

Harmonization of Various Institutions in Preventing and Overcoming the Impact of Child Marriage

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Abstract

Marriage dispensation is an alternative to resolve the issue of marriage at the age of under 19 years. However, the decision to grant marriage dispensation may have a negative impact on household harmony, eventually resulting in divorce. To overcome this issue, judges are authorized to reduce the adverse effects of under-aged marriage. This study aimed to identify and analyze the harmonization between the Panyabungan Religious Court and other institutions in preventing and reducing the impact of child marriage dispensation. This research employed the legal and the socio-legal approaches. The legal approach was used to analyze the marriage dispensation decision at the Panyabungan Religious Court, while the socio-legal approach was used to analyze the social interactions that occurred between the Religious Court and other institutions. The results of this study indicated that the harmonization between the Panyabungan Religious Court and other institutions with common functions and purposes in the prevention and mitigation the impact of child marriage dispensation is considered to be good. Collaboration was already in motion between the Customary Institution and KUA (the Office of Religious Affairs) or the Ministry of Religious Affairs. Further collaboration with the Health Office, Education Office, Manpower Office, Women's Empowerment and Child Protection Office, Family Planning Office, and MUI (Indonesian Ulama Council) of Mandailing Natal Regency needs to be explored in the future. It is hoped that this cooperation will occur not only in the Panyabungan Religious Court but in all the Religious Courts throughout Indonesia. _____

I. Introduction

The lack of harmonization among the various institutions adds to the negative impact of child marriage. In preventing and reducing the impact of child marriage, it is necessary to maximize collaboration and harmonization among government, community, and family institutions. This is in accordance with the Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage and PERMA (the Regulation of the Supreme Court) No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation.

Applications for marriage dispensation are increasing every year. In 2019 the number of marriage dispensation cases entered in the Religious Courts amounted to 24,864 applications,¹ while in 2020 the number of cases peaked at 64,196 applications.² This figure signaled the annual increase in the marriage dispensation decisions despite the fact that the government and NGOs engaged in the protection of women and children have been consistently campaigning against the dangers of child marriage. This issue, therefore, is a chronically recurring problem every year.

Many studies on child marriage have been conducted. Among these studies are the research conducted by Hikmah Miraj Muttaqina and Sutisna (2019) on the marriage dispensation for minors in the Determination of Case Number 0049/Pdt.P/2017/Pa.Jp in the Central Jakarta Religious Court,³ the research conducted by M. Syuib Syuib and Nadhilah Filzah (2019) on judges' authority in applying discretion in marriage dispensation applications (a case study at the Jantho Syar'iyah Court),⁴ and the research conducted by Suhaila Zukifli (2019) on Juridical Analysis of under-aged Marriage Permit (Dispensation) Applications. Some of these studies only focused on procedural law while some others focused on the causes of child marriage.⁵ However, only a few studies on the institution harmonization in preventing and overcoming the impact of child marriage.

A number of state institutions share common tasks and functions in preventing and alleviating the impact of child marriage, but these institutions seem to operate

¹Supreme Court, *Laporan Pelaksanaan Kegiatan Mahkamah Agung Tahun 2019* [2019 Supreme Court Activity Implementation Report] (Jakarta: Supreme Court, 2019), 118.

²Supreme Court, *Laporan Pelaksanaan Kegiatan Mahkamah Agung Tahun 2020* [2020 Supreme Court Activity Implementation Report] (Jakarta: Supreme Court, 2020), 140.

³Hikmah Miraj Muttaqina and Sutisna Sutisna, 'Dispensation for Child Marriage in Court Ruling Number 0049/Pdt.P/2017/Pa.Jp in the Religious Court of Central Jakarta', *Mizan: Journal of Islamic Law*, 2019 <<https://doi.org/10.32507/mizan.v2i2.132>>.

⁴M. Syuib Syuib and Nadhilah Filzah, 'Judge's Authority to Apply Discretion in Application for Marriage Dispensation (Case Study at the Jantho Syar'iyah Court)', *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam*, 2019 <<https://doi.org/10.22373/sjhk.v2i2.4747>>.

⁵Suhaila Zukifli, 'Juridical Analysis of Applications for Child Marriage Permits (Dispensation)', *Hukum Kaidah*, 2019.

separately. These institutions include the Religious Courts, the Ministry of Religious Affairs, KUA (the Office of Religious Affairs), the Health Service, the Manpower Office, the Education Office, the Women's Empowerment and Child Protection Service, the Family Planning Service, and the Indonesian Ulema Council.

For the Religious Courts, the basis for establishing this collaboration is Article 16 of the Regulation of the Supreme Court No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation,⁶ which states that a judge, during the investigation process, pays attention to the best interests of the child by taking into account the psychological, sociological, cultural, educational, health, and economic conditions of the child and parents, based on the recommendation of a psychologist, doctor/midwife, professional social workers, social welfare workers, the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) or the National/Regional Child Protection Commission (KPAI/KPAD).

These institutions must work together to deal with the issue of child marriage, and therefore there should be an equal division of tasks among all the institutions above. This division of tasks must surely be accompanied by an even distribution of the budget.⁷ The impact of child marriage can be minimized if there is good cooperation, which will be useful during and after the trial. The question remains; to what extent has this harmonization occurred? This fact drove the researchers to conduct research on the harmonization of the Religious Courts and other institutions in preventing and overcoming the impact of child marriage.

2. Research Method

This research is an empirical legal research, conducted in the real-life setting, i.e., at the Panyabungan Religious Court and other institutions. Empirical research is a method of study carried out through careful investigation of a problem in order to obtain the working solution to the problem.⁸ This research focused on the extent of cooperation between Panyabungan Religious Court and other institutions in preventing and overcoming the impact of child marriage in 2019-2021.

The primary data were obtained from the Panyabungan Religious Court and other institutions in the region such as the Ministry of Religious Affairs, the Office of Religious Affairs, the Health Service, the Manpower Office, the Education Office, the Women's Empowerment and Child Protection Service, the Family Planning Service,

⁶Aryatama Hibrawan, 'Implementation of PERMA Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation as a Form of Protection of Children's Interests'. <https://badilag.mahkamahagung.go.id/artikel>.

⁷Nanang Fattah, *Ekonomi dan Pembiayaan Pendidikan [Economics and Education Financing]* (Bandung: PT Remaja Rosdakarya, 2006), p. 50.

⁸J. Supranto, *Metode Penelitian Hukum dan Statistik [Legal and Statistical Research Methods]*, (Jakarta: PT. Rineka Cipta, 2003), p. 1

and the Indonesian Ulema Council. These institutions are involved in preventing and overcoming the effects of child marriage. The data collection techniques included documentation and interview. The data obtained were edited to match the various answers and then analyzed qualitatively, i.e., the data obtained were described and elaborated to illustrate the extent of cooperation in overcoming child marriage.

3. Results and Discussion

The Role of the Panyabungan Religious Court and Other Institutions

According to the Regulation of the Supreme Court No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation, several institutions can be involved in providing recommendations for marriage dispensation and alleviating the impact that follows the marriage dispensation decisions. These institutions are as follows:

1) Religious Court

The Religious Court is a legal institution authorized to issue marriage dispensation decisions for Muslims. This means that the Religious Court has the authority to grant a marriage license for those under 19 years of age. The marriage dispensation decision is a swift response to the application for a marriage dispensation. This immediate response ensures that there is no accumulation of cases in the Religious Court. However, rather than the verdict, the more terrible event was the child marriage that results from it. Child marriage occurs when the application for a marriage dispensation is accepted.

To mitigate the impact of child marriage, the Religious Court needs to collaborate with other institutions. For instance, to alleviate the impact of the children's dropping out of school, the Religious Court can work with the Education Office. To reduce the social impact, they can cooperate with the Department of Social Affairs. To reduce the economic impact following the marriage, coordination with the Department of Manpower is necessary. To strengthen family resilience, cooperation with P2TP2A is required. To reduce the psychological and health impacts on the child, cooperation with the Health Office is needed.

The trial process to issue a marriage dispensation decision is the absolute authority of a judge. Since it is at the discretion of the judge, it does not need further discussion. However, the observation revealed that the schedule of the trials seems overcrowded. This is due to the limited number of judges in each religious court. This issue may affect the outcome of the decision. The negative impact of child marriage can be minimized with cooperation of related institutions, which will be useful during and after the trial. At the time of the trial the relevant institutions can provide recommendations regarding the couple's eligibility, while assistance can be provided post-trial.

A rejection to a dispensation application may eventually result in an increase in *zina*

among adolescents. These two interconnected variables influence one another and form a cause-and-effect relationship. Although the number of applications for marriage dispensation has always been on the rise at the Panyabungan Religious Court, only a few applications were turned down. Most of these requests were approved due to judges' complex considerations. After all the legal considerations, it is highly difficult for the judge not to grant the request for marriage dispensation. This has resulted in an increase in the number of marriages under the age of 19. Nevertheless, judges always try to give good advice to children and their parents against child marriage. As an effort to prevent unlawful sexual intercourse in the community and to maintain the prevailing values in society, a judge grants the request for marriage dispensation.

The examination of a child requesting a marriage dispensation can be carried out with a recommendation from a psychologist, a social welfare personnel, P2TP2A or KPAI/KPAD. At the Panyabungan Religious Court, in exploring the prevailing values in the community, the judges involve *hatobangon* (a local traditional institution) or local religious leaders for questioning or to explore the prevailing values the community.

The judges at the Panyabungan Religious Court in exploring prevailing values in their community refer to the recommendations from local traditional leaders or *hatobangon* in case the reason for marriage is *marlojong*. In addition, for marriage dispensation applications submitted for reasons of fear of violating Islamic law the court will usually involve *hatobangon* as a witness for questioning. This happens because the process of marriage dispensation request has usually been preceded by a marriage proposal. The *hatobangon* is also involved in the marriage proposal, and postponing the marriage afterwards is believed to be against the traditional and cultural values.

2) Ministry of Religious Affairs and Office of Religious Affairs

One of the tasks of the Ministry of Religious Affairs is to provide *Bimas* (Guidance of the Islamic Community), which aims to disseminate marriage policies to the community. KUA (The Office of Religious Affairs) is the leading work unit of the Indonesian Ministry of Religious Affairs that carries out the government duties in the field of religion in sub-district levels (KMA (Decree of the Minister of Religious Affairs) No. 517/2001 and PMA (the Regulation of the Minister of Religious Affairs) No. 11/2007). KUA serves as the leading work unit since it deals immediately with the community.

KUA officials must be able to take care of their own chores by practicing archival management, administration of correspondence and statistics as well as independent documentation. In addition, KUA officials must be able to run the services of marriage and reconciliation recording neatly since they have a great influence in fostering a harmonious and affectionate family.

Furthermore, KUA officials are tasked with taking care of and fostering Muslims' places of worship (such as mosques and *mushalla*), supervising the practice of Islam, *zakat*, *waqf*, *baitul mal* and social observance, Muslim partnerships, civil registration and the creation of harmonious families according to the values of the Islamic community based on the applicable laws and regulations.

Regarding consultation or marital advice, KUA through BP4 (Marriage Supervision and Preservation Agency) which is part of the organizational structure of KUA (at the sub-district level) is tasked with educating and providing services before or after marriage in order to prevent religiously illegitimate and unlawful marriage.

In terms of child marriage, MUI (the Indonesian Ulema Council) has demanded that the government increase propagation of Law Number 1 of 1974 concerning marriage to prevent child marriage which may result in failure in the achievement of the goals and wisdom of marriage, i.e., the promotion of one's well-being in his or her life as a family or as a part of a wider community, and the creation of security guarantees for pregnancy, the formation of a harmonious family as well as the procreation of children.

A request for marriage dispensation is submitted after a violation has occurred, or due to a couple's fear of violating the prevailing religious, customary, and cultural values in the community. The case is then discussed at least between the couple and their parents. Once an agreement has been reached to get married, the parents will file a marriage request to KUA, which will reject the request because the minimum age requirement is not met. Afterwards, KUA will recommend that a marriage dispensation be submitted to the Religious Court.

KUA has also propagated Law Number 1 of 1974 concerning marriage through various media, especially Article 7 paragraph 1 regarding the minimum age for marriage, i.e., 19 years old for men and 16 years old for women. In addition, KUA regularly hold public counseling services on the negative impact of underage marriage from legal, psychological, biological and other perspectives to instill the awareness of the importance of reaching the legal age of marriage.

In terms of prevention of early marriage, KUA can optimize the role of BP4 and other KUA officers in providing marital counseling on the importance of building a harmonious, affectionate, and blissful family. In this case, the importance of marriage at the legal age should be stressed as an essential factor in the formation of a harmonious family. KUA can also provide counseling on building harmonious families to the community while tightening the procedures and administrative requirements of marriage to prevent age manipulation and eventually overcome underage marriage.

KUA also conducts BRUS (counseling for school-age teenagers) in several schools. Besides, KUA can employ various print and electronic media, or organize seminars, recitations, Friday sermons etc., to educate the people on the importance of

marriage at the legal age. To be more effective, efforts to overcome early marriage should be well-planned and involve various elements of the people.

3) Health Office

The negative impact of underage marriage in Indonesia is the increased risk of maternal and infant mortality by 30%, the risk of domestic violence as experienced by 56% of adolescent wives, and the risk of school drop-outs as only 5.6% of adolescents still continuing school after marriage. Cases of underage marriage still occur in various ethnic groups in Indonesia and continue to contribute to maternal and child mortality and morbidity. The impact of underage marriage on the health of mothers and children includes, among others, miscarriage, premature birth, bleeding and maternal death. Teenagers should have knowledge about the importance of reproductive health and receive accurate and proper reproductive health education from trusted sources. The role of the government is needed to provide education about reproductive health and promote positive activities to avoid child marriage. This education should especially target those in areas with a high number of child marriages.

The number of maternal deaths in Mandailing Natal is quite high. Every village already has a midwife, and therefore medical cases are well recorded. This is what causes the high rate of maternal mortality in Mandailing Natal Regency. The policy of placing midwives in villages is a very important strategy in reducing the maternal mortality rate). The Indonesian Ministry of Health has also implemented the Maternity Insurance Program since 2011. Through this program, it is hoped that mothers' mortality rate can be further suppressed. Thus, this can help anyone who marries at an early age to avoid health problems during pregnancy, childbirth, and during the puerperium.

Policies on maternal and newborn health specifically relate to antenatal, delivery, postpartum and newborn care services provided in all types of health care facilities, from *posyandu* to government hospitals and private health care facilities. Child health includes the health of infants, toddlers and adolescents. A mother has a very big role in the growth of the baby and the development of the child. Health problems experienced by a pregnant mother can affect the health of the child in her womb until its birth. Among the services provided are as follows: Antenatal Services (K1 and K4), Childbirth Service by Health Workers with Midwifery Competencies, and Neonatal Visit.

It is obvious that the health service is considerably necessary to overcome the impact of early marriage. This is the reason that PERMA No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation designates health recommendations as one of the judges' considerations in granting permits for underage marriages. With this recommendation, it is hoped that there will be cooperation in documenting couples who will have early marriages.

Every decision of the religious court granting a marriage dispensation will proceed directly to the local health office which will subsequently assist the young couple planning on early marriage in an effort to reduce the impact of maternal and child mortality during and after childbirth.

4) Education Office

Applications for marriage dispensation are often submitted by applicants at school age, and many of the couples with early marriage unfortunately drop out of school even though it is always possible for them keep pursuing their education after marriage. The Minister of Education and Culture Muhadjir Effendy stated that the children's right to education should not be lost with their marriage. No regulation prohibits the married couple to go to school. According to him, the early marriage phenomenon was nothing new. It has occurred in many regions, and many young couples who had been scheduled to sit in the national exam chose to resign and got married.

Marriage and education should not conflict with one another; being married does not mean one should stop pursuing his or her education. Students can choose to continue through the formal pathway or the national equivalency education. The future of youth education must be a common concern since it is highly important. While efforts to prevent early marriage should be consistent, pregnancy out of wedlock makes marriage unavoidable, but even so, the couple should have the same rights in continuing their education.

It is this spirit to collaborate that should be possessed the education office and religious courts as well as other institutions with data on early marriage. With collaboration, the impact of early marriage on children's education can be prevented as much as possible.

One of the requirements for applying for a marriage dispensation is a copy of one's latest diploma or school enrollment certificate. However, even though several applications at the Panyabungan Religious Court have included school enrollment certificates, many applicants still drop out of school after marriage. This can be prevented if students are provided with enough understanding on this issue.

Based on Article 12 PERMA No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation, judges have to offer advice to parents, children, prospective husbands/wives and parents/guardians of prospective husbands/wives on the risks of marriage, one of which is the possibility of cessation of education for the couple. The completion of children's 12-year compulsory education is a basic need in the realization of national goals. Children's education is one of scopes of collaborations between the education office and the religious courts. If the data from the religious courts and the education office can be interconnected, the impact of early marriage can be reduced.

5) Office of Women and Child Protection

The Office of Women's Empowerment for the Protection of Children in Family Planning (P3A Office) has consistently shown its efforts to prevent child marriage, one of which is through awareness-raising program in the sub-districts. The Ministry of Women's Empowerment and Child Protection organized PATBM (Prevention of Child Marriage through Community-Based Integrated Special Child Protection) program, which can serve as the spearhead of community-based protection. PATBM direct involvement is also very important to prevent violations of children's rights, including child marriage.

The Ministry of Women's Empowerment and Child Protection (PPPA) has been intensively conducting the Joint Movement for the Prevention of Child Marriage in the village level. Advocacy and socialization on the prevention of child marriages continue to be carried out together with all stakeholders since child marriage is a form of violation of children's rights. The ministry in collaboration with their regional offices and Community-Based Integrated Child Protection (PATBM) activists at the village level and the Children's Forum always educates children on their rights to protection. They are taught to recognize and take care of their bodies so that they are able to protect themselves from all sorts of violence and exploitation that ultimately hinder their growth and development.

The PPPA Social Service is a government agency that deals with issues in the field of social affairs, women and children. In terms of the protection of women and children, the PPPA Social Service perform its duties and functions in carrying out local government activities in terms of Women Protection and Child Rights Mainstreaming sector.

The P3A Office of Mandailing Natal Regency is regulated in PERBUB (Municipal Regulation) No. 44 of 2016 concerning the Position, Organizational Structure, Duties and Functions and Work Procedures of the Office of Women's Empowerment and Child Protection in Mandailing Natal Regency. The P3A Office is the executives of government duties in the field of Women's Empowerment and Child Protection.

The P3A Office's duties and functions are closely related to the prevention of early marriage and the mitigation of its impact on the couples with marriage dispensation. Collaboration from various institutions with common tasks and functions will accelerate the achievement of local government programs. Therefore, PERMA No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation that demands the judges to seek recommendations from the Integrated Service Center for the Protection of Women and Children (P2TP2A) has served this purpose well. This initial step will at least equalize the perceptions related to the data on early marriage at the Panyabungan Religious Court.

6) Office of Manpower

The Office of Manpower is running the government roles in the fields of manpower,

transmigration, energy and mineral resources. Mandailing Natal's Office of Manpower operates in three sectors, namely the Placement and Expansion of Employment Opportunities with the task of preparing the materials for the coordination of policies and program formulation as well as workforce placement and employment expansion opportunities; Industrial Relations, Social Security, Energy and Mineral Resources with the task of preparing materials for the coordination of policies and program formulation as well as the implementation of affairs in the fields of Industrial Relations, Social Security, Energy and Mineral Resources; Training, Productivity and Transmigration with the task of preparing materials for coordinating the formulation of policies and programs as well as the implementation of programs in the fields of Training, Productivity and Transmigration.

Mandailing Natal's Office of Manpower run an UPTD (Regional Technical Implementation Unit) for the Panyabungan Job Training Center. This UPTD has changed its name several times, from *Unit Pelaksana Teknis Dinas Tenaga Kerja, Transmigrasi, Sosial dan Kependudukan* (the Technical Implementation Unit of the Manpower, Transmigration, Social and Population Office) in its early establishment until 2011 to *Kantor Latihan Kerja* (the Job Training Office) until 2016, to *UPTD Tenaga Kerja* (The Office of Manpower's Technical Implementation Unit) in 2017, and eventually to *BLK Panyabungan* in 2018 based on Municipal Regulation Number 23 of 2018.

As a support for the implementation of training programs, UPT. BLK Panyabungan has organized several projects, including:

- a) Automotive Vocational Workshop in Gasoline and Diesel Cars
- b) Automotive Vocational Workshop in Motorcycle Sector
- c) Electrical Vocational Workshop
- d) Electronics Vocational Workshop
- e) Welding Vocational Workshop
- f) Vocational Makeup Workshop
- g) Garment Vocational Workshop
- h) PHP Vocational Workshop

The collaboration between the Religious Courts and the Office of Manpower will encourage job creation for child marriage couples. This will reduce the negative financial impact of early marriage, and will also have a positive impact on their marital relationship. Their lack of skillsets also results in the lack of income. This condition may lead to marital conflict that result in divorce.

7) MUI of Mandailing Natal

The increasing number of early marriages throughout 2020 has become a new issue in the condition of children in Indonesia. Efforts are needed fulfill children's rights and to prevent the practice of child marriage. The Indonesian Ulema Council organized a national online seminar and declaration of the national movement for the maturation of marriage age on March 18, 2021 as an effort to help reduce the high number of child marriage cases in Indonesia.

Currently, MUI has been attempting to use the principles of *fiqh* to educate the community on maturation of marriage age based on the Islamic principles. It aims to create harmonious, peaceful, affectionate, and blissful Indonesian families free from the risk of divorce and poverty. In the case of child marriage, the problem is not only the deprivation of children's rights, but the increase of national poverty rates as a result of child marriages.

The Declaration of the National Movement for Maturation of the Age of Marriage by MUI aims to contribute in reducing the number of early marriage cases in order to increase national prosperity. Likewise, Mandailing Natal's MUI also has consistently been educating the people on the age of marriage. Thus, MUI has played its role in preventing child marriage in the predominantly Muslim community.

Harmonious Collaboration among Institutions in Preventing and Overcoming the Impact of Child Marriage

Harmonization can lead to compatibility while respecting the uniqueness of the entity or jurisdiction. Harmonization implies that there is a willingness to come together towards a common solution. However, this harmonization cannot be realized without the involvement of other institutions. For example, in Indonesia harmonization will not occur without the involvement of the state. Therefore, harmonization is a joint effort to achieve harmony while respecting the specificity of each entity or jurisdiction, and is formed before an entity with the authority.

In a legal system there is harmonization to achieve the system goal. The harmonization of the legal system is required to link smaller legal systems into a larger one, as in combining the customary law system and the Islamic legal system in forming national law. Harmonization of the legal system is a joint effort or process to achieve harmony between the elements that make up the system while respecting the uniqueness of each entity or jurisdiction and is made before an entity with the authority to achieve the legal objectives. Thus, harmonization of the legal system in marriage dispensation is a joint effort or process to achieve harmony between the customary law system, the Islamic legal system, and the national legal system in reaching a marriage dispensation decision.

This legal system harmonization offers some benefits. *First*, harmonization creates

consistency in laws, regulations, standards, and practices, allowing the same rules to apply to more than one legal system and the creation of national legal compliance.

Second; harmonization creates the solutions for various problems and the promotion of harmony among tribes, religions, countries, and other groups as in the peace agreement to establish harmonious relationship between Mu'awiyah and Ali RA through *tahkim* and the peace agreement between Mu'awiyah and the Roman empire initiated by Amr ibn Ash, who said:

وقال عمرو بن العاص لمعاوية: كما بدأت الفتنة اكتب إلى قيصر الروم تعلمه أنك ترد عليه جميع من في يدك من أسارى الروم وتسأله الموائمة والمصالحة تجده سريعاً إلى ذلك راضياً بالعفو منك⁹

The agreements between religions, ethnicities, and nations can result in a peaceful life. Thus, the second benefit of harmonization is the realization of harmony in the life of society and the state.

Third; harmonization bridges the gap between the laws and the standards prevailing in society in their practical application. *Fourth*; harmonization can promote mutual acceptance to the different natures of laws. *Fifth*; harmonization creates the elegance in the state legal system.

Sixth; harmonization creates *maslahah 'ammah*, which benefits one's life in the world and the hereafter, and there is no disadvantage in harmony. Among the *maslahah 'ammah* that can be achieved is justice. Harmonization in legal facts that are mutually understood correctly will produce a just law.¹⁰

Without a harmonious legal system, the law in Indonesia will be ineffective, and therefore few people will feel comfortable. This will put national unity at risk as people will experience many disputes, courtesy will be lost, and the level of dissatisfaction in society will rise. Harmony is the main characteristic of the universe and the state that we can learn. Indeed, Allah has created everything in the universe in due measure both qualitatively and quantitatively, and everything is ordered in due proportion. This is in accordance with the Arabic proverb which states, “لولا الوئام لهلك الانام” which means “If it were not for harmony, people would perish.” Without harmony, life in a society, a group, a company, a friendship and a country will be disastrous. لولا الوئام هلك اللئام (If it weren't for harmony, people would have perished).

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Harmonization can be used in all fields. The scholars use the spirit of *da'wah* by harmonizing sharia and popular customary laws in society. They produce a fatwa by relying on the alignment of legal decisions with the subject's special circumstances or emergency.¹² Harmonization is closely related to the science of *ushul fiqh* and the rules of *fiqh* as well as the concept of *tawazun* or *washatiyah* (balance), because

⁹Muhammad bin Abdul Razak, *خطوط الشام*, Juz'. 1 (Damaskus; maktabah Nur, 1983), h. 442.

¹⁰Ahmad Hasan, *مجلة الرسالة*, juz', 4 (tt: tt, 1432 H), h. 865.

¹¹Abu Nashr Isma'il, *الصالح تاج اللغة وصحاح العربية*, Juz' 5 (Bairut: Darul 'Alim Lilmalyyin, 1987), h. 2048.

¹²Muhammad Ahmad Ismail, *عودة الحجاب* (tt: Darul Tayibah, 2007), h. 3.

balance will create harmony. Meanwhile, in positive law the harmonization of the legal system is part of the legal science. It is closely related with the components of the formation of legal products and the legal system (structure, substance, and legal culture).

Law harmonization is a familiar term in Islamic law and in Islamic law dictionaries even though it is rarely used. Harmonization has been practiced since the arrival of Islam during the time of the Prophet Muhammad and his companions and is still practiced by his successors to this day. However, the problem is that no harmonization project has ever reached completion. This is due to the nature of harmonization; it is designed to combine different legal systems under a basic framework.

This is the appeal of harmonization. It takes into account local factors but adopts universal principles in producing a consistent legal framework. It generally combines the local factors under a relatively unified framework. Today, Western and Muslim scholars have begun to study the law harmonization because it is considered important to harmonize the law according to its function.¹³

The harmonization of the legal system in marriage dispensation decisions occurs because there is a legal basis that allows it in each legal system. Without a legal basis, this harmonization will be an arduous task. The harmonization of the legal system in Islam has been regulated in the Qur'an, Sunnah, and Ijma' and has become a universal certainty. Meanwhile, harmonization is also an essence in the Indonesian constitution, as stated in the Pancasila's First Principles and articles number 29 (2) and 18B (2) of the 1945 Constitution. In addition, harmonization is also taught in Mandailing customs through such philosophical values as *Holong* and *Domu*. *Holong* refers to the feeling of love not only for other humans but also for the environment. *Domu*, on the other hand, denotes a sense of oneness. *Holong* and *domu* cannot be separated because *holong* can give rise to *domu*, and *domu* must always be preserved with *holong*. The basic norms or rules regarding this harmonization have been discussed and can be seen in Chapter 2.

In a basic norm of a system that lacks harmonization, the harmonization of the legal system cannot take place. Therefore, any legal system will naturally fail without a foundation for harmonization. However, such cases are not impossible, as it was evident in the legal system imposed during the colonial period. Besides, any international law that is imposed on Indonesia will also result in disharmony in the legal system. Therefore, Indonesia's sovereignty in terms of law must be strengthened to avoid intervention from other countries.

The pattern of legal system harmonization is a pattern that produces such a harmonious relationship in a legal system that it is commonly used as a general

¹³ Bouchelaghem, S. (2021). ضوابط الموازنة بين الشريعة الإسلامية والقانون وعوائقها، مع نماذج تطبيقية من قانون الأسرة. 6(3), 1141-1153. <https://www.asjp.cerist.dz/en/article/162615> مجلة العلوم القانونية والاجتماعية. الجزائر

model. The pattern emphasizes the form of interaction of the legal system so as to produce harmonization. The harmonization of the Islamic legal system, the customary law system, and the national legal system does not occur in every decision. At times, it happens in every decision but with varying degrees. Nevertheless, they still have a common pattern. The pattern of harmonization of the legal system in marriage dispensation decision is a model of the harmonization of the Indonesian legal system in producing marriage dispensation rulings.

This pattern moves dynamically and has been practiced repeatedly for over such a long period of time that a good legal system relationship can be realized. Harmonization of the legal system can create beauty in social and legal relationship.

4. Conclusion

Harmonization between the Panyabungan Religious Court and other institutions with common roles in preventing and reducing the impact of marriage dispensation is considered relatively good even though there is a need for further cooperation with some institutions. According to the data, the cooperation is only limited to the Customary Institution and KUA or the Ministry of Religious Affairs. Cooperation with the Health Service, the Education Office, the Office of Manpower, the Women and Child Protection Service, the Family Planning Service, and MUI in judges' evaluation of marriage dispensation case is still minimal. The legal basis for this cooperation is Article 16 PERMA No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation. This article stipulates that in the examination process a judge should consider the best interests of the child by taking into account his or her and his or her parents' psychological, sociological, cultural, educational, health, economic conditions based on the recommendation issued by psychologists, doctors/midwives, professional social workers, social welfare workers, P2TP2A or KPAI/KPAD.

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