

ABSTRAK

Bukhari
217410102015

**ANALISIS PEMBERIAN DISPENSASI NIKAH OLEH
HAKIM MAHKAMAH SYAR'YAH SIGLI
SETELAH BERLAKUNYA UNDANG-UNDANG
NO.16 TAHUN 2019**

(Prof. Dr. Jamaluddin, S.H., M.Hum dan Dr. Manfarisyah, S.H., M.H)

UU No. 16 Tahun 2019 mengatur usia nikah bagi laki-laki dan perempuan 19 tahun. Namun setelah berlakunya UU tersebut, perkara dispensasi nikah semakin meningkat bahkan sepanjang Tahun 2020-2022 perkara dispensasi nikah yang masuk ke Mahkamah Syar'iyah Sigli berjumlah 356 perkara dan 349 perkara dispensasi nikah dikabulkan. Banyaknya permohonan dispensasi yang dikabulkan secara tidak langsung menyebabkan perkawinan anak dibawah umur semakin meningkat.

Penelitian ini bertujuan (1) menganalisis penyebab terjadi peningkatan perkara dispensasi perkawinan setelah adanya UU No. 16 Tahun 2019. (2) menganalisis pertimbangan hakim dalam penetapan dispensasi perkawinan di Mahkamah Syar'iyah Sigli. (3) menganalisis akibat hukum terhadap penetapan dispensasi perkawinan oleh Mahkamah Syar'iyah Sigli.

Penelitian ini menggunakan penelitian kualitatif dengan pendekatan yuridis empiris dan sifat preskriptif dengan lokasi penelitian di Mahkamah Syar'iyah Sigli. Populasi penelitian mencakup pihak terkait kasus dispensasi perkawinan, dengan sampel yang dipilih secara *purposive sampling* dengan fokus pada 3 perkara dispensasi sebagai sampel. Pengumpulan data dilakukan melalui wawancara dan dokumentasi, dan data dianalisis secara deduktif dan induktif.

Hasil penelitian, 1) Penyebab peningkatan perkara dispensasi perkawinan setelah UU No. 16 Tahun 2019 meliputi faktor ekonomi, kekhawatiran akan pelanggaran Norma agama, dan keinginan untuk menjaga reputasi/marwah. 2) Pertimbangan hakim dalam pemberian dispensasi perkawinan adalah untuk mencegah fitnah, kepatuhan Agama, kesiapan menjadi istri, dan kemaslahatan. Adapun pertimbangan hakim menolak permohonan karena tidak ada alasan mendesak dan demi menjaga kepentingan anak 3) Akibat hukum dari dispensasi perkawinan yaitu hak melangsungkan perkawinan secara sah dan tercatat di KUA, serta tanggung jawab suami terhadap istri dan anak-anak. Penolakan dispensasi berarti tidak dapat melangsungkan perkawinan secara sah, tanpa pengakuan negara, dan tanpa pencatatan di KUA. Disarankan dilakukan sosialisasi UU, edukasi masyarakat, pertimbangan holistik hakim, serta monitoring dan penelitian lanjutan untuk mengoptimalkan keputusan dispensasi kawin.

Kata kunci : pemberian dispensasi nikah, hakim, Mahkamah Syar'iyah.

ABSTRACT

Bukhari **ANALYSIS OF MARRIAGE DISPENSATION GRANTED**
217410102015 **BY JUDGES OF THE MAHKAMAH SYAR'YAH SIGLI**
AFTER THE ENACTMENT OF LAW NO. 16 OF 2019

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Law No. 16 of 2019 sets the legal marriage age for both males and females at 19 years. However, after its enactment, cases of marriage dispensation have significantly increased. Between 2020 and 2022, Mahkamah Syar'iyah Sigli handled 356 marriage dispensation cases, with 349 of these being granted. The high number of dispensations indirectly contributes to the rise in child marriages.

This research aims to: (1) analyze the causes of the increase in marriage dispensation cases after the enactment of Law No. 16 of 2019; (2) analyze the judges' considerations in granting marriage dispensations at the Mahkamah Syar'iyah Sigli; and (3) analyze the legal consequences of marriage dispensations granted by the Mahkamah Syar'iyah Sigli.

This qualitative research employs an empirical juridical approach with a prescriptive nature. The research was conducted at the Mahkamah Syar'iyah Sigli, with the study population comprising parties related to marriage dispensation cases. A purposive sampling method was used, focusing on three specific marriage dispensation cases. Data were collected through interviews and documentation and analyzed deductively and inductively.

Research findings: (1) The causes of the increase in marriage dispensation cases after the enactment of Law No. 16 of 2019 include economic factors, concerns about violating religious norms, and the desire to preserve reputation/dignity. (2) Judges' considerations in granting marriage dispensations are to prevent slander, ensure religious compliance, assess readiness to become a wife, and prioritize public benefit (maslahah). Judges reject requests when there is no urgent reason and to protect the best interests of the child. (3) The legal consequences of marriage dispensations include the right to legally marry and have the union recorded at the Office of Religious Affairs (KUA), as well as the husband's responsibilities toward the wife and children. Rejection of the dispensation means the marriage cannot be legally conducted, will lack state recognition, and will not be recorded at the KUA. It is recommended to conduct widespread dissemination of the law, provide public education, adopt holistic judicial considerations, and implement monitoring and further research to optimize marriage dispensation decisions.

Keywords: *granting of marriage dispensation, judge, Mahkamah Syar'iyah.*