

ABSTRAK

PENERAPAN KETENTUAN PERKAWINAN BEDA AGAMA DI INDONESIA MELALUI PENETAPAN PENGADILAN Tinjauan Yuridis Penetapan Pengadilan Negeri Surabaya Nomor : 916/Pdt.P/2022/Pn.Sby

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Perkawinan merupakan hak yang dimiliki setiap manusia. Syarat sahnya suatu perkawinan tercermin pada Pasal 2 Ayat (1) Undang – Undang Nomor 1 Tahun 1974 Tentang Perkawinan. Perkawinan beda agama pada penelitiann ini dilaksanakan melalui penetapan pengadilan.

Permasalahan dalam penelitian ini adalah, bagaimana dasar pengaturan perkawinan beda agama dan bagaimana dasar pertimbangan hukum hakim dalam penetapan pengadilan negeri Surabaya Nomor : 916/Pdt.P/2022/Pn.Sby. tentang permohonan perkawinan beda agama. Penelitian ini menggunakan metode pendekatan yuridis normative dengan spesifikasi penelitian deskriptif analitis. Sumber data yang digunakan adalah data sekunder. Metode pengumpulan data dilakukan dengan studi kepustakaan, kemudian data yang diperoleh disajikan dalam bentuk teks naratif dan metode analisis data yang digunakan yaitu normatifn kualitatif.

Berdasarkan pada hasil penelitian dan pembahasan, pertimbangan hakim dalam memutus perkara Nomor : 916/Pdt.P/2022/Pn.Sby. Mengacu pada ketentuan Pasal 8 Huruf f Undang -Undang Perkawinan , Pasal 29 dan Pasak 28 Ayat (1) UUD 1945, dan Pasal 35 Huruf a Undang – Undang Nomor 23 Tahun 2006 tentang administrasi kependudukan, namun Putusan tersebut bertentangan dengan Pasal 2 Ayat (1 jo. Pasal 8 Huruf f Undang- Undang Nomor 1 Tahun 1974 Tentang Perkawinan dan Pasal 40 Kompilasi Hukum Islam. Perkawinan beda agama tidak diatur dalam peraturan perundang – undangan sebagaimana pada Pasal 2 Ayat (1) Undang – undang perkawinan, dan pencatatannya tidak diakui sebagaimana ketentuan pada Fatwa Mahkamah Agung NOMOR 231/PAN/HK05/1/2019.

Kata Kunci : *Perkawinan, Beda agama, Putusan Pengadilan*

ABSTRACT

IMPLEMENTATION OF PROVISIONS FOR INTERRELIGIOUS MARRIAGE IN INDONESIA THROUGH THE DETERMINATION OF THE COURT Juridical Review Stipulation of the Surabaya District Court Number: 916/Pdt.P/2022/Pn.Sby

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Marriage is a right that every human being has. The legal requirements for a marriage are reflected in Article 2 Paragraph (1) Law Number 1 of 1974 Concerning Marriage. Interfaith marriages in this study were carried out through court decisions.

The problem in this research is, and the basis for interfaith marriage arrangements and what is the basis for the judge's legal considerations in the decision of the Surabaya District Court Number: 916/Pdt.P/2022/Pn.Sby. regarding interfaith marriage applications. This study uses a normative juridical approach with analytical descriptive research specifications. The data source used was secondary data. The data collection method was carried out by means of a literature study, then the data obtained was presented in the form of narrative text and the data analysis method used was normative qualitative.

Based on the results of the research and discussion, the judge's considerations in deciding case Number: 916/Pdt.P/2022/Pn.Sby. Referring to the provisions of Article 8 Letter f of the Marriage Law, Article 29 and Article 28 Paragraph (1) of the 1945 Constitution, and Article 35 Letter a of Law Number 23 of 2006 concerning population administration. However, this decision contradicts Article 2 Paragraph (1) jo. Article 8 Letter f of the Law Number 1 of 1974 Concerning Marriage the Marriage Law and Article 40 of the Compilation of Islamic Law. Interfaith marriages are not regulated in statutory regulations as in Article 2 Paragraph (1) of the Marriage Law, and their registration is not recognized as stipulated in the Supreme Court Fatwa NUMBER 231/PAN/HK05/1/2019.

Keywords: *Marriage, Religious Differences, Court Decision*