriage based on PERMA No. 5 of 2019, these recommendations can significantly impact the judges' decisions to approve or reject the marriage dispensation requests.

Keywords: Counseling, Marriage, Marriage Dispensation Request, Martapura Religious Court.

Abstrak

Penelitian ini bertujuan untuk mengetahui pelaksanaan konseling oleh PUSPAGA di Pengadilan Agama Martapura dan untuk mengetahui pengaruh hasil konseling yang diberikan oleh PUSPAGA terhadap pertimbangan hakim dalam mengadili permohonan dispensasi nikah. Penelitian ini menggunakan desain penelitian empiris dengan menggunakan pendekatan kualitatif dan

menghasilkan data deskriptif. Penelitian dilakukan di Pengadilan Agama Martapura Kelas IB. Proses konseling dilakukan setelah orang tua dari pasangan tersebut mengajukan permohonan Dispensasi Kawin ke Pengadilan Agama. Selanjutnya, mereka diarahkan untuk menjalani konseling di PUSPAGA yang sudah terjadwal di Pengadilan Agama. Bagi mereka yang mengajukan permohonan di luar jadwal tersebut, dapat menunggu hari yang telah ditentukan atau datang ke kantor Dinas Sosial, Pemberdayaan Perempuan, Perlindungan Anak, Pengendalian Penduduk dan Keluarga Berencana Kabupaten Banjar untuk mendapatkan surat hasil konseling yang menjadi syarat diterimanya dan diprosesnya permohonan tersebut. Hasil konseling yang diberikan oleh PUSPAGA kepada majelis hakim tidak terlalu berpengaruh terhadap keputusan untuk mengabulkan atau menolak permohonan dispensasi, karena hasil konseling yang hanya berupa berita acara tidak memiliki kekuatan hukum yang signifikan dalam persidangan. Namun, jika hasil konseling tersebut memuat rekomendasi mengenai kesesuaian pernikahan berdasarkan PERMA No. 5 Tahun 2019, maka rekomendasi tersebut dapat secara signifikan mempengaruhi keputusan hakim untuk mengabulkan atau menolak permohonan dispensasi nikah.

Kata kunci: Konseling, Perkawinan, Permohonan Dispensasi Kawin, Pengadilan Agama Martapura.

1. INTRODUCTION

Marriage dispensation is a way out in accordance with the rules, namely providing marriage recommendations by the Religious Court to couples who are refused marriage by the Religious Affairs Office due to insufficient age. Or one more important thing is that marriage dispensation is an option for people who want to get married but feel hindered by the presence of Law Number 16 of 2019 concerning marriage age limits in order to ensure that they continue to marry in accordance with applicable regulations and not marry outside the rules. The existence of Supreme Court Regulation No. 5 of 2019 regulates the definition, principles of judges to conduct advocacy, guidelines for judges, and others that regulate the settlement of marriage dispensation applications. Primarily, it serves as a guideline for judges in resolving applications for marriage dispensation.

Several articles mention that judges making decisions on marriage dispensation applications may seek advice from doctors or incorporated aid organizations for women and children's insurance, and others. To be precise, Article 15 d states that judges may request recommendations from psychologists, doctors/midwives, professional social workers, social welfare workers, the Integrated Service Center for the Protection of Women and Children (P2TP2A), or the Indonesian Child Protection Commission/Region (KPAI/KPAD) when requesting information from those applying for marriage dispensation.

After several years passed, Law Number 16 of 2019 on the Amendment to Law Number 1 of 1974, due to not meeting the requirements, which is constrained by the age limit that is still regulated, there has been a surge in the number of applicants for dispensation of marriage. This has led to many applications for dispensation reaching the competent court, whether granted or rejected by the Religious Courts.

The Martapura Religious Court Class IB has taken steps to collaborate with the Banjar Regency Government, namely the Family Learning Center (PUSPAGA) which is part of the Department of Social Empowerment of Women, Child Protection, Population, and Family Control (DINSOS P3AP2KB). PUSPAGA, which has been a third party at the Martapura Class IB Religious Court since August 2021, aims to reduce the number of early marriages that occur in Banjar Regency. One of them is by requiring a letter from PUSPAGA counseling results in registering a marriage dispensation application. After going through

the counseling stage with PUSPAGA officers, the results are attached as one of the requirements and one of the judge's considerations in granting or rejecting the marriage dispensation application. with the letter of counseling results at PUSPAGA earlier.

Based on the results of temporary observations, that the counseling conducted by PUSPAGA officers is carried out for both parents who apply for dispensation of marriage and also the two couples who will carry out their marriage. The existence of PUSPAGA at the Martapura Religious Court makes it easy for applicants who apply for dispensation of marriage because the psychologist's guidance is under one roof at the Martapura Religious Court so that it does not take a long time which is usually scheduled on Tuesdays and Thursdays. In addition to the Religious Court, PUSPAGA also continues to open counseling services at the Department of Social Empowerment of Women Protection of Children Population Control and Family Planning (DINSOS P3AP2KB) every working day.

The role of counseling conducted by PUSPAGA is a stage that must be passed by both couples who apply for dispensation of marriage at the Martapura Religious Court. The counseling intends to provide basic knowledge related to a family. The presence of PUSPAGA is a differentiator from several Religious Courts in South Kalimantan, because currently only the Martapura Religious Court applies counseling, and requires a letter of counseling results as an administrative complement and is under one roof with the Martapura Religious Court, thus making it economical for people who apply for marriage dispensation. Regarding how the implementation of counseling, both the technicalities carried out by officers and the results of counseling, which will later have an effect on judges in adjudicating applications for dispensation of marriage, this is the subject of writing that the author will explore in depth to be able to answer how counseling is carried out by PUSPAGA and the effect of counseling results in adjudicating applications for dispensation of marriage at the Martapura Class IB Religious Court.

2. MARRIAGE COUNSELING AND ITS IMPORTANCE IN MARRIAGE DISPENSATION REQUIREMENTS

2.1 Marriage Counseling

In a different sense, counseling is communication between two people known as counselor and client, under different circumstances. Professionalism, as indicated and as a means to facilitate change in his behavior .

While counselling ends with an interview, in the counselling meeting the client outlines the problem he or she is seeking. The guide tries to create a climate of smooth correspondence by applying the standards and strategies of the advice interview so that the problem is described as far as possible as it is and the client feels encouraged to address the problem front and center facing his own strengths. The goal of counseling is essentially to activate and make full use of the minimal functions and potential of the client's organism. It is reasonable to anticipate that the dynamics of the client's life will improve if this functioning is successful .

Professional counselors provide marital counseling to couples (both prospective and married) with the aim of assisting them in developing and resolving their problems through mutual respect, tolerance, and understanding in communication. This is done with the intention of providing all family members with marriage motivation, growth, independence, and well-being. It is clear from the above understanding that the guidance

provided by a competent mentor to a married couple who are experiencing problems or who are less serious in helping couples who are experiencing problems communicate their problems with each other with the aim that the couple's communication is great³.

2.2 Family Counseling in Islam

Islamic counseling is an effort to provide targeted, continuous and systematic guidance to a person in order to be able to increase the talent or religious nature that is maximally mastered through the process of applying the values stored in the Al-Quran and the words of the Prophet Muhammad into himself, so that he is able to stay in line according to the guidance and direction of the Al-Quran and Sunnah⁴. The family according to the Islamic concept is a bond between a man and a woman that is lived with a marriage rope according to the teachings of Islam. Any bond between a man and a woman who is reluctant to use a legal marriage contract against Islam, then it is not considered an Islamic family⁵.

Many Muslims are mistaken and do not believe that they need counseling on marriage and the conflicts that should be avoided. There is absolutely nothing in Islam that restricts two people who want to get married from seeking advice from experts, scholars or their parents. The example set by the apostle of Allah is that the companions would come and seek his guidance before marrying someone. Given that problems in families and marriages are often not able to be solved on one's own, it is necessary to seek the guidance of others to address the issues at hand. When we look at the truth of today's Islamic culture which has become chaotic and prone to temptation, and when we have a deep understanding of the daily lives of Muslims, it just so happens, also deals with a confusing display. Consequently, many divorces of young couples and celebrities, as well as other cases are caused by problems in the family, especially the lack of strong knowledge of the science of family life when there are differences of opinion about Islamic religious values. This shows the importance of Islamic counseling as a means to help those who are struggling to maintain relationships. Understanding the process of Islamic counseling, which aims to reawaken a person to the fact that he is a servant of Allah and is obliged to follow the rules and instructions for a happy life, shows the importance of Islamic counseling for marriage and family.¹⁰

2.3 Foundations of Counseling Guidance

1. Philosophical Foundation

A philosophical stance is a stance that is capable of showing direction and understanding, especially to counselors in their continuous guidance and training that can be represented strategically, morally, and stylistically. Finding the right answer to the philosophical question of what it means to be human is specifically related to the philosophical foundation of counseling.⁶

2. Psychological Foundations

It is this psychological foundation that allows the counselor to understand the behavior of the person being served (Klein). Counselors must understand the following psychological discussions in order to provide guidance and counseling: motivation, nature and environment, personal growth, learning, and personality.⁷

4. Marriage Dispensation

The terms dispensation and marriage can be used to explain marriage dispensation in a straightforward manner. Dispensation has the grammatical meaning of a request from a general provision for a specific condition. Meanwhile, marriage has the important meaning of being the phase of creating a family with the opposite sex. So, a dispensation is an exception from the law for special circumstances. The regulation referred to here is seeking execution of what is specified in the Marriage Regulation which grants the Religious Court for a union to take place however because one of the nearby women and men has not met the basic age limit for marriage. According to Article 7 paragraph 1 of Law Number 16 of 2019, which amends Law Number 1 of 1974, marriage is not allowed until a person reaches the age of 19 years. This rule is also reinforced by the provisions of Article 15 paragraph 1 of the Compilation of Islamic Law (KHI) which states that marriage can only be carried out by a person who is at least 19 years old, as stipulated in Article 7 of Law Number 1 of 1974, for the benefit of the family and household. These articles and regulations contain different standards to balance the purpose of marriage. In particular, the principles of voluntariness, family participation, and maturity of the couple. This includes whether both prospective spouses are mature inside and out. Since marital maturity and a strong sense of caring are needed to lead a family, the mental and physical maturity of both prospective spouses is very important. The Supreme Court of the Republic of Indonesia has issued Supreme Court Regulation No. 5/2019 on Guidelines for Marriage Dispensation Applications for the conduct of examinations. The principles that must be considered in evaluating dispensation applications are specifically outlined in the regulation. It contains the conditions that must be met, and who can apply to the court for a marriage regulation. The regulation also specifies the criteria that judges should use to decide whether a marriage dispensation application is approved or rejected¹².

2.5 Legal Basis for Marriage Dispensation

1. Law Number 1 Year 1974 jo Law Number 16 Year 2019

Article 7 paragraphs 1 to 3 of Law No. 1/1974 provide an explanation of the rules governing the dispensation of marriage licenses. The rule states that marriage is only permitted if the male party is 19 years old and the female party is 16 years old. In this case, the court or other official examined by either the parents of the boy or the parents of the girl may grant the deviation referred to in paragraph (1) of this article at the request of the parents of the boy or the parents of the girl.¹³

2. Supreme Court Regulation Number 5 of 2019

Article 1 point 1 explains that a child is someone who has never married and is under 19 (nineteen) years old. Steps that must be taken to ensure the protection, care, welfare, survival and development of children are all included in Article 6 "best interests of the child".

Furthermore, Article 2 and Article 3 regulate the principles and objectives in adjudicating marriage dispensation applications. Judges hearing applications for dispensation of marriage must be based on the principles of the best interests of the child, the right to life and development of the child, respect for the child's opinion, respect for human dignity, non-discrimination, gender equality, equality before the law, justice, expediency and legal certainty.

Based on Article 3, marriage dispensation aims to implement the principles outlined in Article 2, ensure the implementation of judicial procedures that protect children's rights, increase parental responsibility to prevent early marriage, investigate whether or not the application for marriage dispensation was influenced by coercion, and standardize the court process for granting marriage dispensation.

3. RESEARCH METHODOLOGY

3.1. Research Design

This research uses empirical legal research, which focuses on identifying the implementation of counseling and the influence of counseling results. . The aim is to find out how the implementation of counseling and the influence of counseling results in adjudicating marriage dispensation applications at the Martapura Class IB Religious Court. The research was conducted by means of the author directly meeting the informant who had been determined as the subject of the research to research and collect information.

The research approach used is a qualitative descriptive approach. This approach consists of one variable or more than that, carried out based on general theories and concepts with the aim of explaining some data results or showing a comparison or creating a relationship between one data and another . In this study the authors obtained information by collecting it directly at the research site, namely the Martapura Class I B Religious Court. This place was chosen by the author because in practice there is cooperation with third parties, namely the Banjar Regency Social Service for the Empowerment of Women Protection of Children Population Control and Family Planning (DINSOS P3AP2KB) in this case PUSPAGA which has a role in the process of marriage dispensation applications, namely providing counseling and the influence of the results of counseling in adjudicating marriage dispensation applications.

3.2. Participants of the Study

The data source traced in this study is the subject that provides research data³ . The data sources in this study are the counseling officers of the Family Learning Center as many as 3 people who are directly involved in the implementation of counseling, namely Ms. Dewi Hariani, Ms. Fajeria Rima Humaira, Mr. Rusdi Annor, and the Deputy Chairperson of the Martapura Religious Court Ms. Hikmah, S.Ag., M.Sy., as a judge who practices directly in adjudicating marriage dispensation applications.⁴ participants.

3.3. Instruments

Data related to the implementation of counseling conducted by PUSPAGA officers. Data related to the effect of counseling results for judges' considerations in adjudicating marriage dispensation applications. The secondary data in this study are the identity of informants and the profile of the Martapura Religious Court.

3.4. Data Analysis Techniques

Data analysis is the stage of systematically searching and compiling data obtained from interviews, field notes, other materials, making it easier to understand⁷ . After all the data obtained is collected, then the data is processed by following the following steps:

1. Editing is a data processing process where the author re-examines field data to ensure accuracy.
2. Classification is the stage of handling information, where at this stage all the information collected will be grouped based on the request for the problem in question.
3. Description is an advanced stage in processing data, before the data is analyzed, first the description stage of the data processing step is carried out. At this point the author will provide an overview of the data as research findings. The technique that the author applies after the data is obtained in analyzing the data is qualitative, namely describing the data in the form of clear sentences that are easy to read and understand.⁸

4. RESULTS AND DISCUSSIONS

According to the first informant, they usually provide information to prospective brides about the risks of young pregnancy with risks that must be emphasized so that nothing dangerous happens to the mother who is pregnant and the child who is conceived. The readiness of both partners and families, because of the possibility of a higher risk of childbirth, with the high mortality rate during childbirth, that's why the law was issued. So what is emphasized in the counseling according to the first informant is that it is recommended to postpone pregnancy because it is still young, but even if the pregnancy occurs, especially before marriage, the role of the family, especially parents, to help supervise the pregnancy needs to be done and regular checks to maintain the health of both the mother and the unborn child. The second is according to the first informant, they gave an explanation that the household is not a short and easy journey, not just eating love. In addition, in terms of the prospective groom, the focus is related to his economic point of view, because if he is already working or not, it will affect his household life. Finally, to the family, especially the parents of each couple, the PUSPAGA officer explains that this marriage dispensation is to protect and respect the rights of children and women, because with the issuance of a marriage dispensation, it will be accepted by the local KUA which will issue a marriage book, then the couple is legally valid by state law with the existence of legal force, other rights will also be fulfilled such as inheritance later, the woman in the event of domestic violence is able to take legal steps because of the legal force, namely the issued marriage book. So according to their first informant, it is actually not to make it difficult for them but we make it easier and provide services that are expected to avoid domestic violence, child neglect, even though the process is long but in the end it will be good for their household in the future.⁴

According to the second informant, the information they convey is related to several aspects, firstly about health, especially health related to pregnancy. Second, from the economic point of view of the prospective husband, which is also very influential. And third in terms of parents who must participate in supervising this household journey.⁵

According to the third informant, the information here that they convey to their women is related to health, especially the health of young pregnancy which is very dangerous for the mother and her fetus, so the main thing is given an understanding of the health of pregnancy. The next one to the man we give an explanation related to the economy or the work of the prospective husband, whether he is able to provide for his

small family or not, because the economy is an influential part in household relations. Finally, to the parents of each couple, we provide an understanding that the role of parents must also monitor the development of their marriage, for example pregnancy, so that parents together monitor so that unwanted things do not happen, as fathers and mothers must also provide advice so that their children's households run harmoniously.⁶

According to the three informants, the information provided by PUSPAGA officers regarding a household is first in terms of the health of pregnancy at a young age with all the risks that need to be considered. The second is the economic maturity of the married couple that is able to support their small family. And the third is the role of parents who are expected to also help supervise and maintain the continuity of their children's households so that they run well and harmoniously.

Then the author asked what kind of counseling PUSPAGA officers do.

According to the first informant, the counseling they do is face-to-face.⁷ This was also conveyed by the second informant that they conduct counseling directly face to face.⁸ And according to the third informant, the counseling they do is directly face-to-face with those who want to get married but are hindered because they are not of the minimum age for marriage.⁹

So, according to the three informants, the counseling they do is directly face-to-face with couples who want to get married but are prevented from doing so because they are not yet of marriageable age.

The author then asked who should participate in counseling.

According to the first informant, those who must take part in counseling are first, the couple who want to marry, the parents of the girl and the boy. Because in this counseling, not only the bride-to-be but her family must also take part in counseling because why marry their children when their age is not yet eligible.¹⁰ Meanwhile, according to the second informant who participated in counseling, namely the two couples who wanted to get married and their parents, because what was counseled was not only the bride and groom but also the parents of each couple.¹¹ And according to the third informant who participated in counseling was a couple who wanted to get married, then the parents of each couple.¹² According to the three informants who participated in counseling were the two couples who wanted to get married but were hindered by the insufficient age limit, and the parents of each of the couples.

Then the author asked how the counseling outcome document looks like.

According to the first informant, the form of documents is a letter containing records of counseling results.¹³ As well as according to the second informant that the form of documents is a letter containing counseling records (minutes).¹⁴ And according to the third informant, the form of counseling outcome documents is counseling minutes.¹⁵

According to the three informants, the form of documents on the results of counseling provided by PUSPAGA is in the form of a letter containing notes related to the counseling conducted or minutes.

The author next asked how influential the results of counseling in adjudicating applications for dispensation of marriage were for the judge's consideration.

According to the first informant, how influential the results of counseling in adjudicating applications for dispensation of marriage are for the judge's consideration depends on the judge's decision, according to them, for example, the couple is pregnant outside of marriage, so it depends on the judge who adjudicates. But if it is pregnant

before marriage, then we openly explain, for example, how many months pregnant it is, but if it is not pregnant, we give notes to the couple. Because we cannot decide whether the couple can marry or not. We only provide an explanation regarding how the couple is.¹⁶ As for the second informant, if the problem affects or does not affect it, it is all in the judge's decision, they here only provide counseling / advice related to marriage at a young age and provide a record of the results of counseling to the judge that contains an explanation related to the reasons and factors they want to get married.¹⁷ Meanwhile, according to the third informant, the matter of whether or not it has an effect is all in the courtroom, we only provide enlightenment and advice on a household with the kinds of journeys that will be faced by both of them.¹⁸ According to these three informants, talking about whether or not it has an effect is not their authority, because they only conduct counseling by providing advice and the results will later be given to the panel of judges containing notes on the results of counseling. Even if the couple is indeed pregnant outside of marriage, they will also explain what is stated in the minutes of counseling related to, for example, the age of the womb and so on. This means that they only provide notes on the two couples, whether or not the matter is granted is the power of the judge in the courtroom, PUSPAGA officers only provide minutes that are expected to assist judges in adjudicating marriage dispensation.

Finally, the author asked how many people counseled at PUSPAGA who wanted to apply for dispensation of marriage during 2022. According to the information provided by the third informant, there were 109 people in 2022, 14 men and 95 women. Based on the information provided by the informant, in 2022 there were 109 people, 14 men and 95 women.

The author first asked what kind of counseling letter the puspaga officer gave to the judge.

According to the information of informant four, the letter given by the counseling officer is only a record of the results of counseling or minutes in the implementation of counseling, not in the form of a recommendation whether or not the couple should marry. Actually, the puspaga issued a recommendation from a psychologist whether or not the couple should marry underage if it was truly based on PERMA No. 5 of 2019, but according to informant four at the Martapura Religious Court, only the minutes of counseling have not stated a recommendation whether or not it is feasible, even though if you look back at PERMA what the judge needs is a recommendation whether or not the couple is married.¹⁹

The researcher then asked how influential the counseling results were for the judge's consideration.

Based on the informant's statement that the results of counseling for the judge's consideration do not have too much effect because it is only as evidence of instructions or additions, not as a basis for the judge's consideration in adjudicating the application for dispensation of marriage. If the results of the counseling are in the form of a recommendation whether or not it is feasible, it will greatly affect the judge's decision to grant or deny. As according to direct information from informant four.

It has a slight influence but is not dominant, consider it as evidence of guidance or additional evidence only, not as a basis, only as material for consideration because the judge without it can still decide so the influence is not too great.²⁰

Furthermore, the researcher asked whether the counseling results were the main basis or only as complementary evidence.

According to informant four's statement that because the results of counseling are only in the form of counseling minutes, the results of counseling do not become the main guideline or basis for judging because there are other considerations of the judge because the judge can dig deeper related to the two couples in the trial later, so the results of counseling are not used as the main basis but only as evidence that the couple already understands the impacts, mental readiness, and risks in a marriage. The presence or absence of counseling results does not have a major effect because the judge can explore and examine the readiness of the couple in depth.

The author also asked if any applications were rejected on the basis of the puspaqa counseling results.

According to the explanation of informant four, no application was rejected on the basis of the results of counseling because the results of counseling are only in the form of counseling notes or counseling minutes, which are not so dominant in influencing the judge's decision in adjudicating the marriage dispensation application to grant or deny, not in the form of a recommendation whether or not the couple should marry. Because if there is no letter of counseling results, the judge can still decide on the application by digging for information directly in the courtroom in depth to be able to make a decision to grant or deny the couple's marriage dispensation.

Finally, the author asked how many marriage dispensation cases were accepted and rejected during 2022.

According to the information of informant four, the number of marriage dispensation cases received and processed at the Martapura Religious Court during 2022. That 103 cases were received, 97 cases were granted, 1 case was rejected, and 5 cases were revoked. As stated directly by informant four in an interview conducted by the author to informant four. Marriage dispensation cases in 2022. 103 cases were received, 97 cases were granted, 1 case was rejected, and 5 cases were revoked.²¹

1. Implementation of counseling conducted by PUSPAGA at the Martapura Religious Court

Counseling is a process of interaction between two people, the counselor and the client. It takes place in a professional setting and is conducted and maintained to help clients change their behavior. Professional counselors offer marriage counseling to couples who are having difficulties or are not on the same page. Marriage counseling aims to help married couples who are having trouble communicating because there is a problem between them so that they can communicate more effectively. As a result, couples whose

home conditions need improvement receive marriage counseling to help them find solutions. Counseling is necessary before marriage because it is expected to prepare couples for the problems that will arise in a marriage. This is especially the case because couples are young and vulnerable to emotional ups and downs, immature thinking, and high-risk and potentially dangerous pregnancy health. The counseling conducted at the Martapura Religious Court is counseling undertaken by prospective couples who are not yet of marriageable age. So before they register an application for dispensation of marriage, they must first conduct counseling as a mandatory requirement to obtain a letter of counseling results as a complement to the registration administration requirements and also later become additional evidence in the trial which is expected to assist the judge in adjudicating the application for dispensation of marriage.

As explained by Mrs. Dewi Hariani, PUSPAGA counseling officer. That the counseling conducted at the Religious Court focuses on providing knowledge and understanding before undergoing the wheels of the household from a health perspective to the dangers of marrying at an early age that contains so risky vulnerable to miscarriage and even unwanted things, which are expected to reduce the stunting rate in Banjar Regency, in addition to the health aspect, PUSPAGA counseling also explains that the role of parents so as not to let their children undergo households at an early age is not going well. Because of the young age that is prone to emotional ups and downs or immature thinking that makes the journey of a household less good, that is where the role of parents is expected to guide and supervise their children in living the household. In addition to these two things, PUSPAGA also gives an explanation regarding the economic importance of a head of household whether he is able to provide for his small family, and this economy also affects the sensitivity of the household, therefore at the counseling stage PUSPAGA provides an understanding of the importance of the economy in the household.

Counseling itself is indeed a form of cooperation between the Religious Court and the Banjar Regency Government, namely the Office of Social Empowerment of Women Protection of Children Population Control and Family Planning (DINSOS P3AP2KB) which seeks to reduce the number of early marriages in Banjar Regency even though this application is only 2 years behind, even though the Supreme Court Regulation (PERMA) which regulates the guidelines for adjudicating Marriage Dispensation has been issued since 2019, meaning that the PERMA itself is not fully implemented at the time of its issuance but when needed. With the agreement of both parties between the Chairman of the Martapura Religious Court and the Head of the Women's Empowerment Family Planning Population Control Office in a Memorandum of Cooperation Number 17 of 2021 signed on Wednesday, July 21, 2021. Since the Cooperation agreement was made, the implementation of counseling and the results of counseling have become part of the requirements for marriage dispensation that must be met.

In Supreme Court Regulation Number 5 of 2019, it is clearly written that in examining children who apply for marriage dispensation, judges can request recommendations from psychologists or doctors / midwives, professional social workers, social welfare workers, Integrated Service Center for the Protection of Women and Children (P2TP2A), Indonesian / Regional Child Protection Commission (KPAI / KPAD).

PUSPAGA is part of the implementation of Article 15 d of PERMA No. 5 of 2019. PUSPAGA itself is part of the Banjar Regency Office of Social Empowerment of Women Protection of Children Population Control and Family Planning (DINSOSP3AP2KB) which

was formerly known as DP3A, which has now changed its name but its purpose and function are no different. The implementation of PUSPAGA is a state obligation to address family problems. Based on Law No. 23 of 2002 on Child Protection, which was updated with Law No. 35 of 2014.

The establishment of PUSPAGA as a service unit is a mandate of Law Number 23 of 2014 concerning Regional Government that the affairs of women's empowerment and child protection are mandatory affairs with non-basic services as referred to in Article 11 paragraph 2 which includes the sub-affairs of fulfilling children's rights. This means that the commitment of the Banjar Regency Regional Government is in line with the presence of Supreme Court Regulation Number 5 of 2019 which is a guide for judges in adjudicating marriage dispensation applications submitted by couples who are still at an early age to enter into marriage.

The implementation of counseling itself is carried out by the PUSPAGA counseling officer to the two couples who will enter into marriage but are hindered by age because they are hindered by an insufficient age of 19 years as clearly stipulated in Law No. 16 of 2019. So because the age has not reached the limit, it is required that if you want to get married, you must apply for marriage dispensation at the Religious Court. The couple will undergo counseling to obtain a letter of counseling results that must be fulfilled, in addition to the two couples who want to get married, the parents / guardians of each couple must also sit together to undergo counseling to ensure their child's ability to live married life and the role of both parents in jointly overseeing the household of the child who is still at an early age with all the risks that will be obtained. The form of the counseling result letter is in the form of a document containing notes on the results of counseling or in other words, it is only a counseling report containing notes on the results of counseling, not in the form of a recommendation whether or not the couple is eligible for marriage. This is actually different from the concept stipulated in Supreme Court Regulation (PERMA) No. 5 of 2019, where it is clearly written that in examining children who are petitioned for dispensation of marriage, judges can request recommendations from Psychologists or Doctors / Midwives, Professional Social Workers, Social Welfare Workers, Integrated Service Center for the Protection of Women and Children (P2TP2A), Indonesian / Regional Child Protection Commission (KPAI / KPAD). This means that there is no assertiveness from the counseling party, namely PUSPAGA, towards couples who will marry at this early age. The decision to register counseling as a condition of the marriage dispensation application will essentially have no effect on the ongoing legal process as stated in PERMA No. 15 Article 5 of 2019 stipulates that judges can request opinions or recommendations in the examination, one of which is the results of PUSPAGA counseling.²²

Counseling conducted by PUSPAGA at the Martapura Religious Court is carried out face-to-face or directly as explained by the PUSPAGA officer that counseling is carried out here directly not through any media. That at the time of submission of the application after that the officer is directed to undergo counseling at PUSPAGA after completion will get the results of counseling which is a mandatory requirement as a complement to be accepted and processed at the Martapura Religious Court. PUSPAGA counseling at the Religious Court opens on Tuesdays and Thursdays, while the rest of the time they continue to open services at the Banjar District Social Service Office for the Empowerment of Women Protection of Children Population Control and Family Planning (DINSOS P3AP2KB) during working hours. If the application is outside the service schedule at the Martapura

Religious Court, the applicant is given the option to wait for the service schedule at the Martapura Religious Court on Tuesdays and Thursdays, or if they do not want to wait for the counseling service schedule at the Martapura Religious Court, they can go directly to the Banjar District Office of Social Empowerment of Women Protection of Children Population Control and Family Planning (DINSOS P3AP2KB) during working hours.

2. The influence of the results of counseling provided by PUSPAGA for judges' consideration in adjudicating marriage dispensation applications.

One of the Islamic rules that judges allude to as directing their choices is "benefit" (normal great). Maslahah specifies that keeping away from hurt is a higher priority than accomplishing something useful. This idea of keeping away from "hurting" (madharat or mafsadat) may lead judges to decide for kid marriage for young pregnant young ladies. They might do so to safeguard them from the social shame they might languish over being an unwed mother, since for them, staying away from hurt (social disgrace) is a higher priority than accomplishing something beneficial (staying away from youngster marriage).²³

As explained by the Deputy Chairperson of the Martapura Religious Court, Mrs. Hikmah, according to her, the letter of counseling results given to the panel of judges is not in the form of a recommendation but only a report, meaning that there is no firm decision from the counseling because it only gives notes, which in this case in the trial is said to be only additional evidence because it only contains notes, not recommendations whether or not the couple should enter into marriage.

Whereas in Supreme Court Regulation Number 5 of 2019 it is clearly stated that judges may request recommendations from Psychologists or Doctors / Midwives, Professional Social Workers, Social Welfare Workers, Integrated Service Centers for the Protection of Women and Children (P2TP2A), Indonesian / Regional Child Protection Commissions (KPAI / KPAD). This means that even though the implementation of counseling provides a recommendation whether or not it is feasible, it is the judge who decides to adjudicate in court. So this statement is very different because according to PUSPAGA counseling officers they are not the domain in terms of determining whether or not an early age couple is given a recommendation to marry because all decisions are in the hands of the judge, it is true that all decisions are in the hands of the judge in charge, but in this case according to the view of the Deputy Chairperson of the Martapura Religious Court earlier that if it refers to PERMA NO. 5 of 2019 then the document provided by PUSPAGA should be in the form of a recommendation that the early-age couple is eligible or not to enter into marriage.

According to the author after finding data in the field, this counseling letter does not fully affect the judge in adjudicating the application for dispensation of marriage if you understand the two different opinions, it is not the domain of PUSPAGA counseling officers to determine whether it is feasible or not but it is the authority and duty of the judge, but on the other hand according to the Deputy Chairman of the Martapura Religious Court, if it is in the form of a recommendation whether it is feasible or not, it will have an effect on the judge's decision, because the judge, apart from referring to the recommendation, the judge will also analyze from various aspects in deciding, so even if the letter of counseling results is in the form of a recommendation whether or not all decisions will be decided properly with various considerations of the goodness and safety

of the two couples. Because judges are tasked with receiving, examining, adjudicating and resolving all lawsuits and disputes²⁴. If the counseling officer recommends that it is feasible to enter into marriage, the judge will analyze the recommendation plus other considerations, so the letter of counseling results can be said to be influential in adjudicating the application for dispensation of marriage, but the fact in the field that the results of counseling are only in the form of minutes makes it not so influential because there is no firmness in the letter of counseling results, it is just a note that makes it not have much effect and only as additional evidence.

This means that if the letter of counseling results is in the form of a recommendation as stated in Supreme Court Regulation Number 5 of 2019, it will have a lot of influence on whether the judge's decision is granted or not. However, because this is only an official report containing notes on the results of counseling which explains the relationship between each partner and their readiness, the presence or absence of the letter actually has little effect on the judge in adjudicating the application for dispensation of marriage because it is an alternative to increase the basis for the judge's consideration in deciding because the judge can find detailed information while in the courtroom.

Counseling outcome documents provided by PUSPAGA are in the form of counseling outcome notes or minutes containing counseling notes. As explained by the PUSPAGA counseling officer, the documents issued by PUSPAGA are in the form of minutes of counseling records, not in the form of recommendations. Whereas if we refer to Supreme Court Regulation Number 5 of 2019, it is explained that judges may request recommendations from parties. Therefore, it means that there is a difference in terms of the documents given by the counseling officer to the judge, which is in the form of only minutes not in the form of recommendations, this was also flicked by the Deputy Chairperson of the Martapura Religious Court, according to him, the documents provided are only minutes not recommendations from counseling officers that couples who have not reached the minimum age are eligible or not to get married. This means that according to him, this difference does not really affect the results of the judge's decision because it is only a record of the minutes if it is in the form of a recommendation whether or not the couple is eligible for marriage, it will certainly have an effect on the judge deciding on marriage dispensation.

According to information from the counseling officer of the Family Learning Center Rusdiannor, the number of couples who conducted counseling at PUSPAGA during 2022 was 109 (one hundred and nine) which consisted of 14 (fourteen) men and 95 (ninety-five) women. And while according to the statement of the Deputy Chairman of the Martapura Religious Court that the number of Marriage Dispensation applications processed at the Martapura Religious Court during 2022 was 103 (one hundred and three) applications received, 97 (ninety) applications granted, 1 (one) application rejected, and 5 (five) applications revoked. So with the data on the number of applications for dispensation of marriage, both those who counsel and those who submit applications at the Martapura Religious Court during 2022, there is a difference in which more people carry out counseling than those who submit applications for dispensation of marriage at the Martapura Religious Court with a difference of 6 (six). This shows that counseling is able to reduce couples who are at an early age to continue to the marriage stage. With this number count, it shows that there is no significant effect of counseling on the marriage dispensation cases that enter the litigation and are processed in the trial in requesting a

recommendation from the Religious Court to enter into a marriage that is hindered because it is still insufficient for the age limit.

6. CONCLUSION

The counseling applied at the Martapura Religious Court is conducted directly in a face-to-face forum, which is attended by the prospective couple and each parent of the couple. The implementation of counseling is carried out after the parents of the couple applying for dispensation of marriage submit the application file to the Martapura Religious Court. After that, they are directed to the PUSPAGA counseling that is scheduled at the Religious Court, which is every Tuesday and Thursday, any application outside the predetermined schedule can wait for the schedule or they go to the Banjar Regency Social Service Office for the Empowerment of Women Protection of Children Population Control and Family Planning (DINSOS P3AP2KB) every working hour to get a letter of counseling results which is a mandatory requirement for the application to be accepted and processed. The counseling delivered to the couple is related to health, economy, and family readiness. The results of the counseling provided by PUSPAGA are only in the form of documents, namely records of counseling results or minutes, not in the form of recommendations as stated in Supreme Court Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. Because the results of the counseling are in the form of minutes, it does not have a big influence on the judge's decision, it is just a record of events that can be said to be additional evidence, not as a basis for determining the application. If the results of the counseling are in the form of recommendations in line with PERMA No. 5 of 2019, it will have an effect on the judge's decision because the recommendation is whether or not it is feasible to enter into marriage, but later all decisions are in the hands of the judge who hears whether or not the marriage dispensation application is granted.

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