

ABSTRACT

M. Kholilur Rahman, 06210082, 2012, The View of Judge in Acceding the Appealing of Marriage Exemption based on the 26 section and the first subsection, the letters c UU no. 23 of 2002 concerning the Children Legislation (in The Islamic Court of Malang). Minithesis, The Department of Islamic Law, Syari'ah Faculty, The State Islamic University (UIN) of Maulana Malik Ibrahim Malang.
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The issues of marriage exemption will appeared a controversial thing although in simple overview when we see the legislation 23 of 2002 concerning the children protection on the 26 section and the first subsection, the case c that forbidden the marriage of an inadequate age and the first Legislation of 1974, the section 7 the first subsection that distinctly legalize the marriage exemption, one of the applicant proof is Islamic case law of Malang in the case number of 212/pdt. P/2010/PA. and Malang has received the application of marriage exemption.

The both controversy of legislation that is encourage the researcher for conducting the research entitled "The Judgment of Judge Council in Acceding the Appealing of Marriage Exemption based on the 26 section and the first subsection, the case c UU no. 23 of 2002 concerning the Children Legislation (Case Study in The Islamic Court of Malang) and the research problem. Firstly, what is the basic factor of consideration the judge council in Islamic law of Malang to accede the application of marriage exemption based on the section 7 UU No. 1 1974 about the marriage exemption, secondly, how is the position of the 26 section, the first subsection, the letters c UU No. 23 2002 exactly the children legislation in the judge council view of Islamic court law Malang.

To answer the research problems above, the kind of research used is experiment research by using an interview of some judges in the Islamic Court Law Malang as the primer data resource. Whereas the approach used is descriptive-qualitative approach. in other word, providing the data obtained from observation into the form of descriptive sentence not in the numeric one.

On this kind of research method has obtained that acceding of marriage exemption by the judge in the Islamic court law Malang is caused of some factors such as the factor of economic, education and the early marriage which has strongly grew on the social life. It's including the factor of premarital pregnant that considered as the most dominant factor.

Whereas both of legislations, either the section of 7 UU No. 1 1974 about the marriage exemption or the section 26 and the first subsection 1 and the letters c UU No. 23 2002 concerning the children protection are substantially has same purposes to protect the beneficence of children. If the regulation is being as the prevention of the marriage has happened. And this regulation is children legislation as the anticipation step toward the premarital.