

The Meaning of the Best Interests of the Child in Indonesia's Rampant Phenomenon of Child Marriage

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Abstract : This research aims to examine the meaning of 'the best interests of the child' in Indonesia's rampant phenomenon of child marriage. The methodology used empirical and normative legal research by examining the parent's reason and the judges' considerations in granting child marriage dispensation applications. It takes data samples from judges' decisions purposively in two courts that differ in geographical and religious backgrounds to see data variation. Namely, the District Court and Religious Court of Yogyakarta City, as well as Gunung Kidul Regency, in the last three years (2020-2022). It analyses the data qualitatively to explore how judges interpreted 'the best interests of the child' in their decision. The results show that judges granted 100% of all child marriage dispensation applications filed by parents. The three reasons parents gave for applying for dispensation were that they were ashamed of having a pregnant child without being married, followed religious teachings, and obtained legal status for the baby. The judges supported those reasons by granting the dispensation application. The external factor of the child itself influenced the meaning of 'The best interests of the child' in marrying off children in Indonesia, such as cultural taboos, religious teachings, and obtaining legal status for the baby, rather than internal factors of the child, such as the will to marry, the mental and psychological readiness of the child to become a mother, as well as a wife. This research contributes to the finding that external factors, such as local culture and religion, can influence the meaning of 'the best interests of the child.'

Keywords : interests, child, Indonesia, marriage

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