

**TINJAUAN YURIDIS MENGENAI DISPENSASI PERKAWINAN DI
BAWAH UMUR DITINJAU DARI PERATURAN MAKAMAH AGUNG
NOMOR 5 TAHUN 2019 TENTANG PEDOMAN MENGADILI
PERMOHONAN DISPENSASI KAWIN (Studi Putusan PA Mungkid
Nomor 34/Pdt.P/2015/PA.Mkd)**

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ABSTRAK

Penelitian ini bertujuan untuk (1) mengetahui pengaturan dispensasi perkawinan di bawah umur sesuai dengan prinsip perlindungan anak sebagaimana diatur dalam Undang-Undang No. 35 Tahun 2014 serta (2) mengetahui dan menganalisis pertimbangan hakim dalam memutuskan dispensasi perkawinan di bawah umur dalam Putusan PA Mungkid Nomor 34/Pdt.P/2015/PA.Mkd. Penelitian ini termasuk penelitian hukum normatif dengan sumber hukum yang meliputi bahan primer, sekunder, dan tersier. Pengumpulan data dilakukan melalui studi kepustakaan, sedangkan analisisnya menggunakan pendekatan deskriptif kualitatif. Hasil penelitian menunjukkan bahwa (1) Pengaturan dispensasi perkawinan di bawah umur dalam kerangka Undang-Undang Nomor 1 Tahun 1974 dan perubahan melalui Undang-Undang Nomor 16 Tahun 2019 serta Pedoman PERMA Nomor 5 Tahun 2019 menegaskan bahwa meskipun batas usia minimal menikah adalah 19 tahun, dispensasi dapat diberikan atas permohonan orang tua dengan alasan mendesak dan syarat bukti memadai. Mekanisme ini bertujuan melindungi kepentingan terbaik anak sesuai prinsip perlindungan anak, dengan memastikan pemeriksaan pengadilan agama yang berkeadilan. Aspek administrasi dan kualifikasi hakim turut diatur guna menjamin akuntabilitas. (2) Majelis Hakim Pengadilan Agama Mungkid menolak permohonan dispensasi perkawinan bawah umur karena anak calon suami berusia 18 tahun 2 bulan, gagal memenuhi syarat usia minimal 19 tahun sebagaimana diatur UU No. 1/1974 dan KHI. Pertimbangan mencakup kepentingan terbaik anak, kesiapan fisik dan psikis calon pasangan, tujuan perkawinan sakinah mawaddah rahmah, kewajiban orang tua mencegah pernikahan anak, serta aspek yuridis dan sosiologis. Majelis menegaskan karakter dispensasi sebagai pengecualian ketat. Putusan ini konsisten dengan asas perlindungan anak dan pedoman MA No. 5/2019.

Kata Kunci: dispensasi, dibawah umur, perkawinan

**LEGAL REVIEW OF MARRIAGE DISPENSATIONS FOR MINORS BASED
ON SUPREME COURT REGULATION NO. 5 OF 2019 ON GUIDELINES
FOR ADJUDICATING MARRIAGE DISPENSATION APPLICATIONS
(Study of Mungkid Religious Court Decision No. 34/Pdt. P/2015/PA.Mkd)**

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ABSTRACT

This study aims to (1) determine the regulations governing marriage dispensations for minors in accordance with the principles of child protection as stipulated in Law No. 35 of 2014, and (2) to examine and analyze the considerations of judges in deciding on marriage dispensations for minors in the Mungkid Religious Court Decision No. 34/Pdt.P/2015/PA.Mkd. This study is a normative legal study with legal sources including primary, secondary, and tertiary materials. Data collection was conducted through literature review, while the analysis used a descriptive qualitative approach. The results of the study indicate that (1) The regulation of marriage dispensations for minors within the framework of Law No. 1 of 1974 and its amendments through Law No. 16 of 2019 and PERMA Guidelines No. 5 of 2019 confirms that although the minimum age for marriage is 19 years, dispensations may be granted upon request by the parents for urgent reasons and with sufficient evidence. This mechanism aims to protect the best interests of the child in accordance with child protection principles, ensuring a fair review by the religious court. Administrative aspects and judge qualifications are also regulated to ensure accountability. (2) The Panel of Judges of the Mungkid Religious Court rejected the request for a marriage dispensation for minors because the prospective husband was 18 years and 2 months old, failing to meet the minimum age requirement of 19 years as stipulated in Law No. 1 of 1974 and the KHI. Considerations included the best interests of the child, the physical and psychological readiness of the prospective couple, the purpose of a harmonious, loving, and compassionate marriage, the obligation of parents to prevent child marriage, as well as legal and sociological aspects. The Panel emphasized the strict nature of the dispensation as an exception. This decision is consistent with the principle of child protection and Supreme Court Guidelines No. 5/2019.

Keywords: dispensation, underage, marriage