

PERKAWINAN WANITA HAMIL DI BAWAH UMUR
(Studi Penetapan Pengadilan Agama Tahuna Nomor :
24/Pdt.P/2023/PA.Thn)

Oleh :
Asya Firdaus Nurrahman
E1A019190

ABSTRAK

Perkawinan adalah ikatan lahir batin antara pria dan wanita dengan tujuan membentuk keluarga berdasarkan Ketuhanan Yang Maha Esa. Untuk sah, calon mempelai harus memenuhi syarat agama dan hukum, termasuk menjauhi larangan tertentu. Menikahi wanita hamil diperbolehkan, tetapi terdapat perbedaan pendapat mengenai syaratnya. Kasus terjadi pada anak di bawah umur yang hamil, namun Kantor Urusan Agama Tabukan Selatan menolak menikahnya karena kurang umur, memerlukan dispensasi kawin dari Pengadilan Agama.

Penelitian ini menganalisis dasar pertimbangan hukum hakim pada Penetapan Pengadilan Agama Tahuna Nomor 24/Pdt.P/2023/PA.Thn dan akibat hukumnya. Metode penelitian yuridis normatif, menggunakan data sekunder, dengan analisis kualitatif.

Hakim mengabulkan dispensasi berdasar Pasal 7 ayat (2) UU No. 16 Tahun 2019 dengan alasan sangat mendesak dan bukti pendukung. Hakim mempertimbangkan perlindungan hak wanita hamil dan anaknya serta mencegah mudharat lain berdasarkan Pasal 53 ayat (1) Kompilasi Hukum Islam dan Pasal 26 ayat (1) huruf c UU No. 35 Tahun 2014 tentang Perlindungan Anak. Orang tua tidak dianggap lalai dalam mencegah anaknya melakukan hubungan terlarang yang berdampak pada perkawinan anak di Indonesia. Akibat dikabulkannya permohonan dispensasi kawin yaitu : 1) anak dapat melangsungkan perkawinan di Kantor Urusan Agama, 2) Perkawinannya sah, 3) anak dikandungnya akan menjadi anak sah, 4) bapak kandung tidak berhak menikahkan anak jika anak berjenis kelamin perempuan.

Kata Kunci : perkawinan wanita hamil di bawah umur

UNDERAGE PREGNANCY MARRIAGE

**(Study Case of Tahuna Religious Court Ruling Number :
24/Pdt.P/2023/PA.Thn)**

**By :
Asya Firdaus Nurrahman
E1A019190**

ABSTRACT

Marriage is a physical and spiritual bond between a man and a woman with the aim of forming a family based on the Almighty God. To be legitimate, the prospective bride and groom must meet religious and legal requirements, including avoiding certain prohibitions. Marrying a pregnant woman is allowed, but there are differing opinions regarding the conditions. This case involved an underage pregnant girl, but the South Tabukan Religious Affairs Office refused to marry her due to her age, requiring her to apply for a marriage dispensation from the Religious Court.

This research analyzes the legal considerations of judges in the Decision of the Tahuna Religious Court Number 24/Pdt.P/2023/PA.Thn and its legal consequences. The research uses a normative juridical method, utilizing secondary data, with qualitative analysis.

The judge granted the dispensation based on Article 7 paragraph (2) of Law No. 16 of 2019 due to urgent reasons and sufficient supporting evidence. The judge considered protecting the rights of the pregnant woman and her child and preventing further harm based on Article 53 paragraph (1) of the Compilation of Islamic Law and Article 26 paragraph (1) letter c of Law No. 35 of 2014 on Child Protection. Parents were not deemed negligent in preventing their child from engaging in forbidden relationships, impacting child marriages in Indonesia. The consequences of the approval of the marriage dispensation request are: 1) The child can carry out the marriage at the Office of Religious Affairs, 2) The marriage is legally valid, 3) The child conceived will be considered legitimate, 4) The biological father does not have the right to marry off the child if the child is female.

Keywords: underage pregnancy marriage