

ABSTRAK

PRAKTIK DISPENSASI KAWIN DI PENGADILAN AGAMA TANJUNG KARANG DALAM PERSPEKTIF PERLINDUNGAN ANAK DI BAWAH UMUR MENURUT UNDANG-UNDANG PERLINDUNGAN ANAK

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Adanya pembaruan batas usia perkawinan yang menjadi sebuah masalah hukum. Karena dengan adanya pembaruan tersebut justru mengakibatkan kenaikan angka pengajuan permohonan dispensasi kawin di Pengadilan Agama. Anak sebagai subjek hukum yang memiliki hak-hak anak harus dilindungi sesuai dengan Undang-Undang Perlindungan Anak. Pengadilan dituntut untuk dapat mengakomodir antara Undang-Undang Perkawinan dan Undang-Undang Perlindungan Anak. Penelitian ini membahas bagaimana praktik dispensasi kawin menurut Undang-Undang Perlindungan Anak serta bagaimana praktik dispensasi kawin di Pengadilan Agama Tanjung Karang dalam perspektif perlindungan anak di bawah umur. Penelitian ini menggunakan pendekatan normatif empiris, metode yang digunakan untuk pengumpulan data ialah studi kepustakaan dan studi lapangan. Penelitian ini mewawancarai Panitera Muda Hukum Pengadilan Agama Tanjung Karang, dan Hakim Pengadilan Agama Tanjung Karang.

Penelitian ini menghasilkan yang pertama, bahwa praktik dispensasi kawin anak di bawah umur merupakan suatu bentuk kepastian hukum dari pemerintah guna melindungi anak sekaligus mencegah perkawinan anak. Pada kenyataannya latar belakang terbentuknya Undang-Undang Perlindungan Anak dan Undang-Undang Perkawinan didasari pada hal yang berbeda. Kedua, menunjukkan bahwa praktik dispensasi kawin di Pengadilan Agama Tanjung Karang dalam perspektif perlindungan anak di bawah umur sudah dilaksanakan namun belum optimal karena adanya interpretasi berbeda antar hakim mengenai alasan mendesak yang menjadi syarat dispensasi hingga mengakibatkan tidak sama keputusan yang dikeluarkan antar hakim. Selain itu, karena hakim hanya berwenang membuat hukum melalui putusannya diperlukan peran pemerintah RI sebagai pembuat Undang-Undang guna menegaskan usia anak dan pembatasan pengajuan permohonan dispensasi kawin.

Kata Kunci: Praktik Dispensasi Kawin, Perlindungan Anak di Bawah Umur, Pengadilan Agama Tanjung Karang

ABSTRACT

THE PRACTICE OF MARRIAGE DISPENSATION IN THE TANJUNG KARANG RELIGIOUS COURT FROM THE PERSPECTIVE OF THE PROTECTION OF MINORS ACCORDING TO THE CHILD PROTECTION LAW

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There is a new phenomenon with the renewal of the marriage age limit which is a legal problem. Because with this update, it actually resulted in an increase in the number of applications for dispensation of marriage in the Religious Courts. Children as legal subjects who have children's rights must be protected in accordance with the Child Protection Law. The court is required to be able to accommodate between the Marriage Law and the Child Protection Law. This study discusses how the practice of marriage dispensation according to the Child Protection Law and how the practice of marriage dispensation at the Tanjung Karang Religious Court in the perspective of protecting minors. This research uses an empirical normative approach, the methods used for data collection are literature studies and field studies. This research interviewed the Deputy Law Clerk of the Tanjung Karang Religious Court, and the Judge of the Tanjung Karang Religious Court.

This research resulted in the first, that the practice of dispensation for the marriage of minors is a form of legal certainty from the government to protect children while preventing child marriage. In fact, the background of the formation of the Child Protection Law and the Law on Marriage is based on different things. Second, it shows that the practice of marriage dispensation at the Tanjung Karang Religious Court from the perspective of the protection of minors has been implemented but not optimally because there are different interpretations between judges regarding the urgent reasons that are a condition for dispensation, resulting in different decisions issued between judges. In addition, because judges only have the authority to make law through their decisions, the role of the RI government as a lawmaker is needed to emphasize the age of the child and limit the submission of marriage dispensation applications.

**Keywords: Marriage Dispensation Practice, Protection of Minors, Tanjung
Karang Religious Court**