

PERMOHONAN DISPENSASI KAWIN KARENA TAKUT BERZINA
(Tinjauan Yuridis Terhadap Putusan Pengadilan Agama Tanjung Balai
Karimun Nomor 8/Pdt.P/2022/PA.TBK)

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ABSTRAK

Usia dan kedewasaan menjadi hal utama yang harus diperhatikan bagi pria dan wanita yang ingin melangsungkan pernikahan. Batas usia perkawinan bagi pria dan wanita yaitu 19 (sembilan belas) tahun dan bagi yang berusia kurang dari 19 (sembilan belas) tahun dapat mengajukan dispensasi kawin.

Rumusan masalahnya adalah bagaimana dasar pertimbangan hukum hakim dalam mengabulkan dispensasi kawin terhadap penetapan Pengadilan Agama Tanjung Balai Karimun Nomor 8/Pdt.P/2022/PA.TBK dan bagaimana akibat hukum dikabulkannya permohonan dispensasi kawin terhadap anak dalam perkara Nomor 8/Pdt.P/2022/PA.TBK. Penelitian ini menggunakan penelitian yuridis normatif yang kemudian dianalisis secara normatif kualitatif dengan data sekunder yang diproses melalui studi kepustakaan. Hasil penelitian disajikan secara naratif guna memperoleh penjelasan dari masalah tersebut.

Hasil penelitian dapat disimpulkan bahwa berdasarkan Undang-Undang No.3 Tahun 2006 jo Undang-Undang No.50 Tahun 2009 Tentang Peradilan Agama, maka Pengadilan Agama Kabupaten Tanjung Balai Karimun berwenang dalam mengadili perkara Nomor 8/Pdt.P/2022/PA.TBK. Hakim dalam mengadili perkara mendasarkan pada Pasal 7 ayat (2) Undang-Undang Nomor 1 Tahun 1974 sebagaimana telah diubah dengan Undang-Undang 16 Tahun 2019 tentang dispensasi kawin harus disertai alasan mendesak dan bukti yang cukup. Hakim dalam pertimbangannya mengedepankan konsep menolak kemudharatan, kepentingan terbaik bagi anak, kemampuan calon mempelai untuk memberikan nafkah, adanya persetujuan dari kedua calon mempelai untuk melangsungkan perkawinan tanpa paksaan, dan adanya pengakuan orangtua ikut bertanggungjawab atas perkawinan anak. Menurut Peneliti, Hakim mendeskripsikan alasan mendesak tidak sesuai dengan penjelasan Pasal 7 ayat (2) Undang-Undang No.16 Tahun 2019 serta menambahkan Pasal 26 ayat (1) huruf c Undang-Undang Nomor 35 Tahun 2014 jo Undang-Undang Nomor 23 Tahun 2002 tentang peran orang tua dalam mencegah pernikahan anak. Hasil penelitian tersebut juga menunjukkan akibat dikabulkannya permohonan dispensasi kawin menurut data sekunder yang meliputi akibat positif maupun negatif dari dispensasi kawin terjadi dari sisi hukum, pendidikan, kesehatan, psikologi. Dari sisi hukum maka anak tersebut dapat melangsungkan perkawinan di Kantor Urusan Agama. Dari sisi pendidikan maka mengakibatkan terputusnya kesempatan belajar. Dari segi kesehatan menimbulkan resiko meningkatkan kematian ibu dan bayi. Dari sisi Psikologi menimbulkan konflik dalam rumah tangga karena kematangan emosional belum terpenuhi. Menurut Peneliti, Hakim perlu mempertimbangkan akibat dari adanya dispensasi kawin sehingga dapat mengurangi kasus pernikahan di bawah umur.

Kata Kunci: *Dispensasi Kawin, Takut Berzina*

APPLICATION FOR MARRIAGE DISPENSATION

(Judicial Review Of Tanjung Balai Karimun Court Number 8/Pdt.G/2022/PA.TBK)

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ABSTRACT

Age and maturity are the main things that must be considered for men and women who want to get married. The age limit for marriage for men and women is 19 (nineteen) years and those who are less than 19 (nineteen) years old can apply for dispensation from marriage.

The formulation of the problem is what is the basis for the judge's legal considerations in granting the marriage dispensation to the decision of the Tanjung Balai Karimun Religious Court Number 8/Pdt.P/2022/PA.TBK and what are the legal consequences of granting the request for marriage dispensation to children in case Number 8/Pdt.P/ 2022/PA. TBK. This research uses normative juridical research which is then analyzed normatively qualitatively with secondary data which is processed through library research. The research results are presented in a narrative manner in order to obtain an explanation of the problem.

The results of the study can be concluded that based on Law No. 3 of 2006 in conjunction with Law No. 50 of 2009 concerning Religious Courts, the Tanjung Balai Karimun Regency Religious Court decided in adjudicating case Number 8/Pdt.P/2022/PA.TBK . Judges in trying cases based on Article 7 paragraph (2) of Law Number 1 of 1974 as amended by Law 16 of 2019 concerning marriage dispensation must be accompanied by urgent reasons and sufficient evidence. The judge in his considerations absorbed the concept of rejecting harm, the best interests of the child, the ability of the prospective bride and groom to provide a living, the agreement of the two prospective brides to enter into a marriage without coercion, and acknowledgment that parents are also responsible for child marriage. According to the researcher, the judge described the urgent reasons not in accordance with the explanation of Article 7 paragraph (2) of Law No. 16 of 2019 and added Article 26 paragraph (1) letter c of Law Number 35 of 2014 in conjunction with Law Number 23 of 2002 about the role of parents in preventing child marriage. The results of this study also show the consequences of the granting of the request for marriage dispensation according to secondary data which includes the positive and negative consequences of the marriage dispensation occurring from the legal, educational, health, and psychological perspectives. From the legal side, the child can get married at the Office of Religious Affairs. From an educational standpoint, this results in the loss of learning opportunities. From a health standpoint, it raises the risk of increasing maternal and infant mortality. From a psychological standpoint, it causes conflict in the household because emotional maturity has not been fulfilled. According to the researcher, judges need to consider the consequences of having a marriage dispensation so that it can reduce cases of underage marriages.

Keywords: *Marriage Dispensation, Fear of Adultery*