

MASLAHAH AND SAKINAH FAMILY'S REVIEW OF MARRIAGE THROUGH MARRIAGE DISPENSATION IN CENTRAL LAMPUNG REGENCY

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Abstract: Some couples are not of legal age who have received a marriage dispensation. A search was conducted on their post-marriage conditions. Whether this early life is subjected to separation or is it precisely harmonious. The authors researched couples who married through the marriage dispensation route in Central Lampung Regency. How do maslahah and sakinah families review the marriage through the marriage dispensation route in Lampung Tengah Regency? Marriage through the marriage dispensation route in central Lampung Regency is in the review of Maslahah and the sakinah family that their marriage is classified as a group of Sakinah II families bringing benefits to their households. In general, the values of the maslahat are obtained in three stages; the benefit obtained at the time of the implementation of the marriage dispensation took place, by obtaining the legality of the couple's conjugal relationship has been valid. The benefit in their home life is due to their good and harmonious relationship, and can be beneficial for those around them. The future benefit of the couple's household and their future child, due to their legal marriage.

Keywords: Corrupt Behavior; Multi-Strategy; Education-Cultural Strategy; Political-Legal Strategy.

Abstrak: Terdapat pasangan yang belum cukup usia pernikahan yang mendapatkan penetapan dispensasi pernikahan. Penelusuran dilakukan tentang kondisi pasca pernikahan mereka. Apakah kehidupan usia dini ini mengalami perpisahan atau justru harmonis. Penulis melakukan penelitian pasangan yang menikah dengan melalui jalur dispensasi pernikahan di Kabupaten Lampung Tengah. Bagaimana tinjauan maslahah dan keluarga sakinah terhadap pernikahan melalui jalur dispensasi nikah di Kabupaten Lampung Tengah? Pernikahan melalui jalur dispensasi nikah di Kabupaten Lampung tengah dalam tinjauan Maslahah dan keluarga sakinah bahwa pernikahan mereka tergolong kelompok Keluarga Sakinah II membawa kemaslahatan bagi rumah tangganya. Secara umum nilai-nilai maslahat tersebut diperoleh dalam tiga tahapan; kemaslahatan yang diperoleh pada saat pelaksanaan dispensasi nikah berlangsung, dengan memperoleh legalitas hukum dari hubungan suami istri pasangan tersebut telah sah. Kemaslahatan di dalam kehidupan rumah tangganya karena hubungan mereka yang baik dan harmonis, serta dapat bermanfaat untuk orang di sekitarnya. Kemaslahatan yang bersifat masa depan rumah tangga pasangan tersebut dan anak mereka di masa depan, karena pernikahannya yang legal.

Kata kunci: pernikahan, dispensasi nikah, keluarga sakinah

Introduction

Marriages that are carried out by couples who are not old enough, follow the procedure of the marriage law, namely applying for a marriage dispensation first to the Religious Court¹ by submitting marriage requirements to the Office of Religious Affairs (KUA), while some others perform marriages on a familial basis only, without following legal and registered procedures.²

The officer who handles marriage registration in Bumi Nabung District, namely Budi Sriono, from Bandar Mataram District, namely Tukijo, and Way Seputih District, namely Walid MD, stated that some of the advantages of the marriage dispensation process for those who are not old enough are: legal marital status and legal force, the rights of both parties, husband and wife are protected and equal in the eyes of the law, and each spouse is more responsible for carrying out duties and responsibilities mentioned among several couples who.³ It is mentioned that among some couples who entered into marriage with a marriage

dispensation in the course of their households belonged to sakinah families. Meanwhile, those who carry out underage marriages without having a marriage dispensation in the course of their households experience many obstacles and lead to divorce. this is known by the rare application for a Certificate of Non-Recorded Marriage from the Office of Religious Affairs.⁴

However, according to Tukijo, during 2018 there were at least 6 (six) couples who filed a Statement of Unrecorded⁵ from the Office of Religious Affairs in Bandar Mataram District. Meanwhile, according to Budi Sriono in the Bumi Nabung District area, there were 4 (four) couples who applied for an Unrecorded Statement Letter. And in Way Seputih District, there are at least 3 (three) couples who apply for a Statement of Unregistered..⁶

Furthermore, the previous literature review was as follows: Kholifatun Nur entitled, "Conservatism And Resistance To The Renewal Of The Minimum Age Of Marriage And The Practice Of Marriage Dispensation In Religious Courts," The findings of this study that the efforts made by some institutions to raise the age limit of marriage failed, some of the things that influenced the failure were conservative thinking. The judge did not have a minimum limit in granting marriage dispensation cases, from the research conducted that the

¹ Haris Hidayatulloh, Miftakhul Janah, Dispensasi Nikah Di Bawah Umur Dalam Hukum Islam, Jurnal Hukum Keluarga Islam, Vol 5, No 1 (2020), h, 42-46, <https://mail.jurnal.unipdu.ac.id/index.php/jhki/article/view/2128>, diakses 06 November 2021, Kamarusdiana, Ita Sofia, Dispensasi Nikah Dalam Perspektif Hukum Islam, Undang-Undang Nomor 1 Tahun 1974 dan Kompilasi Hukum Islam, Jurnal Salam Vol 7, No 1 (2020), <http://journal.uinikt.ac.id/index.php/salam/article/view/14534>, diakses tanggal 15 November 2021, dan Massadi, Abd. Qadir Gassing, Usman Jafar, Kasjim Salenda, Implementasi Asas Dispensasi Kawin Di Wilayah Hukum Pengadilan Tinggi Agama Palu Perspektif Masalah, Jurnal Diskursus Islam, Volume 6 Nomor 2, Agustus 2018, h. 203, http://journal.uin-alaudidin.ac.id/index.php/diskursus_islam/article/view/6552/5369, diakses tanggal 15 Nopember 2021

²Zainuddin Ali, *Hukum Perdata Islam Di Indonesia*, (Jakarta: Pustaka Sinar Grafika Cahaya Ilmu, 2007) h.83.

³ Wawancara Tukijo di Kantor Urusan Agama (KUA) Kecamatan Bandar Mataram pada 24 Februari 2020, Wawancara Budi Sriono di KUA Kecamatan Bumi Nabung pada 19 Februari 2020, dan Wawancara Walid di KUA Kecamatan Way Seputih pada 17 Februari 2020.

⁴Budi Santoso memaparkan perihal Surat Keterangan Tidak Tercatat Pernikahan adalah; pasangan suami istri yang melangsungkan pernikahan pada saat usianya tidak memenuhi sesuai dengan ketentuan Undang-Undang yang berlaku mengenai batas minimal usia pernikahan dan melaksanakan proses pernikahan secara Siri. Wawancara Budi Sriono di KUA Kecamatan Bumi Nabung pada 19 Februari 2020

⁵Surat Pernyataan Belum Tercatat diperoleh dari Kantor Urusan Agama sebagai alat bukti pengajuan perceraian di Pengadilan Agama, atau sebagai dokumen pengajuan isbat nikah.

⁶Wawancara Tukijo di KUA Kecamatan Bandar Mataram pada 24 Februari 2020

youngest age was 11 years 9 months (female) and 14 years (male). While the average age in this study was 13 years.⁷

Research by Luqman Haqiqi Amirullah, entitled, "Methods of Legal Discovery in Marriage Dispensation Cases (Studies In Religious Courts Se-D.I. Yogyakarta 2013-2015)," The findings of this study that the judge's considerations include sociological considerations, the future of the child, psychological, a definite and strong guarantee in domestic life, mental maturity, and fiqhiah rules to realize benefits.⁸

Research by Arina Kamiliya, Postgraduate Program of UIN Sunan Kalijaga, "The Existence of Legal Values in Decisions (Study of Judges' Considerations in Determining the Marriage Dispensation of the Yogyakarta Religious Court in 2010-2015)." The findings of this study show that in examining and deciding cases, judges use several principles. Caseistically judges may change from one principle to another. Against the values of legal certainty, judges tend to defend the existing positive law. In addition, against the value of justice judges take into account sociological, psychological and economic factors. Meanwhile, the value of expediency of the judge tends to emphasize the *maslahah* aspect, namely guarding against the possibility of adultery, saving the child's *nasab* and its status, and rejecting the application on the grounds of

parental concern.⁹

Based on this background, the problem of this study: How is the review of *maslahah* and *sakinah* families on marriage through the marriage dispensation route in Central Lampung Regency? This research was conducted in Central Lampung Regency in Bumi Nabung District, Way Seputih District, and Bandar Mataram District.

Method

This type of research is normative juridical field research that is descriptive analytical. Primary data from interviews, observations and documentation related to the implementation or implementation of marriage dispensations in Bumi Nabung District, Way Seputih District, and Bandar Mataram District in Central Lampung Regency. Then it is equipped with secondary data. The data collection methods used are: Interviews, Observations, and Documentation. Then processing, data analysis, and inductive conclusions are carried out.

Maslahah Theory

In terms of language, *maslahah* comes from the word *salaha* which in the sense of the word means either as opposed to the word bad or broken. It is the *masdar* of *saluha* i.e. which means goodness or detachment from difficulties.¹⁰ *Maslahah* is the singular form of *masālih*. As there are two meanings of *maslahah*, namely *maslahah* which means *al-salāh* and *maslahah* which means the singular form of *al-masālih*. All of them contain the meaning of benefits both by origin and through processes, such as

⁷ Kholifatun Nur Mustofa, *Konservatisme Dan Resistensi Terhadap Pembaharuan Usia Minimum Pernikahan Dan Praktek Dispensasi Nikah Di Pengadilan Agama*, (Yogyakarta: UIN Sunan Kalijaga, 2018), http://digilib.uin-suka.ac.id/view/creators/KHOLIFATUN_NUR_MUSTOF A=3ANIM=2E_1620310095=3A=3A.html diakses internet pada 11 Mei 2019

⁸ Luqman Haqiqi Amirullah, *Metode Penemuan Hukum Dalam Perkara Dispensasi Nikah (Studi Di Pengadilan Agama Se-D.I. Yogyakarta Tahun 2013-2015)*, (Yogyakarta: UIN Sunan Kalijaga, 2018), <http://digilib.uin-suka.ac.id/id/eprint/22156/> diakses internet pada 12 Mei 2019

⁹ Arina Kamiliya, *Eksistensi Nilai Hukum Dalam Putusan (Studi Pertimbangan Hakim Dalam Penetapan Dispensasi Nikah Pengadilan Agama Yogyakarta Tahun 2010-2015)*, (Yogyakarta: UIN Sunan Kalijaga, 2017), <https://digilib.uin-suka.ac.id/id/eprint/26460/> diakses internet pada 13 Mei 2019

¹⁰ A. Warson Munawir, *Kamus Al-Munawir*, (Surabaya: Pustaka Progresif, 1997), h.788-789.

producing enjoyment and benefits, or prevention and care such as staying away from emergencies. All that can be called *maslahah*.¹¹

In Arabic the definition of *maslahah* means deeds that encourage the goodness of man. It means that everything that is beneficial to the human being, whether in the sense of attracting or producing, is like generating profit or pleasure or in the sense of resisting or avoiding such as resisting emergencies or damage. So every one that contains two sides, namely attracting or bringing benefits and rejecting or avoiding emergencies.¹² *Maslahah* in the linguistic sense refers to the purpose of fulfilling human needs and therefore contains the understanding of following the *shahwat* or lust.¹³

The terminology of *maslahah* according to some experts in their fields is very diverse, some of them include;

1. Amir Syarifuddin said the meaning of *syara'* which is the measure and reference is to preserve the soul, reason, religion, offspring, and property without giving up the purpose of fulfilling human needs, which is to get pleasure and avoid displeasure.¹⁴
2. Al-Amidi gives a very simple definition of *maslahah* to understand and understand, namely:

أن المقصود من شرع الحكم إنما هو تحصيل المصلحة أو دفع المضرة.¹⁵

"Indeed, the purpose and purpose of the law is none other than to obtain

benefit or to oppose and reject emergencies."

3. Al-Ghazali defined and gave his various commentary on the theory of *Maslahah*, according to which *maslahah* is:

أما المصلحة فهي عبارة في الأصل عن جلب منفعة أو دفع مضرة، ولسنا نعني به ذلك، فإن جلب المنفعة ودفع المضرة مقاصد الخلق وصالح الخلق في تحصيل مقاصدهم، لكننا نعني بالمصلحة المحافظة على مقصود الشرع ومقصود الشرع من الخلق خمسة: وهو أن يحفظ عليهم دينهم ونفسهم وعقلهم ونسلهم ومالهم، فكل ما يتضمن حفظ هذه الأصول الخمسة فهو مصلحة، وكل ما يفوت هذه الأصول فهو مفسدة ودفعها مصلحة.¹⁶

"Maslahah can be interpreted as a foundation and formula for reaping expediency and to challenge emergencies, taking advantage and rejecting the emergence of mankind is the most important thing of the goal, not only that, maslahah is an effort to maintain the benefit of mankind which is mandated by the Supreme Determinant of the Law, namely God with five forms of goals: First, to maintain various things related to religion, soul, reason, descent, and treasure, the whole thing contains the care on the basis and foundation of the benefit of mankind, and all things that keep away from it or lead to corruption and emergency then it is not a maslahat."

4. Al-Bazdawi commented on the concept of *maslahah* in the implementation of the decision of a law, as follows:

الحكم حتى ثبت شرعا فالظاهر دوامه لما تعلق به من المصالح الدينية والدنيوية، ولا يتغير المصلحة في زمان

¹¹ Rachmat Syafei, *Ilmu Ushul Fiqih*, (Bandung: Pustaka Setia, 1998), h.7.

¹² Amir Syarifudin, *Ushul Fiqih*, (Jakarta: Pustaka Kencana, 2008), h.366.

¹³*Ibid.*, h.370.

¹⁴*Ibid.*

¹⁵ Abu Hasan Sayyiduddin bin Ali bin Muhammad Al-Amidi, *Al-Ihkām Fī Usūl Al-Ahkām*, (Beirut: Al-Maktabah Al-Islāmiyah, 2008), j.3, h.271.

¹⁶ Abu Hamid Muhammad bin Muhammad Al-Ghazali, *Al-Musytasfā Min Ilm Al-Usūl*, (Mesir: Dar Al-Kutub Al-Islamiyah, 1993), j.1, h.174.

قريب، وإنما تحتل التغير عند تقادم العهد فمضى طلب
المجتهد الدليل المزيل ولم يظفر به فالظاهر عدمه.¹⁷

"Laws can be applied in sharia is everything that is certain to contain an element of benefit in the world and the hereafter. benefit is not limited by a certain time in its implementation, then the benefit will still be applicable whereas when a mujtahid takes the arguments related to it, it will still be enforceable and not disappear."

5. Al-Fanari in *Fusūl Al-Badā'i* describes the problem of maslahah theory quite simply, and concisely, so that it is easy to understand and understand, is as follows:

إن المصلحة في غالب الحالات حفظ الدين في
الاعتقادات والعبادات وحفظ باقى الضروريات في
المزاج المحضة وكلاهما في المركبة من العبادة والعقوبة
والحاجية في أصول المعاملات وتكميلها في أكثر
تفصيلاتها والتحسينية في بعضها والإقناعية تشمل
الكل.¹⁸

"Indeed, maslahah is basically a global focus on all affairs and matters that seek to maintain religious values, which are charged with matters of belief and all forms of worship, and the care that is other than related to property and so on is related to the elements and discussions of muamalat, which discusses worship, contracts, the needs of mankind in the basics of the conversion of fellow human beings, and as a complement is the appropriateness in the process of global and comprehensive improvement."

From the various definitions that have

been mentioned above, it can be extracted as follows:

1. Everything in sharia and Islamic law is affiliated to obtaining benefits or to oppose and reject emergencies.
2. Maslahah is an effort to maintain the benefit of mankind which is mandated by God with five forms of purposes: to preserve various things related to religion, soul, reason, descent, and property, the whole of which contains safeguards on the basis and foundation of the benefit of mankind.
3. Laws can be applied in sharia is everything that is certain to contain an element of benefit in the world and the hereafter.
4. Indeed, maslahah is essentially global, and not partial. Then there is no compartmentalization in the application of the value of benefit to mankind.

The division of maslahah in terms of its power as a *hujjah* or foundation in establishing the law, there are three:

1. *Maslahah Darūriyah* (مصلحة ضرورية)

Maslahah darūriyah are things that are the place where human life is established, which, when abandoned, then corrupt human life, which when abandoned, then corrupt life, rampant corruption, slander arises, and great destruction. These things can be returned to five things, which are the main things that must be maintained, namely: 1) the guarantee of the salvation of life (*al-muhāfazah alā al-nafs*), 2) the guarantee of the salvation of reason (*al-muhāfazah alā al-aql*), 3) the guarantee of the safety of families and descendants (*al-muhāfazah alā al-nasl*), 4) the guarantee of the safety of property (*al-muhāfazah alā al-māl*), 5) the guarantee of the salvation of religion/belief (*al-muhāfazah alā al-dīn*).

2. *Maslahah Hājiyah* (مصلحة حاجية)

What is meant by *maslahat hājiyah* are the problems needed by man to eliminate the difficulties and difficulties encountered. In other words, in terms of

¹⁷ Abudul Aziz bin Abdullah Bin Muhammad Bukhari, *Kasyf Al-Asrār Syarh Usūl Al-Bazdawī* (Mesir: Dar Al-Kutub Al-Alamiyat, 2001), j.3, h.379.

¹⁸ Muhammad bin Hamzah bin Syamsuddin Al-Fanari, *Fusūl Al-Badā'i Fi Usūl Al-Syarā'i*, (Lebanon: Dar al-Kutub, 2006), j.2, h.421.

importance, this *maslahat* is lower in level than the *daruriyat maslahat*.

3. *Maslahah Tahsīniyah* (مصلحة تحسينية)

Maslahah tahsīniyah is its nature to maintain the goodness and goodness of ethics and beauty only. If, the benefit of not being able to be realized in life does not cause difficulties and shocks and damage to the order of human life. In other words, this benefit is more about beauty alone.¹⁹

All three have various legal powers, so with this classification it is easier to categorize a problem. *Maslahah* is judged from the intention of seeking and establishing the law, *maslahah* is also called *munāsib*.

Maslahah in the study and discussion of *munāsib* is divided into three important parts:

1. *Maslahah Mu'tabarah* (مصلحة معتبرة)

Maslahah mu'tabarah is the benefit found in *nash* that expressly explains and acknowledges its truth. In other words, the benefits recognized by the *shari'a* and the existence of a clear postulate. What is included in this *maslahat* are all the benefits described and mentioned by *nash*, such as maintaining religion, soul, reason, descent, and property, hereinafter referred to as *Maqāsid al-Syarī'ah*.

2. *Maslahah mulghāh* (مصلحة ملغاة)

This *maslahat mulghāh* is a *maslahat* that is contrary to the provisions of *nash*. In other words, it is the *maslahat* that is rejected because there is a postulate that shows that it contradicts a clear postulate. It can also be concluded that *syara'* responds to this *maslahat* by rejecting its existence as a legal-establishing variable (*illat*).

3. *Maslahah mursalah* (مصلحة مرسله)

What is meant by *Maslahah mursalah* is *maslahat* which explicitly does not have a single postulate that acknowledges it or rejects it. More emphatically, this *maslahat mursalah* belongs to the type of *maslahah* that *nash* silences. Abdul Karim Zaidan mentioned that what is meant by *maslahat mursalah* is a *maslahah* which is not mentioned by *nash* neither his refusal nor his confession.

Thus this *maslahat mursalah* is a *maslahat* that is in line with the purpose of *syara'* which can be used as a basis for realizing the good that man has offered and avoidance of emergencies. It is recognized that in reality this latter type of *maslahat* continues to grow and develop along with the development of Islamic society which is influenced by differences in conditions and places.

Sakinah's Family In Marriage

The Ministry of Religious Affairs classifies *sakinah* families into 5 (five) levels according to their criteria, as follows:

1. Pre-Sakinah Family, namely: 1) The family formed through an invalid marriage, 2) Not in accordance with the provisions of the applicable laws, 3) Has no basis of faith. Not performing compulsory prayers, 4) Not issuing zakat, 5) Not carrying out fasting, 6) Not completing education until basic education, and not being able to read and write. 7) Classified as poor and poor, 8) Immorality, and 9) Involved in criminal matters.²⁰
2. Sakinah I family, namely: 1) Marriage in accordance with *Shari'a* and law number 1 of 1974, 2) The family has a marriage certificate or other evidence, as proof of

¹⁹Amir Syarifuddin, *Ushul Fiqh II*, (Jakarta: Pustaka Logoz Wacana Ilmu), h.302. lih juga Jayusman, lim Fahimah, Rahmat Hidayat, Kewarisan Anak Yang Beda Agama Dalam Perspektif Maqāsid Syarī'ah, Jurnal Ijtima'iyya, Vol 13, No 2 (2020), h. 166, <http://ejournal.radenintan.ac.id/index.php/ijtiaiyya/article/view/6581/4063>, diakses 15 November 2021

²⁰ Departemen Agama RI, *Petunjuk Pelaksanaan Pembinaan Gerakan Keluarga Sakinah*, (Bandung: Departemen Agama Kantor Wilayah Provinsi Jawa Barat Bidang urusan Agama Islam, 2001), h. 21. Lihat juga dalam: Ditjen Bimas Islam Kemenag RI, *Fondasi Keluarga Sakinah Bacaan Mandiri Calon Pengantin*, (Jakarta; Subdit Bina Keluarga Sakinah, 2017), h.17.

valid marriage, 3) Has a prayer device, as proof of carrying out mandatory prayers and the basis of faith, 4) Fulfilled basic food needs, as a sign that it is not classified as poor, 5) Still often leave prayers, 6) If sick often go to the shaman, 7) Believe in superstition, 8) Do not come to the recitation / taklim assembly, and 9) The average family graduates or has a diploma of Basic Education.²¹

3. Sakinah II family, namely: 1) No divorce occurs, except for the cause of death or other similar things that require the divorce to occur, 2) Family income exceeds basic needs, so that they can save, 3) The average family has a Diploma of Secondary Education, 4) Owns its own house even though it is simple, 5) The family is active in community and social religious activities, 6) Able to meet healthy food standards / meets the four healthy five perfect, and 7) Not involved in criminal cases, gambling, drunkenness, prostitution and other immoral acts.²²
4. Sakinah III family, namely: 1) Active in efforts to increase religious activities and passions in mosques and in the family, 2) Families are active in being administrators of religious and social activities, 3) Actively providing encouragement and motivation to improve maternal and child health and public health in general, 4) The average family has a high school diploma and above, 5) Zakat expenditure, infak, shadaqah and waqf are constantly increasing. 6) Increasing the expenditure of sacrificial worship, and 7) Carrying out the hajj properly and correctly, in accordance with religious guidelines and applicable laws and regulations.²³
5. The Sakinah Plus family, namely: 1)

Families who have carried out the Hajj can meet the criteria for a mabrur hajj, 2) Become religious leaders, community leaders and organizational figures who are loved by the community and their families, 3) The expenditure of infak, zakat, sadaqah and waqf increases both qualitatively and quantitatively, 4) The increasing ability of the family and the surrounding community in fulfilling religious teachings, 5) The family is able to develop religious teachings, 6) The average family member has a bachelor's diploma, 7) The values of faith, piety and akhlakul karimah are embedded in their personal and family life; 8) Growing up of feelings of love and affection in harmony, harmony and balance in family members and their environment, and 9) Being able to become the suri tauladan of the surrounding community.²⁴

Danuri stated that the characteristics of the sakinah family or the characteristics of the sakinah family are: 1) The existence of peace of mind characterized by piety to God, 2) There is a harmonious relationship between the individual and other individuals and between the individual and the community, 3) Guaranteed physical, spiritual, and social health, 4) Sufficient clothing, food, and board, 5) There is a legal guarantee, especially human rights, 6) The occurrence of reasonable educational services, 7) The existence of guarantees in old age, and 8) The availability of reasonable recreational facilities.²⁵

According to Aziz Mustafa a family can be called a sakinah family if it has met the following criteria:

First, in terms of family diversity; obey the teachings of Allah and His Messenger. Second, in terms of religious knowledge, have a passion for learning, understanding and deepening the teachings of Islam. Third,

²¹Ibid.

²²Ibid.h.19.

²³Ibid. h.22.

²⁴Ibid. h.23.

²⁵Danuri, *Pertambahan Penduduk dan Kehidupan Keluarga*, (Yogyakarta, LPPK, IKIP, 1976), h. 19.

parents motivate regarding formal education for each member of their family. Fourth, the state of the house and the environment meet the criteria for a healthy home. Fifth, the husband and wife have enough income to meet basic needs. Sixth, have harmonious family social relations..²⁶

The *sakinah* family will be realized if the family members can fulfill the obligations towards Allah, towards oneself, towards the family, towards the community and towards the environment, according to the teachings of the Qur'an and the sunnah of the Apostle..²⁷

Result and Discussion

Profile of Couples Who Hold Marriage Through Marriage Dispensation in Central Lampung Regency

More details about each profile of couples who carry out marriages through the marriage dispensation route in Bumi Nabung District, Lampung Tengah Regency are as follows below:

1. Rendy Renaldi Bin Sutyoso married Hapi Tasari Binti Suroto. The two got married in Bumi Nabung District, in 2019. Rendy Renaldi's age at the time of marriage was 17 (seventeen) years old, and his future wife Hapi Tasari was 14 (fourteen) years old. The two got married in 2019 in Kampung Sri Kencono, Bumi Nabung District, Central Lampung Regency. Rendy Renaldi has not yet worked, and is domiciled in Hamlet VI Rt.004 Rw.002, Kampung Bumi Nabung Timur, Bumi Nabung District, Central Lampung Regency. Meanwhile, his future wife, Hapi Tasari's sister, is also not yet working and is domiciled in Dusun Tiga Rt.003 Rw.001, Kampung Sri Kencono, Bumi Nabung District, Central Lampung

Regency..²⁸ Randy Renaldi's brother's educational background has finished Junior High School, and his wife Hapi Tasari Binti Suroto is an elementary school education. The two are currently living with their respective parents. This means that the two do not live under the same roof anymore, but according to the information provided that the two are still a married couple, but the person concerned will live together when they are ready for a place to live and a job that is considered to be able to meet household needs..²⁹

2. Novan Hendriansyah bin Heru Sumirat married Siti Saodah Binti Riko. The two got married in Bumi Nabung Subdistrict, in 2018. Novan Hendriansyah's age at the time of marriage was 18 (eighteen) years old, and his future wife Siti Saodah was 16 (sixteen) years old. The two got married in 2018. Novan Hendriansyah has not worked and is domiciled in Dusun I Rt.002 Rw.001, Kampung Bumi Nabung Selatan, Bumi Nabung District, Central Lampung Regency. Meanwhile, Siti Saodah is also not working, and is domiciled in Dusun V Rt.017, Bima Karya Jaya Village, Bumi Nabung District, Central Lampung Regency..³⁰ Novan Hendriansyah bin Heru Sumirat and his wife Siti Saodah Binti Riko are a couple who have a background in junior high school education. The state of his household to date is considered good and not so much trouble. According to him in the household; a husband and wife are a team that must work together to solve their problems together. The work of Novan Hendriansyah's brother

²⁶*Ibid.*

²⁷Ahmad Azhar Basyir dan Fauzi Rahman, *Keluarga Sakinah Keluarga Syurgawi*, (Yogyakarta: Titian Illahi Press, 1994), h. 11.

²⁸Salinan Penetapan Pengadilan Agama Gunung Sugih, Nomor 0069/Pdt.P/2019/PA.Gsg., h.2.

²⁹Wawancara Rendy Renaldi di kediaman orang tuanya di Dusun VI Rt.004 Rw.002, Kampung Bumi Nabung Timur, Kecamatan Bumi Nabung, Kabupaten Lampung Tengah, pada 28 Februari 2019

³⁰Salinan Penetapan Pengadilan Agama Gunung Sugih, Nomor 0011/Pdt.P/2017/PA.Gsg., h.3.

when he thought he was able to meet the needs of food clothing was simple for his family. The two currently live still with the woman's parents.³¹

Profile of couples who carry out marriage dispensation in Way Seputih District, Central Lampung Regency:

1. Kadiran bin Daman married Eka Patmalasari binti Wanto. The two married in Way Seputih Subdistrict, in 2015. Kadiran's age at the time of marriage was 35 (thirty-five) years old, and his future wife Eka Patmalasari was 14 (fourteen) years old. Kadiran is the son of Mr. Daman domiciled in Sri Utomo Hamlet Rt.021 Rw.005, Sri Bawono Village, Way Seputih District, Central Lampung Regency. Meanwhile, his future wife, sister Eka Patmalasari, is the daughter of Mr. Wanto who was born on August 9, 2001, with a working status with parents, and is domiciled in Sri Bagiann Hamlet Rt.001 Rw.001, Sri Bawono Village, Way Seputih District, Central Lampung Regency.³² His domestic relationships are well established. According to kadiran, maturity is the main foundation in responding to various problems experienced in the household. The education of Kadiran and his wife was until Primary School. The job of the head of the family is to cultivate his rice fields, and work as a freelance laborer in the rice shed where he lives. Both of them are currently domiciled in a house that they already have their own although very simple, namely in Sri Utomo Hamlet Rt.021 Rw.005, Sri Bawono Village, Way Seputih District, Central Lampung

Regency.³³

2. Anang Nur Rohman Bin Achmad Sayuti married Melda Febriyanti Binti Muin. The two married in Way Seputih Subdistrict, in 2016. Anang Nur Rohman's age at the time of marriage was 17 (seventeen) years old, and his future wife Melda Febriyanti was 18 (eighteen) years old. The two married in 2016. Anang Nur Rohman has a job status helping parents, and is domiciled in Sri Bahagia Hamlet Rt.025 Rw.006, Sri Bawono Village, Way Seputih District, Central Lampung Regency. Melda Febriyanti is the daughter of Mr. Muin, and is domiciled in Tanjung Waras Hamlet Rt.003 Rw.003, Merak Batin Village, Natar District, South Lampung Regency.³⁴ The household of the couple Anang Nur Rohman Bin Achmad Sayuti and Melda Febriyanti Binti Muin until now is fairly harmonious, this can be seen from several things; 1) have a baby of 2 people, 2) have owned their own house, 3) have a four-wheeled vehicle. On the occasion of the discussion, the person concerned said that after marriage, he worked so that he could meet household needs. Both have high school education backgrounds and currently both live in a house built not so far from the residence of the man's parents.³⁵
3. Milky Way Santoso bin Budi Santoso married Erni Hidayah Binti Mustaji T. The two were married in Way Seputih District, in 2017. The age of The Milky Way Santoso at the time of marriage was 18 (eighteen) years old and his

³¹Wawancara Novan Hendriansyah di kediaman orang tua istrinya di Dusun V Rt.017, Kampung Bima Karya Jaya, Kecamatan Bumi Nabung, Kabupaten Lampung Tengah, pada 24 Februari 2020

³²Salinan Penetapan Pengadilan Agama Gunung Sugih, Nomor 0038/Pdt.P/2015/PA.Gsg., h.2.

³³Wawancara Kadiran di kediantnya di Dusun Sri Utomo Rt.021 Rw.005, Kampung Sri Bawono, Kecamatan Way Seputih, Kabupaten Lampung Tengah, pada 13 Februari 2019

³⁴Salinan Penetapan Pengadilan Agama Gunung Sugih, Nomor 0042/Pdt.P/2015/PA.Gsg., h.3.

³⁵Wawancara Saudra Anang Nur Rahman di kediamannya di Dusun Sri Bahagia Rt.027 Rw.006, Kampung Sri Bawono, Kecamatan Way Seputih, Kabupaten Lampung Tengah pada 28 Februari 2019

future wife Erni Hidayah was 17 (seventeen) years old. The two married in 2017. Erni Hidayah has the status of a parent's job, and is domiciled in Sido Rejo Hamlet Rt.009 Rw.004, Sido Binangung Village, Way Seputih District, Central Lampung Regency. Bima Sakti Santoso with employment status as a parent, and domiciled in Dusun VI Rt.023 Rw.008, Tanjung Harapan Village, Seputih Banyak District, Central Lampung Regency.³⁶ Both are committed to showing both parents that they are serious about their relationship and do not depend on both parents, although neither of them finished the Upper Victory School, but both are willing to try to provide for the needs of the family, clothing and boards, and other needs. Until now, both of them have felt well-off and are committed to making donations to those in need when their rubber plantation crops exceed the minimum target. Kedunya now live in their own house near the residence of Bima's parents.³⁷

4. Rio Aspurwa Bin Solikin married Shinta Erlinda Binti Mukhlisin. The two got married in Way Seputih District, in 2017. Rio Aspurwa's age at the time of marriage was 21 (twenty-one) years old, and his future wife Shinta Erlinda was 14 (fourteen) years old. The two married in 2017. Rio Aspurwa works as an honorary employee, and is domiciled in Sidodadi Hamlet Rt.020 Rw.009, Sido Bangunan Village, Way Seputih District, Central Lampung Regency. Shinta Erlinda with work status as well as her parents, and domiciled in Sido Mukti Hamlet Rt.021 Rw.009, Sido Binangung Village, Way Seputih District, Central Lampung

Regency.³⁸ They have been blessed with 2 children. This is what Rio thinks is God's gift to his family. As a form of gratitude, the Rio family provided capital assistance for the business and made a residential house. His second education was up to the level of High School. Because the two tunya people have a large enough land for their son to develop agriculture in the area where he lives. However, at first Rio's brother was also interested in working as an employee in an office or company as an honorary, but after obtaining capital assistance he opened a basic food business. Until now, both of them still live in the home of the party's parents..³⁹

Profile of the couple who carried out the marriage dispensation in Bandar Mataram District, Central Lampung Regency:

1. Okta Nariyadi Bin Sariyadi married Tika Febriyani binti Boniran. The two got married in 2018. The age of the male side has reached the age of enough to marry, which is 21 years old, but the female side who is not old enough is 14 years old. Okta Nariyadi with employment status as a farmer, and domiciled in RT.013 RW.004 Kartaraharja Village, Tulang Bawang Udik District, West Tulang Bawang Regency. Tika Febriyanti with her parents' work status, and is domiciled in Dusun Lima Rt.021 Rw.009, Kampung Terbanggi Ilir, Bandar Mataram District, Central Lampung Regency. The two married in 2018 at the woman's side residence.⁴⁰ Their marriage is still harmoniously intertwined, although the living given is only until it is enough, but the wife does not demand more than is needed. Both

³⁶Salinan Penetapan Pengadilan Agama Gunung Sugih, Nomor 0041/Pdt.P/2017/PA.Gsg., h.2.

³⁷Wawancara Bima Santoso di kediamannya di Dusun VI Rt.023 Rw.008, Kampung Tanjung Harapan, Kecamatan Seputih Banyak, Kabupaten Lampung Tengah, pada 16 Februari 2019

³⁸Salinan Penetapan Pengadilan Agama Gunung Sugih, Nomor 0033/Pdt.P/2017/PA.Gsg., h.2.

³⁹Wawancara Saudara Rio Aspurwa di Dusun Sidodadi Rt.020 Rw.009, Kampung Sido Bangunan, Kecamatan Way Seputih, Kabupaten Lampung Tengah, pada 13 Februari 2020

⁴⁰Salinan Penetapan Pengadilan Agama Gunung Sugih, Nomor 0029/Pdt.P/2018/PA.Gsg., h.2.

of them are up to elementary school, so both are committed to going to school their children in the future. The two currently live with the wife's parents..⁴¹

Maslahah's Analysis of Marriage Through Marriage Dispensation In Central Lampung Regency In Realizing Sakinah's Family

Marriage through the marriage dispensation route in Lampung Tengah Regency which was studied and studied by the author there were as many as 7 (seven) couples from three districts, namely Bumi Nabung District there were 2 (two) couples, Way Seputih District there were 4 (four) couples, and Bandar Mataram District there were 1 (one) couple.

Marriage through the marriage dispensation route carried out by society is at least based on two fundamental reasons, namely: because the family considers that when the child is continuously in the relationship, it will have the potential to do things that are prohibited by religion. And the family knew that her child had become pregnant out of wedlock with her partner.⁴² Otherefore on the basis of the liability of the condition, the male party is ready to marry even though the age of the two or one of

them is not enough.⁴³

The marriage carried out by the seven couples needs to be monitored continuously, with the aim and purpose of knowing the living conditions of households who are married by marriage dispensation in Lampung Tengah Regency. In detail, it should be presented the conditions of each partner with the basics to see the domestic conditions of a couple, namely:

1. The dispensation of marriage acquires or causes the establishment of a harmonious relationship in domestic life. It is an application of one of the criteria or dawābit (الضوابط) rather than maslahah applying benefits or benefits (جلب المنفعة) and keeping away or rejecting emergencies (دفع المضرة).
2. The dispensation of marriage brings damage, emergency, and disharmonious relationships to a domestic setting. This is an application of one of the criteria of maslahah, namely its application according to the ratio (معقول) and relevant (مناسب) to the behavior carried out by the couple or a society.

The following household conditions of couples who carry out marriage through the marriage dispensation route can be reviewed in the study as follows:

Of the seven couples who carried out the Marriage through the marriage dispensation route, there was one of them who was identified as tending to a less harmonious marriage, namely rendy Renaldi's brother And his wife Hapi Tasari. This has been expressed by the concerned with various reasons and attitudes of both parties. However, even though the two are

⁴¹Wawancara saudara Okta Nariyadi bin Sariyadi Dusun Lima Rt.021 Rw.009, Kampung Terbanggi Ilir, Kecamatan Bandar Mataram, Kabupaten Lampung Tengah, pada 03 Februrai 2019

⁴² Sri Ahyani, Pertimbangan Pengadilan Agama Atas Dispensasi Pernikahan Usia Dini Akibat Kehamilan Di Luar Nikah, Jurnal Wawasan Yuridika Vol 34, No 1 (2016), <http://ejournal.sthb.ac.id/index.php/jwy/article/view/107>, diakses tanggal 20 Juni 2021, Nurul Inayah, Penetapan Dispensasi Nikah Akibat Hamil Di Luar Nikah Di Pengadilan Agama Yogyakarta Tahun 2010-2015 (Analisis Hukum Acara Peradilan Agama), Jurnal Al-Ahwal Vol 10, No 2 (2017), <http://ejournal.uin-suka.ac.id/syariah/Ahwal/article/view/1327>, diakses tanggal 23 Juli 2021, Ary Ardila, Penolakan Dispensasi Nikah Bagi Pasangan Nikah Sirri Di Bawah Umur, Jurnal al-Hukama' Vol. 4 No. 2 (2014): Desember 2014, <http://jurnalafh.uinsby.ac.id/index.php/alhukuma/article/view/278>, diakses 26 Juli 2021

⁴³ Lih. Tiswarni, Jayusman, Aimas Soleha Rohilati, Determination Of Married Dispensation Number: 008/Pdt.P/2018/Tgm AND 0012/Pdt.P/2019/Tgm In Maslahah Perspective, Jurnal Mizani Vol 7, No 2 (2020), <https://ejournal.iainbengkulu.ac.id/index.php/mizani/article/view/3556>, diakses tanggal 6 November 2021.

not in the category of harmony or harmonious households, both still have the status of husband and wife. Therefore, the marriage dispensation carried out by the couple Rendy Renaldi and Hapi Tasari cannot be categorized as a marriage or marriage dispensation that contains an element of benefit for their household, but it cannot be categorized as a damage (المفسدة) because the age of marriage of the two is still relatively young marriage age. So that the level of benefit of the marriage dispensation carried out by one spouse is still low.

While the other six couples, namely; 1) Kadiran bin Daman and his wife Eka Patmalasari binti Wanto, 2) Anang Nur Rahman and his wife Melda Febriyanti, 3) Milky Way Susanto and his wife Erni Hidayah, 4) Rio Aspurwa and his wife Shinta Erlinda, 5) Novan Hendriansyah and his wife Situ Saodah, 6) Okta Nariyadi and his wife Tika Febriyansyah judging from the results of discussions and interviews with the concerned that the marriage dispensation carried out by each couple had a positive impact on people's lives, and bring benefits to the home life of each spouse, his family, and the surrounding community.⁴⁴ They belong to the Sakinah II Family group. They do not occur divorce, except for the cause of death or other similar things that require the divorce to occur, Family income exceeds basic needs, so that they can save, The average family has a diploma in Secondary Education, has their own home although simple, the family is active in community and social religious activities, is able to meet healthy food standards / meets the four healthy five perfect, and is not involved in criminal matters, gambling, drunkenness, prostitution and other immoral acts.

The value of benefit that arises from marriage through the marriage dispensation route carried out by several of the above couples, among others, can be inferred to the following;

First, it is a form of deterrence from the damage that will occur to future generations to a society, or acts prohibited by religion. The damage that is inflicted is a few things; the potential for adultery to occur which is one of the great sins. So the implementation of the marriage dispensation will divert some of the potential damage and turn to the values of benefits in a valid marriage.⁴⁵

Second, the marriage dispensation contains an element of benefit for domestic harmony, this can be seen from several forms of attitudes and behaviors of spouses and people around them; 1) dispensation is a marriage proposed by the guardian or parent concerned, so that it is a form of an attitude of responsibility, an excellent family attitude. 2) the spouse who carries out the dispensation of marriage in the community receives more attention from those closest to him; family, and neighbors. The role of the family is enormous in their lives. Parents who help them get to independence in their home life. 3) couples who carry out marriage dispensation in their home life can be beneficial for those around them, do not do negative deeds, marriage relationships do not run aground or divorce, are independent and can live materially well, participate in sharing sustenance with the needy by involving their work or effort, and the most important thing is that the domestic life of the couples is harmonious and harmonious.

⁴⁴ Massadi, Implementasi Asas Dispensasi Kawin Di Wilayah Hukum Pengadilan Tinggi Agama Palu Perspektif Masalah, Jurnal Jurisprudentie [Volume 5 Nomor 2 Desember 2018, h. 141, diakses 15 November 2021

⁴⁵ Waluyo Sudarmaji, Pertimbangan Hakim Dalam Memutuskan Perkara Dispensasi Nikah Berdasarkan Analisis Masalah (Studi Penetapan Hakim No. 266/Pdt.P/2020/PA.Pwr di Pengadilan Agama Purworejo), Jurnal Al Syakhsyiah, Vol 3, No 1 (2021), <https://jurnal.iainponorogo.ac.id/index.php/syakhsyiah/article/view/3068>, diakses tanggal 15 November 2021

Third, the marriage dispensation has an impact on the benefit in the household with the implementation of which the relationship of the married couple becomes legal, the legality is permanent and supports the future of the family and offspring, with which it can make and prepare other important state documents; such as Family Card, Identity Card with married status, Health Card, application for financing when setting up a business, and the most important thing is in the future when the descendants want to carry out education with various requirements for personal documents.

Conclusion

The conclusion of the above presentation is: Marriage through the marriage dispensation route in central Lampung Regency in the review of Maslahah and the sakinah family that their marriage belongs to the Sakinah II family group brings benefits to their household. In general, the values of the maslahat are obtained in three stages; the benefit obtained at the time of the implementation of the marriage dispensation took place, by obtaining the legality of the couple's conjugal relationship has been valid. The benefit in their home life is due to their good and harmonious relationship, and can be beneficial for those around them. The future benefit of the couple's household and their future child, due to their legal marriage.

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