

ABSTRAK

ANALISIS PUTUSAN PERKARA DISPENSASI KAWIN PASANGAN DI BAWAH UMUR DI WILAYAH HUKUM PENGADILAN AGAMA TANJUNG KARANG (STUDI PUTUSAN TAHUN 2017-2022)

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Fenomena banyaknya putusan pengadilan agama yang mengabulkan dispensasi kawin karena “alasan sangat mendesak” menimbulkan pertanyaan tentang dasar pertimbangan hakim, terlebih setelah diberlakukannya Undang-Undang Nomor 16 Tahun 2019 yang menetapkan batas usia perkawinan. Penelitian ini menganalisis pertimbangan hakim dalam mengabulkan atau menolak permohonan dispensasi kawin, khususnya dalam menafsirkan frasa “alasan sangat mendesak” yang menjadi kunci pemberian izin. Dengan pendekatan normatif-empiris, penelitian ini menggabungkan studi terhadap putusan pengadilan, wawancara dengan hakim, serta data resmi dari lembaga peradilan.

Hasil penelitian menunjukkan bahwa dalam praktiknya, hakim mempertimbangkan berbagai aspek seperti kesiapan psikologis dan emosional, kesiapan ekonomi, kesehatan dan kematangan fisik anak, pendidikan dan karier, serta dukungan sosial dan lingkungan dengan mempertimbangkan kebermanfaatan, keadilan, serta kepastian hukum sebagai landasan dalam menentukan putusan. Pertimbangan tersebut disusun berdasarkan pedoman Pasal 16 Perma Nomor 5 Tahun 2019. Meskipun regulasi telah diperketat, ketidakjelasan definisi “alasan sangat mendesak” membuka ruang interpretasi yang beragam, yang justru mendorong meningkatnya permohonan. Meski demikian, nasihat hakim terbukti menjadi instrumen penting dalam menunda atau mencegah perkawinan anak.

Penelitian ini merekomendasikan kepada Mahkamah Agung agar memperkuat konsistensi putusan melalui penyusunan Peraturan Mahkamah Agung (PERMA) yang berisi lima aspek penilaian “alasan sangat mendesak” sekaligus mempertegas yurisprudensi yang melindungi anak dan menjamin kepastian hukum, guna menjadi pedoman nasional bagi hakim tanpa mengurangi independensi dalam mempertimbangkan kondisi sosial dan budaya di wilayah hukumnya.

Kata kunci: Dispensasi Kawin, Pertimbangan Hakim, Alasan Sangat Mendesak, Anak di Bawah Umur

ABSTRACT

ANALYSIS OF THE DECISION ON DISPENSATION OF MARRIAGE FOR UNDERAGE COUPLES IN THE JURISDICTION OF THE TANJUNG KARANG RELIGIOUS COURT. (STUDY OF DECISIONS IN 2017-2022)

By

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The phenomenon of many religious court decisions granting dispensation to marry for “urgent reasons” raises questions about the basis for judges' considerations, especially after the enactment of Law No. 16/2019 which sets the age limit for marriage. This study analyzes judges' considerations in granting or refusing marriage dispensation applications, particularly in interpreting the phrase “urgent reasons” which is the key to granting permission. Using a normative-empirical approach, this research combines a study of court decisions, interviews with judges, and official data from judicial institutions.

The findings reveal that judges take into account a range of factors including psychological and emotional readiness, economic capability, physical maturity, educational and career prospects, and social support. These considerations are based on expediency, justice, and legal certainty, as stipulated in Article 16 of Supreme Court Regulation (PERMA) Number 5 of 2019. Despite the tightening of legal standards, the lack of a precise definition for “urgent reasons” allows for broad interpretation, contributing to the continued rise in dispensation applications. Nevertheless, judicial counseling has proven to be an effective mechanism for delaying or preventing underage marriages.

This study recommends that the Supreme Court strengthen the consistency of judicial decisions by formulating a Supreme Court Regulation (PERMA) that outlines five assessment aspects of the “urgent reason” requirement. Additionally, it should reinforce jurisprudence that prioritizes child protection and ensures legal certainty. Such a regulation would serve as a national guideline for judges, without undermining their independence in considering the social and cultural context within their respective jurisdictions.

keywords: Marriage Dispensation, Judicial Consideration, Urgent Reasons, Underage Marriage