

Reformulation The Legal Protection of Children's Rights Against the Regulation of Marriage Dispensation in the Religious Court System in Indonesia

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ABSTRACT

After the enactment of Law No. 16/2019 on the Amendment to Law No. 1/1974 on Marriage, which stipulates that there is a change in the age limit for marriage for women and men to 19 years old, if less than 19 years old, they must apply for marriage dispensation at the Religious Court. As well as the lack of strictness in regulating and providing procedures for marriage dispensation in Supreme Court Regulation (PERMA) No. 5 of 2019 is not effective in preventing early marriage. Judging from the increasing number of marriage dispensation applications in both the Religious Court and the District Court. Judges must see the interests of children's rights, including educational and economic rights, which are very important for the sustainability of the child's future. In providing considerations and decisions for applicants for marriage dispensation. The research method used is descriptive-qualitative with a normative legal approach sourced from literature and cases in court decisions on marriage dispensation. The author concludes that there are still problems in the regulation of marriage dispensation applications. These problems are found in the content of the articles regulating marriage dispensation, especially in PERMA No. 5/2019. It can be seen from the aspect of legal structure, courts and judges are still not obedient in giving consideration to marriage dispensation for applicants. In the legal substance aspect, according to PERMA No. 5/2019, there are still gaps, including the threat of criminal sanctions that cannot be applied to parents/guardians who provide false information or do not carry out the commitments stipulated in the PERMA and the decision when the judge grants a dispensation permit. In the aspect of legal culture in society, there is still a fear of the stigma of disgrace, violators of religious sins for pregnant applicants, even though male applicants must be given more attention.

Keywords: Children's Rights, Court Decisions, Dispensation of Marriage

