

Dispensasi perkawinan di bawah umur menurut undang-undang No.1 Tahun 1974 tentang perkawinan (studi kasus terhadap penetapan No. 0001/Pdt.P/1996/PAJS)

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Abstrak

Tujuan perkawinan menurut UU No. 1 Tahun 1974 ialah membentuk keluarga (rumah tangga) yang bahagia dan kekal berdasarkan Ketuhanan Yang maha Esa. UU No. 1 Tahun 1974 mengandung prinsip bahwa calon suami isteri harus telah masak jiwa dan raganya untuk dapat melangsungkan perkawinan agar dapat mewujudkan tujuan perkawinan secara baik, tanpa berakhir pada perceraian dan mendapatkan keturunan yang baik dan sehat. Pasal 7 ayat 1 UU No. 1 Tahun 1974, mengisyaratkan seorang pria diperbolehkan melangsungkan perkawinan jika telah mencapai 19 tahun sedangkan wanita telah berumur 16 tahun.

Walaupun batasan umur telah tegas -tegas diatur, dalam kenyataannya banyak terjadi perkawinan di bawah umur. Pengadilan dapat memberikan Izin Kawin dan Dispensasi Usia Kawin melalui Penetapan Pengadilan bila memenuhi prosedur dan syarat yang ditentukan. Permasalahan yang ada yaitu faktor-faktor apa yang menjadi penyebab perkawinan di bawah umur di daerah Kampung Bandan, Kelurahan Ancol, Kecamatan Pademangan Jakarta Utara? Apakah pertimbangan-pertimbangan hukum yang diberikan oleh Hakim berkaitan dengan dikabulkannya permohonan dispensasi perkawinan pada penetapan No.

0001/Pdt.P/1996/PADS sudah tepat? Metode penelitian yang digunakan adalah metode deskriptif analitis. Jenis penelitian yang digunakan adalah penelitian normatif dan penelitian empiris. Alat pengumpul datanya studi dokumen dan wawancara. Analisa data dilakukan dengan menggunakan metode kualitatif.

Faktor-faktor yang menjadi penyebab perkawinan di bawah umur di daerah Kampung Bandan, Kelurahan Ancol, Kecamatan Pademangan, Jakarta Utara adalah faktor lingkungan, psikologi, ekonomi, pergaulan bebas, faktor kepercayaan dan adat istiadat. Pertimbangan-pertimbangan hukum yang diberikan oleh Hakim berkaitan dengan dikabulkannya permohonan penetapan dispensasi perkawinan pada penetapan No.

0001/Pdt.P/1996/PADS sudah tepat. Karena menurut penglihatan Majelis Hakim Indun fisiknya telah cukup dan sudah baliq, calon suaminya Wawan Efendi telah mempunyai penghasilan tetap dan bebar-benar mencintai Indun, dari sesuai hadist riwayat Buhori.

.....The aim of a marriage according to the LAW No.1 year 1974 is an effort to build a happy and everlasting family (a household) based upon the Divinity of Almighty God. The Law No.1 year 1974 contains a principle which explains that both candidates for husband and a wife herein should have already had a maturity of both his and her and soul as well, in order they could bring about their marriage to create a good and everlasting marriage and free from any unavailable divorce to obtain a good and healthy offsprings thereof . Paragraph 7 article 1 of the Law No,1 year 1974 stipulated that a man had a right to get marriage if he has been 19 years old and 16 years old for a woman. Even though this time limit of age herein had been stipulated briefly and clearly, but in it happen frequently that there are still many underages marriage to take place. The court could give a permit to get married and a marriage age dispensation herein through a court decision if he/she had fulfilled a prerequisites procedure and requirement as well. The existing problem herein is what kind of factors which had caused the occurrence of an underage marriage at Kampung Bandan, village of Ancol, District of Pademangan North Jakarta ? How about the judgments which had been

given by the judge concerning the issuance of a marriage dispensation permit based upon the stipulation No. 0001/Pdt.P/1996 /PAJS , is it correct ? A research method which has been used herein is an analytical descriptive method. The types of research which has been used are a normative research and an empirical research as well. The tools which have been used to collect data are to study the documents and to implement interviews. Data analysis has been done by using a qualitative method. Factors which had caused an underage marriage occurrence at Kampung Bandan Village of Ancol District of Pademangan North Jakarta are environmental factor, psychological economical, free social association and faithful and custom factors as well . the legal judgments which had been given by the judge herein were related to the issuance of a marriage dispensation permit based upon the provision No. 00011Pdt.P119961PAJS is a correct one. It is because that due to the view of the court of justice that the physical condition had been reached, enough and mature for Indun and Wawan Efendi as a candidate for her husband has earned a regular income and he loves Indun body and soul and, had matched narrative of hadist of Buhori as well.