

ABSTRAK

Yudita Ayu Widya Perdana 2026. *Inkonsistensi Hak Anak Perempuan Dalam Dispensasi Kawin: Analisis Hukum Gender Feminisme Di Era Kapitalisme Global*. Skripsi. Program Studi Hukum FH Universitas PGRI Madiun. Pembimbing (I) Dr. Siska Diana Sari S.H.,M.H. (II) Bintang Ulya Kharisma S.H.,M.H.

Perkawinan anak, khususnya terhadap anak perempuan, masih menjadi persoalan hukum yang kompleks di Indonesia meskipun negara telah mengatur batas usia perkawinan melalui Undang-Undang Perkawinan. Salah satu pintu yang memungkinkan terjadinya perkawinan anak adalah lembaga dispensasi kawin, yang dalam praktiknya justru sering menimbulkan inkonsistensi antara norma hukum dan upaya perlindungan hak anak perempuan. Penelitian ini menggunakan metode yuridis normatif dengan menelaah peraturan perundang-undangan, putusan pengadilan, dan literatur hukum yang relevan, dianalisis secara deskriptif kualitatif. Hasil penelitian menunjukkan tiga temuan utama. Pertama, pengaturan dispensasi kawin dalam hukum Indonesia, meskipun telah direvisi melalui Undang-Undang Nomor 16 Tahun 2019, tetap membuka ruang diskresi hakim yang luas dalam menafsirkan syarat "kondisi mendesak" sebagai dasar pemberian dispensasi. Kedua, inkonsistensi perlindungan hak anak perempuan terjadi karena kesenjangan antara norma yang menjunjung kepentingan terbaik bagi anak dengan praktik peradilan yang cenderung permisif, minimnya pertimbangan psikologis-sosial anak, serta lemahnya pengawasan pascaputusan. Ketiga, dari perspektif hukum gender dan feminisme, inkonsistensi tersebut diperparah oleh struktur sosial-ekonomi di era kapitalisme global yang menempatkan anak perempuan sebagai pihak paling rentan, sehingga perkawinan usia anak kerap dijadikan solusi instan atas tekanan ekonomi keluarga sekaligus bentuk subordinasi perempuan yang dilanggengkan sistem hukum yang formalnya netral gender. Penelitian ini menyimpulkan bahwa diperlukan harmonisasi regulasi dispensasi kawin yang lebih ketat dan berperspektif gender, serta penguatan peran negara dalam melindungi hak anak perempuan dari dampak ketimpangan struktural akibat kapitalisme global.

Kata kunci: dispensasi kawin, hak anak perempuan, hukum gender, feminisme, kapitalisme global

ABSTRACT

Yudita Ayu Widya Perdana 2026. *Inconsistency of Girls' Rights in Marriage Dispensation: Analysis of Feminist Gender Law in the Era of Global Capitalism*. Thesis. Law Study Program, Faculty of Law, PGRI Madiun University. Advisors (I) Dr. Siska Diana Sari S.H.,M.H. (II) Bintang Ulya Kharisma S.H.,M.H

Child marriage, particularly involving girls, remains a complex legal issue in Indonesia despite the state having regulated the minimum marriage age through the Marriage Law. One gateway that enables child marriage to occur is the institution of marriage dispensation, which in practice often gives rise to inconsistencies between legal norms and efforts to protect the rights of girl children. This research employs a normative juridical method by examining laws and regulations, court decisions, and relevant legal literature, analyzed through descriptive qualitative analysis. The findings of this research reveal three main results. First, the regulation of marriage dispensation under Indonesian law, despite having been revised through Law Number 16 of 2019, continues to grant judges broad discretionary space in interpreting the requirement of "urgent circumstances" as the basis for granting a dispensation. Second, the inconsistency in the protection of girls' rights arises from the gap between norms upholding the best interests of the child and judicial practices that tend to be permissive, the lack of consideration given to the child's psychological and social condition, and weak post-decision monitoring. Third, from the perspective of legal gender studies and feminism, this inconsistency is further exacerbated by socio-economic structures in the era of global capitalism that position girl children as the most vulnerable party, causing child marriage to frequently serve as an instant solution to family economic pressure while simultaneously perpetuating the subordination of women through a legal system that is formally gender-neutral. This research concludes that stricter, gender-responsive harmonization of marriage dispensation regulations is needed, along with a strengthened role of the state in protecting girls' rights from the structural inequalities caused by global capitalism.

Keywords: marriage dispensation, girls' rights, gender law, feminism, global capitalism