

**JUDICIAL CONSIDERATIONS IN GRANTING MARRIAGE
DISPENSATION UNDER LAW NO. 16 OF 2019 AMENDING LAW NO. 1
OF 1974 ON MARRIAGE (AN ANALYSIS OF CASE NO. 15/PDT.P/ AT
THE BINJAI RELIGIOUS COURT)**

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Abstract : Early marriage continues to pose significant legal and social challenges in Indonesia, despite regulatory reforms introduced by Law No. 16 of 2019, which raised the minimum legal age of marriage to 19 years for both men and women. This reform has led to a marked increase in applications for marriage dispensation submitted to the Religious Courts, indicating a persistent gap between statutory norms and social realities. This study examines judicial considerations in Case No. 15/Pdt.P/2024/PA.Bji at the Binjai Religious Court. A qualitative approach is employed to explore the social, psychological, and cultural factors influencing judicial decision-making. The findings reveal that judges take into account psychological readiness, social pressures, and the principle of child protection in rendering their decisions. The study underscores the central role of judges as interpreters of substantive law amid complex social dilemmas and recommends strengthening support systems—such as the involvement of psychologists and enhanced public education—to prevent child marriage.

Abstrak : Pernikahan usia dini tetap menjadi tantangan hukum dan sosial di Indonesia meskipun adanya perubahan regulasi melalui Undang-Undang No. 16 Tahun 2019 yang menaikkan batas usia minimum menikah menjadi 19 tahun bagi laki-laki dan perempuan. Perubahan ini mendorong lonjakan permohonan dispensasi nikah di pengadilan agama, menandakan adanya kesenjangan antara norma hukum dan realitas sosial. Studi ini menganalisis

pertimbangan hakim dalam perkara No. 15/Pdt.P/2024/PA.Bji di Pengadilan Agama Binjai. Pendekatan kualitatif digunakan untuk menelusuri faktor sosial, psikologis, dan budaya yang memengaruhi keputusan hakim. Temuan menunjukkan bahwa hakim mempertimbangkan kesiapan psikologis, tekanan sosial, dan prinsip perlindungan anak dalam memberikan keputusan. Studi ini menyoroti peran sentral hakim sebagai penafsir hukum substantif di tengah dilema sosial dan menyarankan perlunya penguatan sistem pendukung, termasuk keterlibatan psikolog dan edukasi publik, untuk mencegah pernikahan anak.

INTRODUCTION

Early marriage remains a complex social and legal problem in Indonesia, despite various regulatory efforts aimed at curbing the practice. One significant legal intervention was the enactment of Law No. 16 of 2019, which amended Law No. 1 of 1974 on Marriage by raising the minimum age of marriage from 16 years for women to 19 years for both men and women. Substantively, this amendment seeks to strengthen the protection of children's rights and to reduce the incidence of child marriage, which has adverse consequences for health, education, and social welfare.

However, this normative reform has not automatically eliminated the practice of early marriage in society. On the contrary, following the implementation of Law No. 16 of 2019, there has been a significant increase in applications for marriage dispensation in Religious Courts across Indonesia. This phenomenon reflects a persistent gap between the legal ideal of child protection and social realities in which early marriage continues to be viewed as a solution to social pressure, premarital pregnancy, or prevailing local cultural norms.

From the perspective of Islamic law, the minimum age of marriage is not rigidly prescribed; rather, physical and mental readiness constitutes a key requirement. The fiqh maxim *al-‘ādah muḥakkamah* (custom may be taken into account in legal reasoning) allows socio-cultural considerations to inform legal judgments, provided they remain consistent with the principles of protecting life (*hifz al-nafs*) and lineage (*hifz al-nasl*) as integral elements of *maqasid al-shari‘ah*. The Qur'an also emphasizes the importance of maturity and the ability to assume responsibility, as indicated in Q.S. An-Nisā' (4): 6, which refers to "sound judgment and the capacity for self-management." Accordingly, marriage dispensation should operate within the framework of child protection, rather than serving merely as a legal justification for social pressure.

As a legal consequence, applications for marriage dispensation have become a formal mechanism through which communities seek to avoid statutory violations, even though the substantive objectives of the regulation have not been fully realized. It is within this context that the role of judges becomes pivotal. Judges function not only as enforcers of positive law but also as interpreters of substantive justice when confronted with complex social realities.

In Case No. 15/Pdt.P/2024/PA.Bji adjudicated by the Binjai Religious Court, the judge granted the application for marriage dispensation based on urgent social and religious considerations. This decision highlights the flexibility of judicial discretion in interpreting and applying the law under non-ideal circumstances. This case study is therefore significant, as it provides empirical insight into how the law operates in practice and how judicial reasoning reflects the interaction between legal norms, social conditions, and the protection of the best interests of the child.

From the perspective of Islamic law (*fiqh munākahāt*), the discussion of *rushd* (maturity or sound judgment) is crucial as a foundational requirement for the permissibility of marriage. Many Islamic jurists require both physical maturity and intellectual capacity before an individual may be deemed fit to enter into marriage. Accordingly, a marriage dispensation should not be granted without first ensuring that these elements of readiness are adequately fulfilled. By integrating the perspectives of *fiqh munākahāt* and positive law, this study offers a more comprehensive and balanced analysis. The research aims to examine judicial considerations in granting marriage dispensations under Law No. 16 of 2019, using a concrete case study that illustrates the practical challenges and dilemmas encountered in its implementation. This approach not only contributes to the development of Islamic family law scholarship but also opens space for proposing policy formulations that are more responsive to social realities while upholding the principle of child protection as a fundamental legal concern.

RESEARCH METHODS

This study employs a qualitative approach using a case study method to analyze judicial considerations in granting marriage dispensations under Law No.

16 of 2019. The research focuses on the Decision of the Binjai Religious Court No. 15/Pdt.P/2024/PA.Bji as the primary object of analysis. Data were collected through a review of judicial decision documents, in-depth interviews with judges, and an examination of relevant legal and social literature. Data analysis was conducted using a descriptive-analytical technique by tracing both the formal and substantive aspects underlying judicial reasoning, as well as their relationship to social norms and the principle of child protection. Data validity was strengthened through source and methodological triangulation to ensure the accuracy and depth of analysis concerning the practice of granting marriage dispensations at the court level.

Within the framework of Islamic law, this study also adopts a normative-theological approach grounded in the theory of *maqasid al-shari‘ah*, particularly the principles of *hifz al-nasl* (protection of lineage), *hifz al-nafs* (protection of life), and *hifz al-‘aql* (protection of intellect), as analytical foundations for assessing marriage dispensation policies. In addition, *fiqh* maxims such as *sadd al-dharī‘ah* (preventing harm) and *maṣlahah mursalah* (public interest not explicitly regulated by scripture) are employed to evaluate whether judicial decisions genuinely reflect the protection of children’s welfare (Ilma, 2020).

The research subjects are clearly defined to include: (1) judges of the Binjai Religious Court who adjudicate marriage dispensation cases; (2) the official court decision document of Case No. 15/Pdt.P/2024/PA.Bji; and (3) supporting information from the Office of Religious Affairs (KUA), parents, and prospective spouses, where relevant. This structured approach allows for the potential replication of the study by other researchers.

Primary legal sources utilized in this study include Law No. 16 of 2019, Law No. 1 of 1974, Supreme Court Regulation (PERMA) No. 5 of 2019, as well as classical *fiqh* texts such as *Fath al-Qarīb*, *al-Mughnī*, and *Bidāyat al-Mujtahid*. Secondary sources consist of scholarly journals, prior research, and relevant literature on Islamic family law.

DISCUSSION/RESULTS AND DISCUSSION

A. Trends in Applications for Marriage Dispensation after Law No. 16 of 2019

The revision of the minimum age of marriage as stipulated in Law No. 16 of 2019, which amended Law No. 1 of 1974, has had significant implications for the increasing number of applications for marriage dispensation in Indonesia. This legislative reform equalized the minimum legal age of marriage for both men and women at 19 years, replacing the previous standard of 16 years for women and 19 years for men. Although the primary objective of this policy was to strengthen child protection and curb the practice of child marriage, it has paradoxically resulted in a surge in applications for marriage dispensation due to a legal loophole that continues to allow marriage below the age of 19 with court approval (Hilda Oktaviani et al., 2024).

This trend is shaped by deeply rooted social, economic, and cultural factors within Indonesian society. Several studies indicate that the principal motivations behind applications for marriage dispensation include concerns about premarital sexual relations, pregnancies outside of marriage, feelings of shame experienced by families, and social pressure from the surrounding community (Silyanas et al., 2025). In an interview, a judge of the Religious Court stated that “in some cases, during the hearing the evidence may still be insufficient; one of the main considerations is that the applicants have not yet engaged in sexual relations.”

From the perspective of Islamic law, this phenomenon may be examined through the principle of *sadd al-dharī‘ah* (blocking the means to wrongdoing). Parental concerns about the possibility of *zina* (fornication) represent an attempt to prevent moral harm; however, this principle should not serve as the sole justification for permitting marriage below the legal age. Islamic teachings emphasize the protection of life (*hifz al-nafs*), intellect (*hifz al-‘aql*), and lineage (*hifz al-nasl*). Consequently, any decision to marry off a minor must also take into account the individual’s psychological and physical maturity (Nafisah, 2019).

These observations confirm that social pressure and anxiety regarding premarital sexual behavior constitute dominant considerations in many dispensation cases. Social perceptions that continue to tolerate, or even legitimize,

early marriage further reinforce parental motivations to marry off their children at a young age in order to safeguard family honor. In this context, a judge remarked: “If the applicant is not pregnant and has never engaged in marital relations, whether pregnant or not, should the application be rejected, and must they commit zina first in order for it to be granted?” This statement illustrates the social irony confronted by the courts when attempting to balance legal norms with prevailing social realities.

In practice, Religious Courts face complex dilemmas in adjudicating marriage dispensation applications. Judges are required to strike a balance between the principle of protecting children’s rights and the socio-cultural realities that form the background of each case. When compared to Islamic law, Indonesian positive law emphasizes age limits as a form of administrative protection, whereas fiqh *munākahāt* does not prescribe a specific age but instead requires *rushd* (maturity) as an indicator of readiness for marriage. This comparison demonstrates that, substantively, both legal frameworks aim to protect children, albeit through different mechanisms (Ilma, 2020).

A concrete example can be found in Case No. 7/Pdt.P/2024/PA.Sbg, in which the application was granted because the prospective bride was already pregnant outside of marriage (Hilda Oktaviani et al., 2024). In an interview, a judge explained: “If the judge finds that both the formal and substantive requirements are satisfied, the application will be granted. But are the considerations the same? Of course not—the considerations vary from case to case.” This statement indicates that judicial decisions are not based on a single, uniform *عيار*, but rather on comprehensive evidentiary assessment and holistic evaluation of the prospective spouses’ psychological, social, and reproductive conditions.

This situation demonstrates that formal legal provisions alone are insufficient to address the root causes of the problem, and that a comprehensive response involving multiple stakeholders is required. As a strategic measure, strengthening education and community empowerment in regions with high rates of marriage dispensation applications is essential. Educational initiatives targeting adolescents and parents regarding the adverse consequences of early marriage,

alongside improved access to reproductive health and child health services, should be prioritized as preventive measures. In addition, the government should periodically evaluate the policy on marriage dispensation to ensure that the mechanism is not misused and that it genuinely provides maximum protection for children and adolescents (Yuliana et al., 2024).

In relation to these efforts, a judge noted: “What is the easiest or the most essential approach? First, conducting outreach and educational programs—either directly at the courts or at the village level and similar settings—on the dangers of early marriage in terms of education, reproductive health, and mental and psychological readiness.” This underscores the importance of the active role of judicial institutions and local governments in public education as a long-term preventive strategy to curb the rising number of marriage dispensation applications following the enactment of the new regulation.

B. Judicial Considerations in the Examination and Determination of Marriage Dispensation

In examining and adjudicating applications for marriage dispensation, judges bear the responsibility of assessing both the formal requirements and the legal standing of the applicants as preliminary procedural conditions. Formally, judges refer to Supreme Court Regulation (PERMA) No. 5 of 2019, which stipulates that the legally authorized applicants are the biological parents or lawful guardians of prospective spouses who are under the age of 19 (Marwiyah et al., 2023). Enforcement of these formal requirements includes the examination of administrative documents such as birth certificates, applicants’ identification documents, certificates from the Office of Religious Affairs (KUA), and recommendations from the relevant village authorities (Taolin et al., 2024). This scrutiny is intended to ensure the legal validity of the applicants and to prevent procedural defects that could undermine the legal basis of the court’s decision.

Beyond the formal requirements, the applicant’s legal standing constitutes a critical aspect of judicial examination. Only parties who are legally authorized may submit an application for marriage dispensation; step-parents, relatives, or other individuals without legal legitimacy are not entitled to do so. The strict

enforcement of legal standing serves to uphold legal certainty and safeguard the integrity of the judicial process (Lestari & Hendar, 2022).

An analysis of fiqh munākahāt indicates that marriage presupposes the capacity to bear marital responsibilities, including the ability to provide maintenance (al-qudrah ‘ala al-infaq), mental maturity, and physical readiness. Islamic jurists emphasize that marrying off a child who lacks such readiness contradicts the principle of *maṣlahah mursalah*, as it is likely to generate long-term harms such as divorce, domestic violence, or psychological distress. This consideration is consistent with the principles of *hifz al-nafs* (protection of life) and *hifz al-nasl* (protection of progeny), which constitute core elements of *maqasid al-shari‘ah* (Ilma, 2020).

A judge explained: “If both parents are still alive and have not separated, but only the father files the application, it cannot be accepted; it is rejected due to a formal defect. Likewise, if the biological father files the application together with the stepmother while the biological mother is still alive, it cannot be accepted, because a stepmother is not a legally authorized party.” This statement demonstrates that strict scrutiny of formal requirements constitutes an absolute prerequisite before the court proceeds to examine the substantive merits of the case.

Substantive considerations in the examination of marriage dispensation applications focus primarily on the physical and psychological readiness of the prospective spouses. Early marriage poses significant risks to reproductive and mental health and is associated with increased vulnerability to pregnancy and childbirth complications (Miyawaki, 2015). Prospective spouses who are psychologically immature tend to encounter difficulties in fulfilling marital roles, which may lead to stress, conflict, and even divorce (Ilma, 2020).

Accordingly, judges must ensure that applications are grounded in factual readiness rather than mere social pressure. In an interview, a judge underscored the importance of a comprehensive assessment: “We are talking about the law—whether the individual is truly ready, whether it is appropriate, whether her reproductive organs are prepared for pregnancy, whether she is psychologically

mature. One must not find that she cannot even manage basic daily tasks independently, yet is being forced to serve a husband.”

The phenomenon of pregnancy outside marriage has become a dominant reason for seeking marriage dispensation, as illustrated in Case No. 7/Pdt.P/2024/PA.Sbg (Supriyadi & Prasetyo, 2024). However, under Islamic law, pregnancy outside marriage cannot automatically justify marrying off a minor. Fiqh requires that marriage decisions be assessed in light of broader considerations of public interest. Where marriage is likely to expose the child to greater harm, the legal maxim *dar’ al-mafāsid muqaddam ‘ala jalb al-maṣalih* (preventing harm takes precedence over procuring benefit) must be applied (Ilham, 2025).

In this context, judges are required to evaluate the urgency of the application on the basis of medical evidence and witness testimony to ensure that any dispensation granted genuinely represents the best option for the child’s protection, both socially and juridically (Fendi et al., 2024). As one judge stated, “If both the formal and substantive requirements are fulfilled and the application is deemed appropriate, it will be granted.” At the same time, the judge emphasized that “the considerations vary—whether the parties have previously engaged in sexual relations, whether they have not, and how pregnancy factors into the assessment.” This underscores that there is no single uniform standard; rather, judicial determinations are grounded in fact-specific evaluations conducted during court proceedings (Fendi et al., 2024).

Social pressures—such as feelings of shame, concerns about zina (extramarital sexual relations), and pressure from extended family members—also significantly influence applications for marriage dispensation. In societies that strongly uphold religious and cultural norms, early marriage is often perceived as a solution to perceived ethical or moral transgressions, without adequate consideration of the child’s readiness (Agustiawan & Mutahirah, 2023). In an interview, a judge offered a critical reflection: “In other words, from your question, if she is not pregnant and has never engaged in marital relations—whether she is pregnant or not—should her application be rejected, and must she first commit zina in order for it to be granted?” This rhetorical question exposes

the moral dilemma faced by the judiciary when social pressures push for the legal validation of actions that may not be in the child's best long-term interests.

The child's educational background also constitutes an important substantive consideration. Children who have dropped out of school or come from low-education environments are more vulnerable to exploitation and long-term poverty (Baihaqi et al., 2024). In such circumstances, judges must assess whether marriage would exacerbate the child's condition or instead obstruct opportunities for improving their quality of life (Makka et al., 2021). As one judge explained, "One of the reasons is that she has not attended school for a long time and no longer wishes to return, and she fears engaging in undesirable behavior—these are what she considers urgent circumstances." This illustrates that judicial decisions often arise from a context of limited options rather than from fully informed and autonomous choice.

Furthermore, the principle of the best interests of the child serves as the primary foundation for judicial decision-making in marriage dispensation cases. This principle is consistent with the mandate of Law No. 35 of 2014 on Child Protection, which prioritizes the safety and welfare of children (Nur Fajar, 2023). Judges are therefore required not merely to yield to social pressure, but also to exercise the courage to reject applications that offer no long-term benefit or that pose potential harm to the child's future (Kurniawan & Qohar, 2021).

In certain cases, non-litigation approaches—such as counseling or educational programs—may constitute more appropriate alternatives to early marriage. Judges have the discretion to recommend solutions grounded in comprehensive social protection, addressing not only immediate moral concerns but also supporting the child's long-term development (Asmarini, 2021). This approach represents a concrete manifestation of substantive justice and the fulfillment of *maqasid al-shari'ah* within judicial practice (Bakari & Darwis, 2019).

Ultimately, judges must uphold the principles of transparency and justice, particularly when confronted with community or familial pressure on prospective spouses. Judicial decisions should reflect a commitment to child protection, respect for human rights, and a proportional consideration of social context

(Marwiyah et al., 2023). As noted in an interview, “We advise everyone, we provide guidance and counseling during the hearings... so that after marriage, they do not return shortly thereafter because they are psychologically unprepared or lack the capacity to assume responsibility.” Accordingly, marriage dispensation should not function as a mechanism for legitimizing social pressure, but rather as a legal instrument genuinely oriented toward the holistic protection of the child.

C. Social Norms as Determining Factors in Judicial Decisions

Social norms embedded in local communities often play a decisive role in marriage dispensation cases, particularly in assessing the perceived legitimacy of relationships between young couples. In many communities, long-term dating relationships are regarded as a form of legitimate commitment, and marriage is viewed as a reasonable means of legal and social validation to avoid stigma (Pamessangi et al., 2024). Family and community pressure frequently accelerates marriage even when the prospective spouses do not meet the statutory age requirements (Putra Jaya & Mardliyati, 2023). Such norms function not only as a framework shaping social perceptions of young people’s relationships, but also as a mechanism for preserving family honor. In interviews, judges described this dynamic as follows: “Sometimes, during the hearing, one of the reasons is that although they have not had sexual relations and there is no pregnancy, they still wish to marry—why? Because they are already very close and fear committing zina.”

Within the framework of maqasid al-shari‘ah, social pressure cannot constitute a legitimate justification for sacrificing the principles of hifz al-nafs (protection of life) and hifz al-‘aql (protection of intellect). Religious courts should function as guardians of public welfare (*maslahah*), rather than merely accommodating social pressure. Accordingly, social considerations must be carefully weighed against Islamic legal principles concerning child protection (Bakence et al., 2025).

This reality reflects situations in which social anxieties often outweigh considerations of the couple’s maturity. A dilemma arises when judges are required to balance positive legal norms against prevailing cultural values within society. Many marriage dispensation decisions emerge from judicial processes

that take these social aspirations into account, resulting in cultural values influencing legal reasoning (Syah et al., 2023).

However, an overly accommodative approach toward social norms risks marginalizing child protection principles, particularly when the prospective spouses lack sufficient emotional and economic readiness (Nursari & Efrarianti, 2024). Judges themselves acknowledge this complexity through critical reflection: “If she is not pregnant and has never engaged in marital relations, whether she is pregnant or not, should the application be rejected—and must she first commit zina in order for it to be granted?” This statement underscores that social norms, even when rooted in moral concern, cannot automatically serve as the primary basis for legal decisions that directly affect a child’s future.

In cases of pregnancy outside marriage, social norms play an especially powerful role in driving applications for marriage dispensation. Such circumstances are perceived as tarnishing family dignity, making marriage a restorative solution to avoid social stigma (Ariawan et al., 2021). Judicial responses to these situations tend to be accommodative in the interest of maintaining social harmony, even though such decisions may at times overlook the psychological and legal readiness of the prospective spouses (Haga et al., 2023).

As articulated by a judge, “If the formal and substantive requirements are met and the case is deemed eligible, the application will be granted—but are the considerations the same? Of course not; the considerations vary.” This indicates that, despite similarities in social factors, each case requires careful legal and psychosocial assessment, emphasizing the need for judicial prudence and contextual evaluation.

Although judicial decisions often reflect sensitivity to cultural norms, the adjudicative process should, ideally, place child protection as its foremost priority. Judges are required to maintain a careful balance between respecting local values and upholding legal principles that safeguard children’s rights to a secure and high-quality future (Taolin et al., 2024). Marriage entered into primarily as a response to social pressure does not guarantee marital stability and may generate adverse consequences for both the spouses and any children born of the union

(Insani et al., 2023). In this regard, a judge expressed concern: “We must ensure that shortly after the marriage, they do not return because they were not psychologically prepared or lacked a sense of responsibility.”

Academic critiques of this practice argue that many marriage dispensations are reactive to social pressure and thus neglect the principle of *istīṭā’ah* (capacity or capability). In Islamic law, legal obligations arise only where the subject possesses the requisite capacity. When a child lacks the ability to fulfill the responsibilities of marriage, granting a dispensation runs counter to the principle of child protection (Ilham, 2025). This underscores that the primary objective of judicial decisions should not merely be the avoidance of social shame, but the assurance of comprehensive readiness and protection for the child.

Parental concerns about the risk of children engaging in extramarital sexual relations are also frequently invoked as grounds for seeking marriage dispensations. In societies with strong religious norms, zina is perceived as a serious violation of religious and public moral values (Karolina et al., 2024). Consequently, marriage is often regarded as a legitimate preventive measure to avert social slander and preserve family honor, while applications for dispensation serve as a legal mechanism to circumvent the minimum age requirement (Puspasari & Pawitaningtyas, 2020).

In this context, judges have noted that applicants often articulate pressing reasons, such as: “She has long since stopped attending school and does not wish to return, and there is concern that she may engage in undesirable behavior—these are what they consider urgent reasons.” This indicates that social norms are frequently intertwined with constrained socio-economic realities, rather than grounded in an informed understanding of marital rights and readiness. In practice, judges take the strength of such norms into account as part of the socio-cultural reasoning underlying their decisions. Even when statutory age requirements are not met, contextual considerations are often used to justify granting a dispensation (Ningtiyas et al., 2024). However, this approach raises ethical and juridical dilemmas, as it may open the door to marriages that are psychologically and socially unhealthy (Handayani et al., 2021). Pressure to

preserve family image can eclipse the child's preparedness and reduce marriage to an instant solution that carries significant long-term risks.

Accordingly, courts should explore alternatives to marriage in responding to such social concerns. Comprehensive sexual education, psychosocial support, and family mediation can serve as preventive strategies that are more firmly oriented toward children's rights and well-being (Asrofi, 2019). As one judge noted in the courtroom, "We advise everyone, we provide guidance and counseling during the hearings." This statement illustrates that judges do not merely apply normative law, but also function as agents of education and social awareness, prioritizing children's futures and family stability. Judges are therefore called upon not only to execute local norms, but to act as protectors of children's rights who can guide society toward more rational and humanistic approaches.

D. Constraints in the Implementation of Law No. 16 of 2019 in the Courts

The implementation of Law No. 16 of 2019, which amends Law No. 1 of 1974 on Marriage, faces a number of significant challenges, particularly in the objective assessment of the maturity of minors applying for marriage dispensation. The principal difficulty lies in the absence of standardized indicators that judges can employ to evaluate the psychological, emotional, and social readiness of prospective spouses. This gap inevitably results in subjectivity in judicial assessment (Satria et al., 2023). In the absence of clear benchmarks, judges often base their decisions on personal perceptions or are influenced by social pressures. As one judge acknowledged, "The problem is that we cannot properly assess a child's readiness, because we do not have indicators that we can rely on."

From the perspective of Islamic law, the standard of maturity (*rusyd*) encompasses not only physical capacity but also mental and intellectual readiness, which should be established through a careful and rigorous verification process. Consequently, the absence of psychologists or professional assessors in court proceedings constitutes a structural obstacle that undermines the accurate application of *maqasid al-shari‘ah* principles in cases involving children (Nafisah, 2019). This observation underscores that the core challenge lies not merely in the

lack of assessment tools, but in the absence of universally accepted standards to guide juridical reasoning.

In practice, parental pressure and prevailing local social norms frequently become the primary grounds for submitting applications for marriage dispensation, even when the child concerned has not attained adequate maturity. In several communities, long-standing dating relationships or pregnancies outside of marriage are regarded as sufficient justification for marriage. This situation places judges in a dilemma between adhering to formal legal regulations and responding to societal expectations (Asmarini, 2021). As a judge explained, “These are external factors—sometimes long-term dating, pregnancy, parents fearing social disgrace—all of these create pressure.” Such social pressures from families and communities often influence judicial decisions, blurring the objectivity that legal norms are intended to uphold.

Adolescent pregnancy outside of marriage remains the dominant reason for applications for dispensation, despite the fact that rushed marriages may generate new problems when couples are mentally and emotionally unprepared. In many cases, judges feel compelled by prevailing moral pressures to promptly legalize the marriage as a perceived solution, even though this approach risks undermining the principle of child protection guaranteed by law (Syafi'i & Anggraini, 2023). Ideally, objective assessment should involve expert assistance, such as psychological evaluations; however, such measures are often inadequate due to limited data or incomplete assessments. As one judge candidly noted, “Not all cases involve a psychologist; we rely only on the child's statement and the parents' statements. We do not know whether there is pressure or not—we can only see what appears on the surface.” This highlights a serious limitation in comprehensively exploring the child's psychological condition as a sound basis for judicial decisions.

Furthermore, this situation reflects a failure in education and outreach related to reproductive health, which should function as a preventive instrument against early marriage. The lack of adequate sex education and adolescents' limited understanding of sexual relationships have contributed to the high incidence of out-of-wedlock pregnancy. As a result, the judicial system has

become the primary forum for resolving problems that should, in fact, be prevented through educational and social interventions (Andriati et al., 2022). In this context, judges have emphasized that the courts often serve as a place of last resort: “This is actually not our main task, but because there is no adequate education, everything eventually ends up in court.” This statement underscores that courts frequently function as the final safeguard due to the absence of effective social and educational systems.

Beyond normative and cultural barriers, structural constraints also pose serious challenges to the implementation of this law, particularly with respect to limited time in court proceedings. Expedited judicial processes often prevent judges from conducting a thorough inquiry, especially into the psychological condition of the children involved. Reliance on brief reports or secondary data may result in decisions that fail to reflect the principles of substantive justice (Sabani et al., 2024). Judges have explicitly described these time constraints: “Time is very limited, there are many hearings, so sometimes we cannot ask more in-depth questions; we decide according to the application as long as the administrative requirements are complete.” Such decisions, although procedurally valid, risk neglecting the substantive dimension of child protection.

The heavy caseload further intensifies pressure on judges to resolve cases swiftly, often at the expense of careful analysis. Under these conditions, efficiency tends to be prioritized over accuracy and substantive considerations, potentially undermining the best interests of the child (Sabani et al., 2024). Limited time also hampers meaningful communication with relevant parties, resulting in the insufficient exploration of the perspectives of children, parents, and professional experts. This is reinforced by a judge’s remark: “Sometimes we only have 15 minutes for one case, which is far from sufficient if we want to examine the matter in depth.” Such circumstances reflect institutional pressures that adversely affect the quality of legal reasoning, which should ideally be more holistic.

To address these challenges, policy reform is required to strengthen the capacity of judicial institutions, enhance the involvement of professional experts, and update hearing mechanisms to allow for comprehensive case examination. The systematic engagement of professionals such as psychologists is essential to

support decisions that are not only legally sound but also substantively just and aligned with the best interests of the child (Vitalaya, 2021). In this regard, judges have offered a practical recommendation: “If possible, the government should provide psychologists in every court; this is very important so that we can assess cases more objectively.” In this way, the courts can function not merely as law enforcers, but also as guardians of children’s rights in the face of complex social pressures.

E. The Role of the Courts and Government in Preventing Early Marriage

Preventing child marriage requires the active involvement of both judicial institutions and the government through systematic, education-based approaches. One strategy that has proven effective is the provision of direct legal counseling in the courtroom to children, prospective spouses, and parents. Such counseling offers in-depth understanding of the provisions of Law No. 16 of 2019 concerning the minimum age of marriage, while also highlighting the legal, health, and social risks associated with early marriage (Sanjaya et al., 2022). The participation of institutions such as the Office of Religious Affairs (Kantor Urusan Agama, KUA) in these activities further strengthens the authority and credibility of the information conveyed. As one judge noted, “Before the hearing, we provide counseling first, so they understand that marriage is not a quick solution but a decision that must be carefully considered.” This indicates that education delivered at the early stages of the legal process has significant preventive value.

Beyond serving as a medium for legal information, counseling also functions to offer positive alternatives for children and families, such as continuing education and personal development. Active participation by village governments in educational initiatives has been shown to reduce the incidence of child marriage by increasing community awareness of the importance of safeguarding children’s futures (Anjarwati & Haerah, 2023). The delivery of neutral and factual information encourages both children and parents to adopt a more critical perspective when considering marriage. According to a judge, “Sometimes after we provide counseling, the child says they are not ready and want to continue school first. That means the counseling has successfully

broadened their perspective.” This reinforces the argument that counseling not only disseminates information but also fosters deeper awareness.

The KUA plays a crucial role in community outreach aimed at developing comprehensive legal and social understanding. Through sustained educational efforts, communities are encouraged to reassess long-standing norms that legitimize early marriage practices and to begin prioritizing children’s well-being and readiness (Rahadiani & Muslim, 2023). In this context, the courts function not only as judicial bodies but also as agents of social change through dialogue and the exploration of the underlying motivations behind applications for marriage dispensation (Amiri & Paputungan, 2023). This is reflected in a judge’s statement: “I often ask the child directly why they want to get married. If the answer is because their parents told them to, I first provide guidance and do not immediately grant the application.” Accordingly, the courtroom becomes a space for clarifying intentions and motivations, rather than merely a venue for formal legal validation.

The effectiveness of counseling is further enhanced through the involvement of stakeholders such as community leaders and civil society organizations focused on child protection. Cross-sectoral collaboration has been shown to expand the reach of educational initiatives and to shape public opinion in support of delaying the age of marriage, thereby transforming counseling into a sustainable collective movement (Cahaya et al., 2023). This collaborative approach enables institutional synergy in conducting structured awareness campaigns. In practice, judges acknowledge that “if it is only the court, it is very difficult. There must be cooperation with schools, the KUA, and even neighborhood and community associations.” This underscores that a multisectoral approach is a fundamental prerequisite for the long-term success of early marriage prevention programs.

Within an integrated counseling model, judicial institutions play a key role in explaining the legal consequences of child marriage, while educational institutions instill values of self-protection and personal development in students from an early age. Through formal education pathways, children are provided with spaces to discuss their future, life choices, and the importance of postponing marriage in order to achieve mental and economic readiness (Rahadiani &

Muslim, 2023). Village governments contribute by delivering education on reproductive health and adolescent character development, with the aim of shifting long-standing social norms that have been permissive toward early marriage (Puspasari & Pawitaningtyas, 2020). In this regard, a judge noted that “sometimes we propose to the education office that there should be lessons or activities that can educate children about marriage and their future.” This proposal reflects the urgency of integrating the education system with the judicial framework.

Furthermore, counseling initiatives should prioritize the provision of comprehensive reproductive health education in schools. When adolescents understand the biological and psychological risks of early marriage, they are better equipped to make responsible decisions. Such education is essential as a preventive measure against unplanned sexual relationships that often result in teenage pregnancy and subsequent applications for marriage dispensation (Nurjannah & Kahija, 2020). Reproductive health education must be delivered in a scientific and age-appropriate manner. Legal awareness is also a crucial component in preventing violations of Law No. 16 of 2019. Limited public understanding of the legal minimum age for marriage and the associated sanctions contributes to the persistence of early marriage practices. Legal counseling directed at children and families helps strengthen awareness of rights and legal protections, while simultaneously serving as a safeguard against social and cultural pressures (Husaini, 2023).

Targeted legal socialization can serve as an effective preventive strategy. As emphasized by a judge, “we must also explain that marrying under the legal age violates the law and carries sanctions; it is not merely a family matter.” This legal clarification is essential to ensure that counseling does not function merely as persuasion, but also fosters awareness of juridical consequences.

Public outreach should also highlight the multidimensional negative impacts of child marriage. Health complications, school dropout, economic dependency, and the heightened risk of domestic violence are tangible consequences that must be openly communicated to the public (Pamessangi et al., 2024). Such information is vital for fostering critical awareness in decision-making processes.

All of these approaches will be effective only if implemented in an integrated manner. Collaboration among courts, educational institutions, the health sector, and community leaders will strengthen the social structures that support delaying the age of marriage. The involvement of religious and community figures who possess moral authority can further enhance the effectiveness of counseling messages (Anjarwati & Haerah, 2023). By building cross-sectoral synergy, counseling initiatives become more than mere information campaigns; they evolve into instruments of broader social value transformation.

Finally, counseling programs should be designed as part of a sustainable national strategy. Through the provision of accurate information, health education, and legal and social support, children and parents will be better equipped to withstand social pressures and to make well-considered decisions. This comprehensive approach is expected to reduce the prevalence of child marriage and to promote the development of a younger generation that is healthier, more empowered, and legally aware (Sari & Wahyudi, 2022).

- The research findings indicate the need for an integration between Indonesian positive law and substantive Islamic law:
- Law No. 16 of 2019 emphasizes age limits as an administrative protection mechanism.
- Fiqh underscores maturity (rusyd), the capacity to provide maintenance, and psychological readiness.
- Maqasid al-syari‘ah provides a theological framework to ensure that decisions generate genuine *maṣlahah* for the child (Ilma, 2020).

CONCLUSIONS

This study demonstrates that marriage dispensation remains the most viable legal instrument for communities when discrepancies arise between the minimum marriage age stipulated in Law No. 16 of 2019 and social realities such as teenage pregnancy, cultural pressure, and concerns over deviant behavior. Based on an analysis of Case No. 15/Pdt.P/2024/PA.Bji before the Binjai Religious Court, the study confirms that marriage dispensation constitutes the sole legal mechanism through which communities may obtain legal certainty in urgent circumstances,

provided that the application satisfies both formal and substantive requirements and does not contravene the principle of child protection.

The findings further reveal that the role of judges is pivotal in ensuring the realization of substantive justice. Judges are required not merely to assess administrative documentation, but also to examine psychological readiness, reproductive health, socio-economic conditions, and the long-term implications for the child. Through prudent judicial discretion, judges function as guardians of *maṣlahah*, ensuring that marriage dispensation is not reduced to a mere legitimization of social pressure, but rather serves as an instrument of legal protection.

This analysis also demonstrates that the application of marriage dispensation is consistent with Islamic legal values oriented toward public benefit, particularly through the principles of *maqasid al-syari‘ah*, which emphasize the protection of life (*hifz al-nafs*), intellect (*hifz al-‘aql*), and lineage (*hifz al-nasl*). Accordingly, judicial decisions that grant dispensations only under specific and limited circumstances reflect an integration of positive law with *Sharia* principles.

Moreover, this study makes an important academic contribution by affirming that “this research enriches the discourse of Islamic family law by demonstrating that the mechanism of marriage dispensation is compatible with the principles of *maṣlahah* and the protection of civil rights.” Therefore, strengthening indicators for assessing child maturity, increasing the involvement of psychologists, and enhancing public education systems are strategic measures to ensure that marriage dispensation genuinely functions to protect the younger generation, rather than merely responding to social pressure.

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