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Navigating Marriage Dispensation in Indonesia: Marriage Age, Judicial Discretion, and Legal Culture through Friedman's Theory

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Abstract

The increase in Indonesia's minimum marriage age under Law No. 16 of 2019 was intended to strengthen child-marriage prevention. However, the marriage-dispensation mechanism under Article 7(2) creates an exception whose application may complicate the achievement of this objective. Previous studies have documented the increasing number of marriage-dispensation applications but have paid less attention to how legal norms, judicial practices, and socio-cultural pressures interact in shaping judicial decisions. This study examines how these dimensions influence marriage-dispensation practices in Indonesia. Using a socio-legal approach, the study analyzes 19 marriage-dispensation decisions recorded in the Supreme Court Decision Directory between 2023 and 2026 through Lawrence M. Friedman's legal system theory, encompassing legal substance, legal structure, and legal culture. The findings reveal three interconnected patterns. First, the statutory requirement of "very urgent reasons" under Article 7(2) lacks sufficiently specific and measurable criteria, leaving considerable interpretive space for judges. Second, judicial decisions demonstrate substantial reliance on judicial discretion in determining urgency, with all 19 cases in the sample being granted. Third, legal culture significantly shapes judicial reasoning, particularly through concerns about zina, social stigma, family shame, and community expectations. The study's novelty lies in demonstrating how gaps in legal substance are mediated by judicial discretion and reinforced by legal-cultural considerations, thereby producing a recurring pattern of marriage-dispensation approval. The findings highlight the importance of clearer standards for assessing urgency while recognizing the socio-cultural context of judicial decision-making.

Kata Kunci: Marriage Dispensation; Child Marriage; Friedman's Legal System Theory; Marriage Law; Socio-Legal.

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Introduction

Child marriage remains a complex social and legal issue that cannot be adequately addressed through legislative reform alone. Although many countries have established minimum legal ages for marriage to protect children,[1] the persistence of child marriage is shaped by a range of interrelated factors, including household economic conditions,[2] social norms,[3] religious understandings,[4] and prevailing societal perceptions of marriage.[5] In Indonesia, these concerns prompted the amendment of Law No. 1 of 1974 on Marriage through Law No. 16 of 2019. The amendment raised the minimum legal age of marriage for both males and females to 19 years. This reform marked an important step towards strengthening child protection and eliminating the gender-based disparity in the minimum legal age of marriage.

National statistical trends indicate a decline in the prevalence of child marriage in Indonesia. Data from Statistics Indonesia (Badan Pusat Statistik/BPS) show that the proportion of women aged 20–24 who had married or entered into a union before the age of 18 decreased from 12.14% in 2015 to 4.56% in 2025. This decline represents a positive development in efforts to strengthen child protection through minimum-age marriage regulations. The downward trend alone is insufficient to establish that the objectives of marriage law reform have been fully achieved.[6] The effectiveness of the policy should not be assessed solely on the basis of declining national figures; it must also be examined in relation to local social conditions and the implementation of legal provisions in practice. Accordingly, these statistical developments warrant critical scrutiny, particularly regarding whether

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[1] Ahmad Ropei et al., "Managing 'Baligh' in Four Muslim Countries: Egypt, Tunisia, Pakistan, and Indonesia on the Minimum Age for Marriage," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 16, no. 1 (2023): 112–40, https://doi.org/10.14421/ahwal.2023.16106; Amal Hayati et al., "The Impact of The Minimum Age Limit Regulation for Continuing Child Marriage After the Birth of Law Number 16 Of 2019 on The Child's Future," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 1 (2023): 174–82, https://doi.org/10.22373/ujhk.v6i1.16837; Irem Ebetürk, "Global Diffusion of Laws: The Case of Minimum Age of Marriage Legislation, 1965–2015," *European Journal of Cultural and Political Sociology* 8, no. 3 (2021): 294–328, https://doi.org/10.1080/23254823.2021.1887749.

[2] Heri Kuswanto et al., "Prevalence of and Factors Associated with Female Child Marriage in Indonesia," ed. Frank Kyei-Arthur, *PLOS ONE* 19, no. 7 (2024): e0305821, https://doi.org/10.1371/journal.pone.0305821; Ria Anggraeni Utami et al., "Rethinking Early Marriages in Indonesia: Advocating for Reform to Tackle Domestic Conflict, Violence, and Rights Infringements," *Indonesian Journal of Advocacy and Legal Services* 5, no. 1 (2023): 35–64, https://doi.org/10.15294/ijals.v5i1.29849.

[3] Sri Murlianti et al., "Reproducing Honor: Child Marriage within Symbolic and Communal Power Relations in East Kalimantan," *Jurnal Ilmu Sosial* 24, no. 2 (January 2, 2026): 391–408, https://doi.org/10.14710/jis.24.2.2025.391-408; Heribertus Rinto Wibowo et al., "One Household, Two Worlds: Differences of Perception towards Child Marriage among Adolescent Children and Adults in Indonesia," *The Lancet Regional Health – Western Pacific* 8 (2021): 100103, https://doi.org/10.1016/j.lanwpc.2021.100103.

[4] Mies Grijns and Hoko Horii, "Child Marriage in a Village in West Java (Indonesia): Compromises between Legal Obligations and Religious Concerns," *Asian Journal of Law and Society* 5, no. 2 (2018): 453–66, https://doi.org/10.1017/als.2018.9.

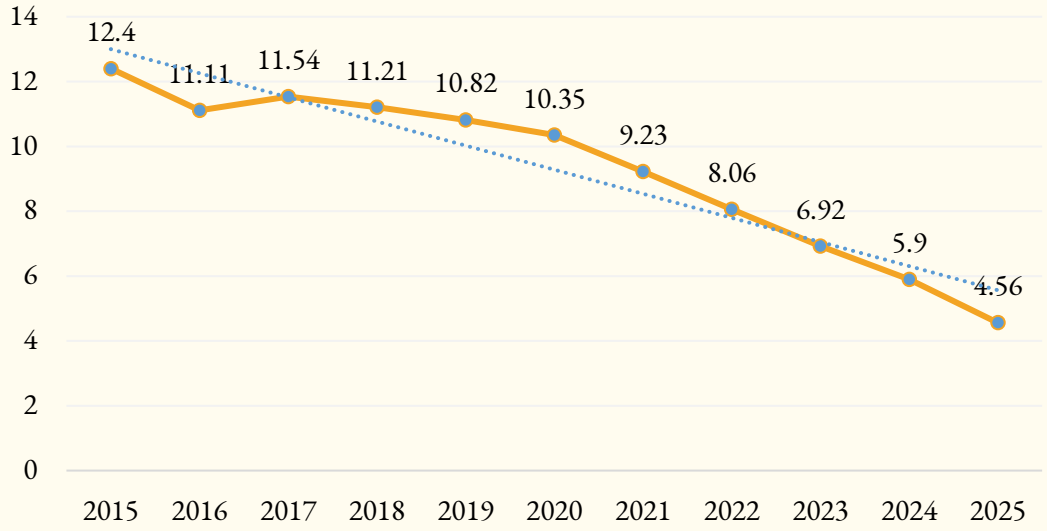
[5] Muliani Ratnaningsih et al., "Child Marriage Acceptability Index (CMAI) as an Essential Indicator: An Investigation in South and Central Sulawesi, Indonesia," *Global Health Research and Policy* 7, no. 1 (2022): 32, https://doi.org/10.1186/s41256-022-00252-4.

[6] Busriyanti et al., "Marriage Law Reform in Indonesia A Maqasid Al-Usrah Perspective on Legal Adaptation," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 631–649, https://doi.org/10.29240/jhi.v10i2.12739; Theresia Dyah Wirastri and Stijn Cornelis Van Huis, "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms," *AHKAM : Jurnal Ilmu Syariah* 24, no. 2 (2024): 215–32, https://doi.org/10.15408/ajis.v24i2.38424.

regulatory changes have been accompanied by changes in marriage practices at the community level and whether legal protection for children has been implemented consistently.

Despite the national downward trend, the prevalence of child marriage continues to vary considerably across provinces. Statistics cited by *Badan Pusat Statistik* indicate that South Papua recorded the highest proportion, at 12.94%, of women aged 20–24 who had married before the age of 18. Several other provinces also reported figures exceeding 8%, including Southwest Papua (12,25%), West Sulawesi (11,21%), West Nusa Tenggara (11,31%), Southeast Sulawesi (8,19), West Kalimantan (8,82%), Central Kalimantan (8.53%), South Kalimantan (8.38%), and Bangka Belitung Islands (8,41%). These figures demonstrate that national progress does not necessarily reflect conditions uniformly across all regions. Such provincial disparities warrant particular attention because child marriage is influenced not only by the existence of legal regulations but also by household economic circumstances, social norms, religious understandings, and community acceptance of the minimum legal age of marriage. Consequently, addressing child marriage requires more than establishing a uniform legal age; it also necessitates context-sensitive implementation, effective legal enforcement, and sustained engagement with the social and cultural factors that shape marriage practices at the local level.

Figure 1. Percentage of Women Aged 20–24 Who Were Married or Living with a Partner Before Age 18, by National (Percent)



Source: Badan Pusat Statistik[7]

One of the key challenges in implementing this policy is the existence of the judicial dispensation mechanism for underage marriage. Before the amendment, Article 7(1) of Law No. 1 of 1974 on Marriage established the minimum legal age of marriage at 19 for males and 16 for females. Through Law No. 16 of 2019, the minimum age was raised to 19 for both males and

[7] Badan Pusat Statistik, "Proporsi Perempuan Umur 20-24 Tahun Yang Berstatus Kawin Atau Berstatus Hidup Bersama Sebelum Umur 18 Tahun Menurut Provinsi," Badan Pusat Statistik, 2026, https://www.bps.go.id/id/statistics-table/2/MTM2MCMy/proporsi-perempuan-umur-20-24-tahun-yang-berstatus-kawin-atau-berstatus-hidup-bersama-sebelum-umur-18-tahun-menurut-provinsi.html.

females. Nevertheless, Article 7(2) of the amended law retains the possibility for parents to petition the court for a marriage dispensation in cases involving compelling circumstances, provided that sufficient supporting evidence is submitted.[8] This provision is implemented in accordance with Supreme Court Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation.[9] The existence of this mechanism places judges in a complex position. On the one hand, they must assess the grounds presented by applicants and the specific circumstances of the prospective spouses. On the other hand, decisions to grant dispensations must remain consistent with the objectives of establishing a minimum legal age of marriage and the principle of the best interests of the child. From the perspective of Islamic law, this issue involves considerations of public benefit (*maslahah*), the prevention of harm, and the protection of vulnerable parties.[10] Marriage dispensation should not be understood merely as an exception to the statutory age requirement. Its implementation must also be examined in terms of how judges assess the urgency of applications, the readiness of prospective spouses, and the potential risks associated with marriage at a young age.

Previous studies have examined the amendment of the minimum legal age of marriage and the various issues that have emerged following the enactment of Law No. 16 of 2019. Focuses on changes in legal norms and their implications for child protection and gender equality. This body of research generally regards the harmonization of the minimum legal age of marriage as an important development in Indonesian family law reform, while acknowledging the challenges associated with its implementation. Examines trends in marriage dispensation applications within the religious court system. Nirmala et al. (2024), for example, discuss the increase in marriage dispensation applications at the Purwokerto Religious Court.[11] Abdur Rohman and Ita Rahmania Kusumawati (2022) likewise examine the implications of regulatory changes for marriage dispensation applications at the Jombang Religious Court.[12] Meanwhile, Daud Rismana et al. (2024) address what they describe as

[8] Jaedin Jaedin et al., "Reconstructing Marriage Dispensations in Indonesia: Child Protection through Human Rights and Maqāṣid Al-Sharī'A," *Al-Ahkam* 36, no. 2 (2026): 337–66, https://doi.org/10.21580/ahkam.2026.36.2.32533; Mansari Mansari et al., "Concretizationof Urgent Reason And Sufficientevidence In Providing Marriage Dispensation For Children By The Judge," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, no. 2 (2020): 195–206, https://doi.org/10.19109/nurani.v20i2.5898.

[9] Nur Mohamad Kasim and Indra Saputra Daud, "Application of The Concept of Maslahah by Judges to Issuance of Marriage Dispensation Due to Pregnancy in Religious Courts," *Jambura Law Review* 4, no. 1 (2022): 122–38, https://doi.org/10.33756/jlr.v4i1.10999.

[10] Dewi Sartika and Elly Warnisyah Harahap, "Human Rights from the Perspective of Islamic Political Philosophy: The Relationship between the State, Sharia, and Maqāṣid Al-Sharī'Ah," *Analisis: Jurnal Studi Keislaman* 26, no. 2 (2026): 175–200, https://doi.org/10.24042/ajsk.v26i2.32946.

[11] Nirmala et al., "Potensi Maraknya Kasus Dispensasi Nikah Akibat Revisi Undang-Undang Nomor 16 Tahun 2019 Tentang Perkawinan Di Pengadilan Agama Purwokerto Kelas 1A," *Cakrawala Hukum: Majalah Ilmiah Fakultas Hukum Universitas Wijayakusuma* 26, no. 2 (2024): 1–7, https://doi.org/10.51921/chk.3evqtz51.

[12] Abdur Rohman and Ita Rahmania Kusumawati, "Penerapan Undang-Undang Batas Minimal Usia Perkawinan Dan Dampaknya Dalam Masyarakat," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 9, no. 2 (2022): 377–93, https://doi.org/10.32505/qadha.v9i2.5059.

the paradox of marriage dispensation,[13] although the minimum legal age has been raised, the legal framework continues to permit underage marriage through an exception mechanism. Investigates judicial reasoning in decisions on marriage dispensation applications. Iwannudin et al., (2023) for instance, examines the tendency to invoke moral emergencies as a ground for granting dispensations.[14] Collectively, these studies demonstrate that marriage dispensation is not merely a matter of statutory formulation but also involves judicial practice and the social circumstances underlying applications. However, their findings must be interpreted in light of the scope of each study. An increase in dispensation applications at a particular court, for example, does not in itself establish an increase in the national prevalence of child marriage. Similarly, the grounds invoked by judges must be examined in the context of individual cases and the legal provisions applied.

Although previous studies have addressed regulatory changes, increases in marriage dispensation applications, and judicial reasoning, the relationship between legal provisions, judicial practice, and community legal culture warrants a more integrated examination. These three dimensions are closely interconnected in practice, yet they are not always analyzed as components of a single legal-systemic problem. The statutory requirement that prospective spouses be at least 19 years old cannot be separated from the manner in which courts exercise their authority or from the circumstances that lead families to seek dispensations. Normatively, the amendment was intended to strengthen child protection and prevent marriage below the prescribed minimum age. In practice, however, the dispensation mechanism continues to permit underage marriage when the legal requirements are satisfied and the court grants the application. This does not mean that every dispensation granted is necessarily contrary to child protection. In certain cases, judges must take account of the particular circumstances confronting children and their families. The central issue, therefore, is how to ensure that this exception does not undermine the primary objective of establishing a minimum legal age of marriage.

This study argues that marriage dispensation cannot be adequately explained solely in terms of regulatory shortcomings or patterns in judicial decision-making. The effectiveness of legal reform is also shaped by the interaction between the substance of legal rules, the exercise of judicial authority, and the legal culture of society. Understanding this interaction is essential to explaining why changes to the minimum legal age do not necessarily produce corresponding changes in marriage practices. To examine these relationships, the study employs Lawrence M. Friedman's legal system theory, which comprises three elements: legal substance, legal structure, and legal culture. These elements provide an integrated framework for analyzing the implementation of marriage dispensation. In terms of legal substance, the study examines the relationship between the minimum-age requirement established by Law No. 16 of 2019 and the dispensation mechanism

[13] Daud Rismana et al., "The Controversy on the Minimum Age for Marriage in Indonesia: Factors and Implications," *Journal of Sustainable Development and Regulatory Issues (JSDERI)* 2, no. 1 (2024): 53–66, https://doi.org/10.53955/jsderi.v2i1.21.

[14] Iwannudin Iwannudin, Siti Mahmudah, and Alamsyah, "Judges' Considerations in Deciding on Marriage Dispensation Cases at Religious Courts in Lampung Province, Indonesia," *SMART: Journal of Sharia, Traditon, and Modernity* 4, no. 2 (2024): 107–29, https://doi.org/10.24042/smart.v4i2.24534.

provided under the same law. Regarding legal structure, it investigates the role of the courts and judicial discretion in applying the dispensation provisions while safeguarding the interests of children. With respect to legal culture, it considers social values, religious understandings, family expectations, and community attitudes toward child marriage, insofar as these dimensions are supported by adequate research evidence. Friedman's theory enables the study to demonstrate that the operation of law depends not only on the content of legal rules but also on the institutions responsible for implementing them and the social environment in which they operate. This approach distinguishes the present study from research that focuses exclusively on statutory amendments, quantifies trends in dispensation applications, or examines judicial reasoning in isolation. Its contribution lies in explaining how the three elements of the legal system interact in the implementation of marriage dispensation in Indonesia. From this perspective, marriage dispensation is understood not merely as an exception to the minimum-age requirement but as a legal issue that reveals the interrelationship between regulatory design, judicial practice, and prevailing social conditions.

This study aims to analyze the implementation of marriage dispensation in Indonesia through Lawrence M. Friedman's legal system theory, focusing on the minimum legal age of marriage, judicial discretion, and legal culture. It addresses three principal research questions. First, how do the legal provisions governing the minimum age of marriage and marriage dispensation regulate child protection in Indonesia? Second, what roles do the courts and judicial discretion play in the application of marriage dispensation provisions? Third, how does community legal culture relate to the implementation of regulations and judicial practices in marriage dispensation cases? These questions are intended to identify the factors shaping the implementation of marriage law reform and to examine the relationship between normative objectives and legal practices in society. Academically, this study is expected to contribute to Islamic family law scholarship and socio-legal studies, particularly by explaining the implementation of marriage dispensation through the interaction of legal substance, judicial structure, and legal culture. Practically, its findings are expected to inform evaluations by policymakers and judicial institutions seeking to implement dispensation provisions more consistently with the objective of child protection. Ultimately, the study emphasizes that the success of marriage law reform cannot be measured solely by changes to the statutory minimum age but must also be assessed in terms of how the law is implemented and understood within society.

Research Methods

This study employs a document-based normative legal research design using three approaches: the statute approach, the case approach, and the conceptual approach. These approaches are used to examine the regulation of the minimum legal age of marriage and the application of marriage dispensation following the enactment of Law No. 16 of 2019 amending Law No. 1 of 1974 on Marriage. The statute approach examines the legal provisions governing the

minimum age of marriage and the requirements for granting marriage dispensations. The case approach analyzes judicial reasoning in decisions concerning marriage dispensation applications. Meanwhile, the conceptual approach explores the relationship between legal certainty, child protection, the principle of *maslahah* (public benefit) in Islamic law, and judicial discretion. These approaches were selected to facilitate an understanding not only of the applicable legal framework but also of how its provisions are applied in specific cases. The study does not involve interviews or field observations. Accordingly, its discussion of legal culture and social factors is limited to the information and judicial considerations documented in the materials examined.

The research materials consist of primary and secondary legal materials. The primary legal materials comprise Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019; Supreme Court Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation; the Compilation of Islamic Law; and 26 judicial decisions on marriage dispensation retrieved from the Decision Directory of the Supreme Court of the Republic of Indonesia. The decisions were selected purposively according to three criteria: (1) they concern applications for marriage dispensation involving prospective spouses who have not reached the statutory minimum age of marriage; (2) the full decision documents are accessible and available for examination; and (3) the decisions contain judicial reasoning relevant to compelling circumstances, the best interests of the child, or social factors considered during the adjudication process. Duplicate, incomplete, or irrelevant documents were excluded from the analysis. Secondary legal materials include books, scholarly journal articles, and academic publications addressing Islamic family law, marriage dispensation, child protection, judicial discretion, and Lawrence M. Friedman's legal system theory. All materials were collected through library research and documentary analysis by identifying, inventorying, selecting, and classifying sources according to their relevance to the research questions. The units of analysis consist of the applicable legal provisions and the reasoning documented in the 26 judicial decisions. Consequently, findings concerning judicial practice are based on documented legal arguments rather than interviews with judges or direct observation of court proceedings.

The legal materials were analyzed qualitatively through deductive reasoning, with Lawrence M. Friedman's legal system theory serving as the primary analytical framework. The theory was used to classify and interpret the findings according to three elements: legal substance, legal structure, and legal culture. The analytical process began with a comprehensive reading of the documents, followed by the identification of passages relevant to the research questions and the classification of findings according to predetermined analytical categories. The judicial reasoning contained in the decisions was then compared to identify similarities, differences, and patterns in how judges assess marriage dispensation applications. Under the legal substance category, the analysis focused on the statutory minimum age of marriage, the requirement of compelling circumstances, evidentiary considerations, and the application of child protection principles. Under the legal structure category, the analysis examined the exercise of judicial authority, the application of procedural guidelines, and patterns of judicial reasoning as reflected in the decisions. The legal culture category was used to

examine how social factors and prevailing values were represented in the case documents, including pregnancy, educational continuity, family economic circumstances, family honor, and the influence of the surrounding social environment. These factors were not treated as a comprehensive representation of legal culture throughout Indonesian society but rather as social contexts reflected in the cases examined. Findings across the three categories were subsequently interpreted in light of the principle of *maslahah* in Islamic law and the child protection objectives underlying marriage law reform. Through this analytical process, the study seeks to explain the relationship between the normative framework governing marriage dispensation, its application by the courts, and the social factors documented in judicial decisions, while identifying potential gaps between regulatory objectives and implementation in practice.

Results and Discussion

Legal Substance: The Tension between the Minimum Age of Marriage and Exceptions through Marriage Dispensation

Under Lawrence M. Friedman's legal system theory, legal substance encompasses the norms, rules, and provisions that constitute the foundation for the administration of law. In this study, legal substance primarily refers to Article 7 of Law No. 16 of 2019 and Supreme Court Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation. Both instruments play a crucial role in establishing the minimum legal age of marriage while regulating the possibility of exceptions to this requirement through the marriage dispensation mechanism.

Article 7(1) of Law No. 16 of 2019 stipulates that marriage is permitted only when both men and women have reached the age of 19. This provision amended the previous regulation under Law No. 1 of 1974, which set the minimum marriage age at 19 for men and 16 for women.[15] The amendment forms part of a broader reform of family law aimed at strengthening child protection and eliminating gender-based differences in determining the minimum age of marriage.

This amendment was also connected to Constitutional Court Decision No. 22/PUU-XV/2017, which provided the constitutional basis for revising the minimum marriage age.[16] Accordingly, establishing a uniform minimum age of 19 for both sexes was not merely an administrative adjustment but part of an effort to align marriage law with the principles of equality and the protection of children's rights.

Nevertheless, the reform does not entirely prohibit marriage below the statutory minimum age. Article 7(2) of Law No. 16 of 2019 authorizes courts to grant marriage dispensation when there are compelling circumstances supported by sufficient evidence. The explanatory provision clarifies

[15] Mariani Amberi, "Efforts to Prevent Child Age Marriage in The Study of Islamic Legal Philosophy and Indonesia Positive Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 239–60, https://doi.org/10.22373/sjhk.v7i1.12404.
[16] Rudi Mayandra, "Regulation of Marriage Dispensation Against Marriage of Children Under The Age of Post Decision of The Constitutional Court Number 22 / Puu-Xv / 2017," *Syariah: Jurnal Hukum Dan Pemikiran* 20, no. 2 (2020): 187–200, https://doi.org/10.18592/sjhp.v20i2.4160.

that compelling circumstances refer to situations in which no alternative is available and marriage is exceptionally necessary.

This provision reveals a normative tension within the design of Indonesian marriage law. On the one hand, the state establishes a minimum marriage age to strengthen child protection.[17] On the other hand, it allows courts to authorize marriage below that age under certain circumstances. The existence of a dispensation mechanism does not necessarily contradict the objective of child protection, since courts must still consider the specific circumstances of each case. The problem arises when the distinction between genuinely compelling circumstances and reasons grounded primarily in social concerns becomes difficult to establish in practice.

Supreme Court Regulation No. 5 of 2019 provides guidelines for examining applications for marriage dispensation. These include the obligation of judges to consider the best interests of the child, hear the child's views, and assess the prospective spouses' physical, psychological, educational, and social circumstances.[18] The regulation indicates that granting dispensation should not depend solely on parental wishes or the prospective spouses' consent.[19] Judges must examine the circumstances underlying the application and assess the potential consequences of marriage for the child's life.[20] Nevertheless, the requirement of compelling circumstances still requires interpretation in individual cases. Legislation establishes a general standard, whereas the circumstances presented by applicants vary considerably. In this context, judges play a crucial role in determining whether the reasons submitted genuinely satisfy the statutory requirements or merely reflect concerns about events that might occur in the future.

This tendency can be observed in the judicial decisions analyzed in this study. In Decision No. 754/Pdt.P/2024/PA.Grt, for example, an application for marriage dispensation was submitted because the prospective spouses had developed a close romantic relationship, while their parents feared that the relationship might lead to conduct prohibited by religious and legal norms. Wedding invitations had also been distributed. These considerations indicate that the application was based not only on the relationship between the prospective spouses but also on a family decision that had already been publicly announced.

A similar pattern appears in Decision No. 355/Pdt.P/2024/PA.Cjr. In this case, the prospective spouses' longstanding relationship, the wedding plans that had already been arranged, and concerns about the psychological and social consequences of cancelling the marriage formed

[17] Nuruddin Nuruddin, Aisyah Wardatul Jannah, and Dwi Martini, "Evaluating the Effectiveness of Age Restriction on Marriage in Indonesia," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023): 313–30, https://doi.org/10.24090/volksgeist.v6i2.9844.
[18] Imran Imran et al., "Aspects Of Justice Of Marriage Dispensation And Best Interests For Children," *Jurnal Hukum Dan Peradilan* 13, no. 1 (2024): 63–88, https://doi.org/10.25216/jhp.13.1.2024.63-88.
[19] Khoiruddin Nasution et al., "The Judicial Interpretation of 'Very Urgent Reasons': Child Protection, Family Morality, and Marriage Dispensation in Indonesia," *Journal of Islamic Law* 7, no. 2 (2026): 329–60, https://doi.org/10.24260/jil.v7i2.4295.
[20] Shella Oetharry Gunawan and Syamsul Bahri, "Impacts of Early Childhood Marriage in Indonesia Viewed from Child Protection Laws Perspectives," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (2023): 362–80, https://doi.org/10.22373/ujhk.v6i2.20262.

part of the considerations. The judge also invoked the Islamic legal principle associated with preventing harm (*sadd al-dhara'i*).

Meanwhile, Decision No. 1144/Pdt./2026/PA.Jr illustrates that an application for marriage dispensation may be granted even when the prospective bride is not pregnant. The considerations recorded in the decision concerned an engagement that had lasted approximately one year, the closeness of the prospective spouses' relationship, and the parents' concern that conduct prohibited under Islamic law might occur if the marriage were not solemnized promptly.

These examples demonstrate that compelling circumstances in judicial practice do not always involve events that have already occurred, such as pregnancy. They may also encompass concerns about possible violations of religious norms or the emergence of social pressure. This distinction warrants careful examination because established facts differ from risks that remain speculative. Both may be considered during judicial proceedings, but they require different forms of assessment to ensure that exceptions to the minimum marriage age do not lose their restrictive function.

Table 1. Trends in Applications for Marriage Dispensation in Indonesia

Year	Number of applications nationwide	Regulatory status	Notes
2018	13,822–13,880	Law No. 1 of 1974	The minimum marriage age for women remained 16.
2019	24,864	Transitional period	Law No. 16 of 2019 was enacted in that year.
2020	50,748	Law No. 16 of 2019	Applications increased following the revision of the minimum marriage age.
2021	61,449	Law No. 16 of 2019	Applications reached the highest level in the data series presented.
2022	52,095	Law No. 16 of 2019	The number of applications began to decline compared with the previous year.
2023	45,892	Law No. 16 of 2019	The decline in applications continued.
2024	32,400	Law No. 16 of 2019	The figure was identified as an estimate in the initial research materials.
2025	19,790	Law No. 16 of 2019	The figure was identified as a projection in the initial research materials.

Source: Data cited in the research materials. The figures for 2024 and 2025 require verification against official publications.

The data in Table 1 indicate an increase in applications for marriage dispensation following the revision of the minimum marriage age, particularly in 2020 and 2021, followed by a decline in subsequent years. This development suggests that regulatory reform coincided with changes in the

pattern of applications submitted to the courts. However, this relationship cannot immediately be interpreted as evidence that raising the minimum marriage age caused an increase in child marriage. The number of dispensation applications measures cases submitted to the courts, not the number of child marriages that were ultimately solemnized.

Furthermore, the figures for 2024 and 2025 remain estimates and projections, respectively, as indicated in the initial research materials. They should therefore not be treated as final data. The sources and definitions of the indicators for each year must also be reviewed to ensure that the figures being compared measure the same phenomenon. For academic publication, the data should be verified against annual reports issued by the Directorate General of the Religious Courts or relevant official publications of the Ministry of Religious Affairs before the table is used as a basis for drawing conclusions.

From the perspective of legal substance, the more fundamental issue lies in translating the phrase "compelling circumstances" into criteria that can be applied consistently. When pregnancy, concerns about fornication, close engagement relationships, and social pressure are all invoked as grounds for dispensation, careful assessment is necessary to distinguish circumstances that genuinely satisfy the legal requirements from those that remain matters of concern or speculation.

Based on the 19 judicial decisions identified in the initial analysis, all applications included in the sample were granted. Nine decisions were recorded as involving pregnancy outside marriage, while one specifically stated that the prospective spouses had engaged in sexual intercourse. Several cases involved more than one ground for dispensation. These findings reveal a pattern within the set of decisions examined, but they are insufficient to establish that all religious courts apply the same standard or that marriage dispensation applications are generally granted.

This issue is closely related to legal certainty. Legal provisions must be formulated and applied clearly enough to guide the public while limiting the scope of discretion in their implementation. In marriage dispensation cases, the standard of compelling circumstances should guide judges in identifying relevant facts and explaining why particular circumstances satisfy the requirements for an exception.

The problem of legal substance, therefore, does not lie solely in the existence of a dispensation mechanism but in how the boundaries of its application are interpreted and enforced. If social considerations and concerns about possible violations of religious norms are accepted without adequate scrutiny, there is a risk that dispensation may evolve from an exceptional remedy for specific circumstances into a relatively accessible route to marriage below the statutory minimum age. Conversely, if applications are assessed carefully by considering the evidence, the nature of the risks, and the best interests of the child, the mechanism can serve its intended function without undermining the child-protection objectives embodied in marriage law reform.

Legal Structure: Judicial Discretion and the Application of Marriage Dispensation Provisions

Under Lawrence M. Friedman's legal system theory, legal structure refers to the institutions, authority, and mechanisms responsible for implementing legal rules.[21] In this study, legal structure primarily concerns the Religious Courts, which examine and adjudicate applications for marriage dispensation. These courts occupy a crucial position because they must apply general legal provisions to the specific circumstances presented by applicants. This responsibility requires judges to assess more than the fulfillment of administrative requirements. They must examine the grounds for each application, hear the child's views, consider the parents' perspectives, and assess the potential implications of marriage for the child's education, health, psychological well-being, and social life. Such an assessment is necessary to ensure that judicial decisions address not only the interests of the applicant family but also the rights and best interests of prospective spouses who have not yet reached the statutory minimum age.

Based on the documents analyzed, the grounds for marriage dispensation applications can be classified into four categories. This classification is derived from the reasons recorded in the judicial decisions; therefore, a single case may fall into more than one category.

Table 2. Typology of Grounds for Marriage Dispensation Applications in the Judicial Decisions Analyzed

No.	Category of grounds	Forms of grounds identified in the documents	Illustrative judicial decisions	Recorded outcomes
1	Pregnancy of a prospective spouse	The prospective bride was pregnant before the marriage took place.	Decision No. 234/Pdt.P/2026/PA.Btl and several dispensation decisions from the Religious Courts of Bantul, Demak, and Sleman.	Applications were granted in the decisions cited.
2	Close relationship between prospective spouses	The relationship had lasted for a considerable period, the couple had become engaged, or their relationship was considered particularly close.	Decisions No. 890/Pdt./2023/PA.Grt and No. 355/Pdt.P/2024/PA.Cjr.	Applications were granted in the decisions cited.
3	Concerns about violations of religious norms and	Parents feared that delaying the marriage might lead to fornication, slander, or damage to the family's reputation.	Decisions No. 754/Pdt.P/2024/PA.Grt, No. 250/Pdt.P/2024/PA.Cjr, No. 13.Pdt/2023/PA.Lmj, and No. 656/Pdt.P/2026/PA.Jr.	Applications were granted in the decisions cited.

[21] Nuala B. Kane et al., "Applying Decision-Making Capacity Criteria in Practice: A Content Analysis of Court Judgments," ed. Tyler Davis, *PLOS ONE* 16, no. 2 (2021): e0246521, https://doi.org/10.1371/journal.pone.0246521.

	family dishonor			
4	Social pressure and family expectations	Wedding plans had been publicly announced, invitations had been distributed, or the family feared negative social judgment if the marriage were cancelled.	Decisions No. 1144/Pdt./2026/PA.Jr and No. 754/Pdt.P/2024/PA.Grt.	Applications were granted in the decisions cited.

Source: Compiled from the marriage dispensation decisions cited in the research materials. The categories are not mutually exclusive, as individual decisions may refer to several grounds simultaneously.

Table 2 demonstrates that the grounds for marriage dispensation are not limited to circumstances that have already occurred, such as pregnancy. They also include concerns about possible violations of religious norms and the social consequences of delaying or cancelling a planned marriage. In several cases, these grounds are interconnected. A longstanding relationship, for example, may be accompanied by parental concerns about fornication, while publicly announced wedding plans may generate fears of embarrassment or negative social judgment.

In Decision No. 234/Pdt.P/2026/PA.Btl, the recorded grounds concerned sexual relations that had already occurred and fears of adverse social consequences for the family if the marriage were not solemnized promptly. Meanwhile, Decision No. 754/Pdt.P/2024/PA.Grt illustrates how the closeness of the prospective spouses' relationship and the distribution of wedding invitations formed part of the background to the application. Both cases demonstrate that judges may encounter applications based on a combination of facts concerning the couple's relationship, parental concerns, and the family's social circumstances.

Another significant finding appears in Decision No. 1144/Pdt./2026/PA.Jr. In this case, the prospective bride was not pregnant, but her parents were concerned that conduct prohibited under Islamic law might occur because the relationship was considered particularly close. The application was nevertheless granted on the grounds recorded in the decision. This case illustrates that judicial discretion involves not only the assessment of events that have already occurred but also the evaluation of risks anticipated if the marriage is not solemnized promptly.

These four categories demonstrate that claims of urgency in marriage dispensation cases vary considerably in nature. Pregnancy constitutes a factual circumstance that may be established through evidence, whereas concerns about fornication, slander, or family dishonor are more closely associated with predictions about what might happen. This distinction is important to legal reasoning because each ground must be assessed in terms of its relevance, supporting evidence, and relationship to the best interests of the child.

In this context, Supreme Court Regulation No. 5 of 2019 provides procedural guidelines requiring judges to consider the prospective spouses' circumstances and hear the views of relevant parties. The examination must take into account the best interests of the child, including

educational, health-related, psychological, and marital-readiness considerations. These guidelines are intended to prevent judicial decisions from being based solely on parental preferences or on the assumption that marriage is the only solution to the difficulties confronting a family.[22] Nevertheless, the existence of procedural requirements does not, by itself, ensure consistency in determining whether compelling circumstances exist. Procedural rules specify the matters that must be examined, but the application of the substantive standard still requires judges to assess the strength of the evidence and the relevance of each ground. The quality of judicial reasoning is therefore essential to demonstrating that an application genuinely satisfies the requirements for an exception rather than merely reflecting general concerns about the relationship between the prospective spouses.

Another issue requiring attention concerns the mechanisms for reviewing marriage dispensation decisions. The rules governing legal remedies against court determinations must be interpreted in accordance with the applicable procedural law and the characteristics of the case concerned. It would be inappropriate to conclude that the absence of an appeal or cassation mechanism directly explains the pattern of applications being granted solely on the basis of the 19 decisions examined. Such a conclusion would require further examination of the relevant procedural provisions and their relationship to judicial decision-making practices.

Although all the decisions in the sample discussed here resulted in applications being granted, this finding must be understood within the limits of the research design. The decisions were selected according to document availability and their relevance to the research questions, rather than through random sampling intended to represent all Religious Courts in Indonesia. Accordingly, the pattern of applications being granted reflects a tendency within the documents analyzed, not the national rate at which marriage dispensation applications are approved.

This limitation does not diminish the analytical value of the findings. Rather, recurring patterns of reasoning provide a basis for identifying issues that warrant further investigation, particularly how judges distinguish genuinely compelling circumstances from grounds that primarily reflect social concerns. Further research involving a broader range of judicial decisions or interviews with judges could help establish whether these patterns also occur in other regions and clarify how judges understand the relationship between marriage dispensation and child protection.

From the perspective of Friedman's legal structure, these findings demonstrate that courts do more than implement written legal provisions. Judges play a central role in determining how general norms are applied to specific circumstances. Where legal standards allow room for interpretation, the quality of judicial reasoning and the consistent application of procedural guidelines become essential to maintaining a balance between the need to consider individual circumstances and the obligation to protect children.

The structural challenges in implementing marriage dispensation provisions therefore concern how judicial authority is exercised and how legal reasoning is constructed. Judicial

[22] Firmansyah Pratama Alim et al., "Child Protection and Maqāṣid Al-Sharīʿah in Indonesian Marriage Dispensation Decisions," *Al-Mujtahid: Journal of Islamic Family Law* 6, no. 1 (2026), https://doi.org/10.30984/ajifl.v6i1.4207.

discretion is necessary to accommodate the circumstances of individual cases, but it must be accompanied by reasoning that can be justified and scrutinized. Without an adequate explanation of why an application is granted, there is a risk that social considerations and concerns about possible violations of religious norms may carry greater weight than a comprehensive assessment of the child's best interests.

Legal Culture: The Influence of Social and Religious Norms on Marriage Dispensation Applications

Under Lawrence M. Friedman's legal system theory, legal culture encompasses the values, attitudes, perceptions, and orientations that shape how people relate to the law. Legal culture influences how individuals understand legal rules, determine which actions are socially acceptable, and use legal institutions to address their problems. Consequently, the existence of clear legal provisions does not necessarily lead to changes in behavior when those provisions are not aligned with prevailing social norms, values, and practices.

In this study, legal culture is examined through the grounds presented in marriage dispensation applications and the considerations recorded in judicial decisions. Because the research does not employ interviews or field observations, the analysis does not seek to represent the views of Indonesian society as a whole. Instead, it focuses on how social and religious values are represented in case documents and incorporated into arguments supporting applications for marriage dispensation.

The judicial decisions analyzed reveal three prominent patterns of values and concerns. First, there is anxiety about slander, gossip, and negative social judgment. Second, there is an emphasis on preserving family honor and reputation. Third, parents express concern that the relationship between prospective spouses may lead to conduct considered contrary to religious norms, particularly fornication. These patterns are often interconnected and may appear simultaneously in a single case. Concerns about slander and negative social judgment are evident in Decision No. 890/Pdt./2023/PA.Grt and Decision No. 355/Pdt.P/2024/PA.Cjr. In these cases, the closeness of the prospective spouses' relationship and the possibility of ridicule or social pressure if the marriage were cancelled formed part of the considerations. In the latter case, the reasoning was also associated with the Islamic legal principle of *sadd al-dhara'i*, which concerns preventing means that may lead to harm.

The use of this principle illustrates how judicial reasoning in marriage dispensation cases may draw on both state law and Islamic legal reasoning. Nevertheless, the principle of preventing harm must be applied within the broader framework of child protection. Concerns about possible violations of religious norms do not, in themselves, eliminate the obligation to assess the risks associated with marriage at an early age, including its potential effects on education, health, and the prospective spouses' psychological development.

The second pattern concerns family honor and reputation. In Decision No. 234/Pdt.P/2026/PA.Btl, sexual relations that had already occurred were associated with the possibility of bringing dishonor upon both families and creating social difficulties within the surrounding community. In such cases, marriage may be perceived by the family as a way of responding to a situation considered embarrassing or likely to attract negative judgment from others.

The third pattern concerns fears of fornication and violations of religious norms. Such grounds appear in several decisions, including Decision No. 754/Pdt.P/2024/PA.Grt, Decision No. 250/Pdt.P/2024/PA.Cjr, Decision No. 13.Pdt/2023/PA.Lmj, Decision No. 1130/Pdt.P/2026/PA.Jr, and Decision No. 656/Pdt.P/2026/PA.Jr. In these cases, parents expressed concern that the relationship between the prospective spouses might lead to conduct prohibited by religion if the marriage were not solemnized promptly.

This pattern indicates that marriage is understood not merely as a legal relationship between two individuals but also as an institution associated with moral judgments and family responsibilities. In certain circumstances, families may regard marriage as a means of preserving honor, preventing social conflict, or avoiding behavior perceived to violate religious norms. These perceptions are subsequently presented to the court as part of the justification for seeking marriage dispensation.

However, the grounds stated in an application must be distinguished from the family's broader social experience. Judicial decisions document the reasons presented by applicants and the considerations adopted by the court, but they do not always provide a comprehensive account of the social, economic, and cultural circumstances underlying those reasons. Accordingly, the identified patterns should be understood as representations of social values within the cases examined, rather than as evidence that all families or communities share the same views on child marriage.

This distinction is important to avoid oversimplifying the relationship between culture and marriage dispensation. Legal culture is not the sole factor influencing family decisions. Economic circumstances, access to education, pregnancy, the availability of reproductive health services, and the specific situations faced by prospective spouses may also influence decisions to apply for dispensation. In document-based research, these factors can only be discussed to the extent that they are recorded in the materials analyzed or supported by relevant academic sources.

These issues should also be situated within broader social developments. The research materials indicate that the increase in marriage dispensation applications and child marriage during the 2019–2021 period coincided with the COVID-19 pandemic. Some reports have associated the pandemic with increased household economic pressures, changes in learning patterns, reduced social supervision of adolescents, and limited access to reproductive health services. Changes in regulations and case-recording systems may also have affected the number of applications recorded.

These factors indicate that changes in application figures cannot be explained solely by the revision of the minimum marriage age or by prevailing legal culture. An increase in recorded cases

may reflect changes in social behavior, socioeconomic conditions, public awareness of dispensation procedures, or case-recording and reporting practices. The relationship between legal culture and trends in child marriage must therefore be analyzed with due consideration of other potentially influential factors.

The initial research materials also refer to a 2021 survey conducted by U-Report and the Children's Forum (*Forum Anak*), which identified premarital pregnancy as one of the principal reasons for early marriage, accounting for 52.9%. This finding is consistent with the presence of pregnancy-related grounds in the marriage dispensation decisions analyzed. Nevertheless, the figure must be verified against the original survey publication, including its respondent profile, geographical coverage, and indicators, before it is used to support broader conclusions about the causes of child marriage in Indonesia.

From the perspective of Islamic law, considerations of *maslahah* (public welfare or benefit) and the prevention of harm can help explain the reasoning employed by families and judges in marriage dispensation cases. However, *maslahah* should not be understood solely in terms of preventing fornication or preserving family honor. An assessment of welfare must also account for the child's long-term interests, including continuity of education, physical and psychological health, readiness for married life, and the potential harms associated with marriage during childhood.

The social and religious values reflected in marriage dispensation cases should not automatically be treated as inherently incompatible with child protection. The more important question is how these values are interpreted and incorporated into decision-making. If concerns about sin, slander, or family dishonor are accepted as sufficient grounds without a comprehensive assessment of the child's circumstances, judicial reasoning risks shifting the focus of protection away from the child and toward family reputation. Conversely, when religious values are considered alongside children's rights and best interests, the principle of *maslahah* can contribute to more balanced decisions.

The findings concerning legal culture also help explain the relationship between legal substance and legal structure. When legal provisions employ terms requiring interpretation, the social and religious values presented by applicants may influence how judges understand the existence of compelling circumstances. Judges remain responsible for assessing these arguments in accordance with applicable legal requirements and the best interests of the child. Nevertheless, recurring arguments in judicial decisions indicate that social considerations form part of the context in which legal norms are applied.

Within Friedman's framework, legal effectiveness depends not only on the existence of regulations but also on the interaction between legal rules, the institutions responsible for implementing them, and the social values that influence legal behavior. In the context of marriage dispensation, the minimum-age provisions establish the normative standard, courts translate that standard into judicial decisions, and social and religious values help shape the grounds that families

present during legal proceedings. These three elements interact and help explain why regulatory changes do not always produce equivalent changes in practice.

Overall, the analysis of legal culture demonstrates that marriage dispensation occurs within a complex social context. Pregnancy, concerns about fornication, family honor, and social judgment emerge as interconnected grounds in the case documents. However, because these findings derive from the available judicial decisions examined, the conclusions must remain limited to the documented patterns of argumentation. This study does not claim to measure the level of public acceptance of the statutory minimum marriage age throughout Indonesia.

When considered alongside the preceding analyses of legal substance and legal structure, the findings indicate that tensions in the implementation of marriage dispensation cannot be explained by any single element of the legal system. The provision requiring compelling circumstances allows room for interpretation, courts exercise their authority to assess individual applications, and social and religious values inform both the arguments presented by applicants and the considerations adopted in judicial decisions. This interaction underscores the importance of ensuring that judicial discretion remains grounded in statutory requirements and the best interests of the child, while taking account of the social context of each case.

Strengthening the effectiveness of the minimum-age reform therefore requires simultaneous attention to all three dimensions of the legal system. Clearer legal standards must be accompanied by accountable judicial reasoning and a stronger public understanding of the objectives of child protection. Within the context of Islamic law, these efforts should also promote an understanding of *maslahah* that extends beyond resolving immediate difficulties to encompass the child's long-term welfare, development, and future prospects.

Conclusion

The practice of marriage dispensation following the enactment of Law No. 16 of 2019 cannot be understood solely as a consequence of raising the statutory minimum age of marriage. Rather, it reflects the interaction between legal substance, legal structure, and legal culture, as conceptualized in Lawrence M. Friedman's legal system theory. In terms of legal substance, the provision concerning "compelling circumstances" under Article 7(2) leaves room for interpretation because it is not accompanied by sufficiently measurable criteria. This condition may lead to variations in assessing the eligibility of marriage dispensation applications. In terms of legal structure, judges play a crucial role in interpreting this provision and determining the best interests of the child in each case. The analysis of the 19 judicial decisions examined in this study shows that all applications in the sample were granted. This finding highlights the importance of examining the consistency with which compelling circumstances are assessed and the quality of legal reasoning underpinning marriage dispensation decisions. However, this finding is limited to the decisions analyzed and cannot be generalized to all courts in Indonesia. Regarding legal culture, concerns

about family dishonor, slander, violations of religious norms, and the possibility of premarital sexual relations emerge as considerations that shape how cases are understood and adjudicated.

This study demonstrates that Friedman's three elements of the legal system are interrelated. Ambiguity in legal norms may broaden the scope of judicial discretion, while social and religious values may influence the interpretation of compelling circumstances. Accordingly, Supreme Court Regulation No. 5 of 2019 should be evaluated, particularly its guidelines for assessing compelling circumstances and the best interests of the child. Clearer criteria, accompanied by consistent legal reasoning and a stronger commitment to child protection, are expected to prevent marriage dispensation from becoming an overly accessible means of circumventing the statutory minimum age of marriage.

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