

ABSTRAK

Pada penulisan tesis ini penulis membahas mengenai Pertimbangan Hakim Pengadilan Agama Blora Terhadap Permohonan Dispensasi Kawin. Hal ini dilatar belakangi dengan banyaknya permohonan dispensasi kawin yang mengajukan di Pengadilan Agama Blora. Pada tahun 2018 terdapat 98 permohonan, pada tahun 2019 terdapat 180 permohonan, sehingga dari tahun 2018 sampai dengan tahun 2019 meningkat hingga 90 %.

Tujuan Penelitian ini adalah (1) Untuk mengetahui faktor yang menyebabkan meningkatnya pengajuan dispensasi kawin di Pengadilan Agama Blora, (2) Untuk mengetahui pertimbangan Hakim Pengadilan Agama Blora dalam mengabulkan permohonan dispensasi kawin, (3) Untuk mengetahui kelemahan Undang-Undang Perkawinan dalam pelaksanaan dipersidangan dan solusi untuk mengurangi permohonan dispensasi kawin di Pengadilan Agama Blora.

Berkaitan dengan penulisan tesis ini, penulis menggunakan metode penelitian Yuridis Normatif, yaitu penelitian hukum yang didasarkan pada data sekunder. Mengenai data, penulis memperoleh data dari wawancara dan studi kepustakaan.

Hasil penelitian ini menunjukkan (1) Faktor meningkatnya permohonan dispensasi kawin di Pengadilan Agama Blora adalah (a) Khawatir timbulnya fitnah, (b) Hamil di luar nikah (2) Pertimbangan Hakim Pengadilan Agama Blora dalam mengabulkan permohonan dispensasi kawin, berdasarkan pertimbangan 3 hal yakni : (a) Kelengkapan Administrasi, (b) Tidak ada larangan perkawinan sebagaimana terdapat dalam Pasal 8 Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan, (c) Asas Kemaslahatan dan kemudharatan (3) kelemahan Undang-Undang Perkawinan dalam pelaksanaan dipersidangan dan solusi untuk mengurangi permohonan dispensasi kawin di Pengadilan Agama Blora. Belum adanya sosialisasi kepada instansi-instansi terkait membuat lemahnya Undang-Undang perkawinan dalam pelaksanaan di persidangan. Solusi untuk mengurangi permohonan dispensasi kawin di Pengadilan Agama Blora, yaitu (1) Perlu adanya sosialisasi Undang-Undang perkawinan dengan masyarakat, (2) Perlu adanya perbedaan usia antara laki-laki dan perempuan.

Rekomendasi : (1) Hendaknya orang tua melakukan pengawasan dan perhatian yang lebih terhadap anak serta memberikan pendidikan agama. Karena orang tua mempunyai peran penting terhadap perkembangan anak agar tidak mengalami penyimpangan, (2) Kepada para hakim dalam mengabulkan permohonan dispensasi kawin harus mempertimbangkan dampak positif dan negative yang akan ditimbulkan, agar penetapan hakim benar-benar mengandung tiga unsur yaitu kepastian hukum, keadilan dan kemanfaatan bagi masyarakat. Dan kepada masyarakat yang akan mengajukan permohonan dispensasi kawin harus memperhatikan syarat-syarat dalam pengajuan dispensasi kawin, agar permohonannya dapat dikabulkan, (3) Kepada para akademisi maupun hakim memberikan sosialisasi Undang-Undang perkawinan kepada masyarakat, tentang tujuan perkawinan dan memberikan nasehat kepada mereka yang berkepentingan mengenai masalah dispensasi kawin, bahaya pergaulan bebas dan menikah terlalu dini.

Kata Kunci : *Pertimbangan Hakim, Pengadilan Agama, Dispensasi kawin.*

ABSTRACT

In writing of this thesis, the writer discusses about The consideration Blora Religious Court to application of marriage dispensation. This is backgrounded by applying of marriage dispensation that submit in Blora Religious Court. In 2018 there are 98 application, in 2019 there are 180 application. So from 2018 until 2019 it increased until 90%.

The Purpose of study is (1) to know the factors that cause the increase of the application of marriage dispensation in Blora Religious Court, (2) to know the consideration of Religious court Judges in granting the application of marriage dispensation, (3) to know the weaknesses of marriage law in the implementation of trial and solutions to decrease the application of marriage dispensation in Blora Religious Court.

Related with the writing of this thesis, the writer used Juridical Normative research method, it is a research that is based on secondary data. For the data, the researcher obtained the data from interview and library study.

The result of this research showed: (1) the factors that caused marriage dispensation in Blora Religious court were (a) the worries of making slander (b) pregnancy before marriage (2) The consideration Blora Religious Court Judges in granting the application of marriage dispensation, based on the consideration of 3 things: (a) administrative requirements, (b) there was no prohibition as written on article 8 law number 1 year 1974 about marriage, (c) principle of benefit and harm (3) the weaknesses of marriage law in the implementation of trial and solutions to reduce the application of marriage dispensation in Blora Religious court. Not yet being socialized to the associated agencies caused the weak of marriage law in the implementation of trial. The solutions to reduce the application of marriage dispensation in Blora Religious Court (1) The need of socialization of marriage law in the society, (2) The need of age difference between man and woman.

Recommendation: (1) there should be parents that supervise and give more attention to their children and also educate them about religion, because parents play important role in the development of their children so that they do not experience deviation, (2) the judges in granting the application of marriage dispensation should consider positive and negative impact that will appear, so that the determination of judges really contain three elements, those are: legal certainty, justice, and benefits to the society. And for the people who would like to submit the application of marriage dispensation should pay attention to the the terms of the application, so that it can be granted, (3) the academics or judges should give socialization about marriage law to the society about the purposes of marriage, and advice them who have interest about the problems of marriage dispensation, the danger of promiscuity and early-age marriage.