

UPAYA PERLINDUNGAN ANAK OLEH HAKIM DALAM PENETAPAN PERMOHONAN DISPENSASI NIKAH

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Abstract

This research was motivated by the large number of applications for marriage dispensation registered at the Jantho Sharia Court in the last three years and high rate of under-age marriage in Indonesia. The research aimed to know how the applicant's dispensation marriage proposal in Jantho Sharia Court protect the child rights. This qualitative research was based on field research and library research methodologies. The data were in the form of relevant documents that have not been formally published. The data were then analyzed using descriptive analysis techniques. The research also reviewed judges consideration in the three applicant's dispensation marriage proposals in Jantho Sharia Court and relevant literatures. The results showed that Judge's statement considerations based on philosophical, juridical, and sociological aspects. The role of the Judge to protect and to prevent the under-age marriage were analysed as follows; Firstly, the Judge was obliged to use simple language and methods that were easily understand by the teenagers and not to use court attributes. Secondly, the Judge advised the applicant(s), children, prospective husband or wife and parents/guardians of the prospective husband/wife about the consequences of early marriage. Thirdly, the Judge must listen to the information from the people involved in the marriage dispensation application process. Fourthly, identifying the basic objectives of the marriage dispensation application. Fifthly, identifying the negative and positive impacts of carrying out marriage on the petitioners and their future husband or future wife.

Keywords: Dispensation, Under-age Marriage, Judges