

Parameters of Judicial Consideration in Marriage Dispensation Court Determinations from a Socio-Legal Perspective: A Comparative Case Study at the Marisa Religious Court

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ABSTRACT

Establishing the minimum age of marriage at 19 years through Law No. 16 of 2019 has not eliminated applications for a marriage dispensation, requiring judges to assess the tension between highly urgent grounds and the best interests of the child. This study analyzes the parameters of judicial consideration at the Marisa Religious Court and compares their application in Court Determination No. 177/Pdt.P/2025/PA.Msa, which was granted, and Court Determination No. 189/Pdt.P/2025/PA.Msa, which was denied. The study employed a socio-legal empirical method with a comparative case study design. Data were obtained through examination of court determinations, legislation, case data from 2019–2025, literature, and interviews with judges and were subsequently analyzed using a case matrix, thematic categorization, and source triangulation. The findings indicate that judicial considerations comprise legal-procedural dimensions; highly urgent grounds and evidentiary proof; the child's consent; education and psychosocial factors; reproductive health; economic responsibility; social context; and spirituality. The granted case was based on a combination of pregnancy, school dropout status, the parties' relative preparedness, and an assessment of lesser harm. The denied case demonstrated that biological preparedness and reproductive health requirements had not been met; the prospective husband's spiritual aspects were understood as supporting considerations rather than independent legal requirements. The novelty of this study lies in its comparison of two court determination outcomes from the same court and year, its reconstruction of a hierarchy of determinative grounds, and its formulation of a multidimensional assessment matrix. The findings are contextual and affirm that applications for a marriage dispensation must be examined rigorously and transparently, with due regard to the best interests of the child.

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1. Introduction

Marriage is both a social institution and a legal event that gives rise to rights and obligations for husbands, wives, children, and families. Law No. 16 of 2019 provides that marriage is permitted only when both men and women have reached the age of 19 years [1]. This threshold is not merely administrative; rather, it is a protective instrument intended to promote physical, psychological, social, educational, and economic preparedness before a person enters married life.

Raising the minimum age of marriage has not automatically eliminated the practice of child marriage. Data from the Religious Courts Agency show an increase in marriage dispensation cases from approximately 23,700 in 2019 to more than 64,000 in 2020 [2]. BPS and UNICEF also indicate that child marriage remains associated with limited educational opportunities, economic conditions, and social vulnerability [3]. These circumstances reveal a gap between the legislature's objectives and social realities that continue to position marriage as a response to pregnancy, stigma, family pressure, or moral concerns.

Constitutionally, children have the right to live, grow, develop, and receive protection from violence and discrimination, as provided in Article 28B(2) of the 1945 Constitution of the Republic of Indonesia [4]. Law No. 35 of 2014 reinforces the obligation to treat the best interests of the child as a primary consideration [5]. Accordingly, marriage dispensation cannot be treated as a routine procedure for validating child marriage, but rather as an exception requiring highly urgent grounds, sufficient evidence, and an assessment of long-term impacts.

PERMA No. 5 of 2019 directs judges to hear statements from the child, parents, and prospective spouses; examine the possibility of coercion; and consider the child's psychological condition, health, education, economic circumstances, and the risks faced by the child [6]. Although these guidelines have expanded the scope of assessment, the phrase "highly urgent grounds" continues to allow room for judicial reasoning. This discretion is necessary to enable judges to respond to concrete circumstances, but it also creates a risk of divergent applications where determinative factors are not distinguished from supporting considerations.

Previous studies have explained that applications for a marriage dispensation are influenced by social, cultural, and economic factors, as well as reforms to the minimum age of marriage [7], [9]. Other studies emphasize limiting dispensations through the *sadd adz-dzari'ah* approach and through considerations of emotional, physical, social, financial, and religious readiness [10], [11], as well as Islamic legal assessments of marriage dispensation [25]. This literature is important for identifying general factors, but it has not operationally explained how those factors are

weighted in two cases with opposing outcomes before the same court. The existing literature also does not sufficiently distinguish whether spirituality constitutes a determinative legal ground or merely a supporting indicator that must be linked to responsibility and child protection.

Against this background, this study addresses three gaps. First, there is a local empirical gap, namely the absence of an in-depth explanation of how judges at the Marisa Religious Court transform social facts into judicial considerations. Second, there is a methodological gap, namely the limited number of studies comparing granted and denied court determinations within the same court and year. Third, there is a conceptual gap, namely the lack of a formulation of multidimensional parameters that distinguishes legal-procedural requirements, indicators of the best interests of the child, and supporting contextual factors.

This study compares Court Determination No. 177/Pdt.P/2025/PA.Msa and Court Determination No. 189/Pdt.P/2025/PA.Msa. Its novelty lies not in reiterating health, educational, psychological, or social factors already recognized in the literature, but in three respects: an intra-court comparison of two contrasting outcomes; reconstruction of the *ratio decidendi* to distinguish determinative from additional grounds; and the development of an assessment matrix that positions the best interests of the child as a cross-parameter principle. Within this framework, spirituality is carefully assessed as a supporting indicator rather than an independent legal requirement.

Based on this background, the research questions are as follows:

1. What are the parameters of judicial consideration in marriage dispensation court determinations at the Marisa Religious Court when operationalized into legal and sociological dimensions?
2. How are these parameters applied and weighted in granted and denied cases?

This study aims to explain the concrete parameters, compare the hierarchy of determinative grounds in the two court determinations, and propose a simple assessment model that may enhance the transparency of judicial reasoning without diminishing judicial independence.

2. Research Methods

This study employed a socio-legal empirical method with a qualitative approach and a comparative case study design. A statutory approach was used to examine the Marriage Law, the Child Protection Law, PERMA No. 5 of 2019, the Judicial Power Law, the Religious Courts Law, and the Compilation of Islamic Law. A sociology-of-law approach was used to examine the relationship between legal norms, family conditions, stigma, education, health,

psychological factors, economic conditions, and judicial practice. A case approach was used to reconstruct the legal facts, judicial considerations, ratio decidendi, and operative parts of the two court determinations.

The two court determinations were purposively selected on the basis of four analytical criteria: they originated from the Marisa Religious Court and were issued in the same year; they produced opposing operative parts; they directly addressed the readiness of the child and prospective spouse; and they demonstrated a contrast in highly urgent grounds, biological health, and spirituality. Accordingly, the two cases were not treated as a statistical sample of 558 cases, but as contrasting cases used to examine how the same parameters may produce different conclusions.

Primary data consisted of the two court determinations and interviews conducted in 2026 with one key informant, a judge at the Marisa Religious Court who handled marriage dispensation cases [20]. The informant was purposively selected based on institutional experience. The interviews addressed the legal basis, examination of the child, the meaning of highly urgent grounds, the readiness of the parties, health, education, social risks, the economic responsibility of the prospective husband, and the position of spirituality. The informant's personal identity was not disclosed because the data were used in an institutional capacity. Secondary data included legislation, legal literature and literature on the psychology of marriage, and aggregate data on marriage dispensation cases from 2019 to 2025 [19].

Document analysis was conducted using an extraction sheet covering: the factual structure; the content of the application; recorded evidence and statements of the parties; legal bases; primary considerations; supporting considerations; ratio decidendi; and the operative part. The analysis was conducted through deductive and inductive thematic coding. Deductive codes were derived from Law No. 16 of 2019, the Child Protection Law, and PERMA No. 5 of 2019, whereas inductive codes were derived from patterns emerging from the two court determinations, including biological health and spirituality. The coding results were presented in a comparison matrix to avoid overlap among categories.

The validity of the data was strengthened through triangulation among the content of court determinations, informant statements, case data, and the normative framework. Where information appeared in only one source, it was not treated as a general conclusion. Case data for 2019-2025 were available as annual totals and had not been disaggregated by disposition, age, school status, pregnancy, or grounds for the application. Accordingly, quantitative data were used to identify trends in the local context, rather than to infer causal relationships or the proportions of applications granted and denied.

3. Results and Discussion

The discussion is structured in three stages. First, the study examines local trends and operationalizes the parameters into non-overlapping categories. Second, these categories are applied to two court determinations to identify determinative and supporting grounds. Third, the findings are formulated into a simple assessment model oriented toward the best interests of the child.

3.1. Case Context and Construction of Multidimensional Parameters

The Marisa Religious Court recorded 558 marriage dispensation cases from 2019 to 2025 [19]. The number of cases increased from 52 in 2019 to 98 in 2020 and peaked at 152 in 2021. It subsequently declined to 90 cases in 2022, 72 in 2023, 49 in 2024, and 45 in 2025.

Table 1. Trends in Marriage Dispensation Cases at the Marisa Religious Court, 2019–2025

Year	Cases	Change
2019	52	-
2020	98	+88,5%
2021	152	+55,1%
2022	90	-40,8%
2023	72	-20,0%
2024	49	-31,9%
2025	45	-8,2%
Total	558	-

The year 2021 accounted for approximately 27.2% of all cases over the seven-year period, whereas the number of cases in 2025 was approximately 70.4% lower than the 2021 peak. This pattern indicates a sharp increase early in the period and a gradual decline after 2021. However, because the data do not include categories for grounds, age, school status, pregnancy, or disposition, this study does not attribute the decline to any particular cause. The data provide context indicating that marriage dispensation remains a significant local issue despite its declining frequency.

From a legal perspective, the first parameter concerns legality and procedure: the applicant's legal standing, the child's age, the court's jurisdiction, the completeness of documents, summonses to the parties, and examination of the child and prospective spouse. The second parameter concerns highly urgent grounds and the sufficiency of evidentiary proof. Pregnancy, social pressure, or family concerns cannot operate automatically; judges must assess whether postponing the marriage would in fact cause greater harm and whether other protective alternatives are available [1], [6], [18].

The best interests of the child function as a cross-cutting principle across the parameters. This principle is operationalized through indicators of the child's consent free from coercion, continuity of education, reproductive health, psychological maturity, risks of violence and unequal power relations, economic capacity, family support, and a protection plan following the court determination [4]–[6]. Through this operationalization, the best interests of the child do not remain merely a normative phrase but become concrete questions that must be addressed in judicial considerations.

Readiness for marriage is further divided into psychosocial, health and biological, economic responsibility, and social context dimensions. This distinction is necessary because age, reproductive health, conflict-management capacity, school dropout status, employment, and social pressure involve different types of evidence and consequences [10], [11]. Spirituality is positioned as a supporting indicator within the dimension of moral responsibility. The Compilation of Islamic Law views marriage as mitsaqan ghalidzan and worship [13], [14], but particular religious practices are not formal requirements for a marriage dispensation. Their legal relevance arises only where they can be rationally connected to commitment, responsibility, the risk of neglect, or child protection.

Table 2. Operational Framework for Parameters of Judicial Consideration

Dimension	Operational Indicators
Legal-procedural	Legal standing, age, jurisdiction, documents, and examination of the child, parents, and prospective spouse.
Urgent grounds	Nature of the circumstances, supporting evidence, consequences of delay, and alternatives to marriage.
The child's consent	Direct and independent statements, free from coercion, and an understanding of the consequences of marriage.
Educational-psychosocial	School status, plans to continue education, emotional maturity, and the ability to manage conflict.
Health-biological	Reproductive condition, pregnancy, biological maturity, and health risks.
Economic responsibility	Employment, income, residence, maintenance, and family support.
Social context	Stigma, family pressure, power relations, risk of violence, and community support.
Spiritual-moral	Commitment and responsibility; supportive only when related to risks and the best interests of the child.

This framework distinguishes mandatory parameters, substantive indicators of the best interests of the child, and contextual factors. Accordingly, moral or social grounds

cannot replace legal requirements and health assessments, while pregnancy does not eliminate the judge's obligation to examine consent, risks, and protection plans.

3.2. Application of Parameters in Granted and Denied Cases

3.2.1. Court Determination No. 177/Pdt.P/2025/PA.Msa

In Court Determination No. 177/Pdt.P/2025/PA.Msa, the application was submitted to obtain permission to marry for a party who had not reached 19 years of age. The most prominent fact was the female party's pregnancy. The research data also recorded that the female party had dropped out of school, that witness testimony was available, and that the judge assessed the prospective husband's circumstances and the parties' relative readiness [22]. This factual structure indicates that the application was based not merely on age, but on circumstances that had already arisen and the socio-legal consequences feared to result if the marriage were delayed.

Pregnancy served as an urgent ground, but not as the sole ground automatically requiring the application to be granted. The judge nevertheless examined the parties' physical and mental readiness, their statements, family support, and the effects on the woman and the child to be born. School dropout status also affected the assessment because the risk of losing access to formal education had materialized before the court determination, although this circumstance must not be understood as justifying the proposition that children who are no longer in school are always more suitable for marriage.

The ratio decidendi of this court determination may be reconstructed as a combination of three elements: the existence of proven urgent circumstances; the parties' relative readiness and support; and an assessment that granting the application would cause less harm than denying it under the specific circumstances. Considerations of welfare were directed toward certainty in the relationship, protection of the woman, and the interests of the child to be born. Accordingly, the basis for granting the application was not pregnancy or social pressure alone, but rather the result of a cumulative balancing of urgency and risk.

From the perspective of the best interests of the child, this court determination took account of the pregnancy context, educational circumstances, and the parties' readiness. However, more comprehensive assessment instruments remain necessary to ensure plans for continued nonformal education, access to health services, protection from violence, sources of maintenance, and family supervision after marriage. These post-determination elements are important to ensure that granting the application does not end with the provision of administrative permission.

3.2.2. Court Determination No. 189/Pdt.P/2025/PA.Msa

In Court Determination No. 189/Pdt.P/2025/PA.Msa, the judge denied the application on the ground that suitability for marriage had not been established. The data analyzed highlighted the female party's health condition and biological maturity, including her menstrual condition and reproductive readiness. The judge also noted that the prospective husband did not observe prayers [23]. These two facts do not have the same legal status and must be distinguished to prevent the grounds for denial from becoming merely a moral assessment. Health condition, biological maturity, and reproductive readiness are directly related to the purpose of establishing a minimum age of marriage and to the mandate of PERMA No. 5 of 2019 to assess health and psychological impacts [1], [6]. Therefore, these aspects may be treated as determinative substantive grounds. The denial served to prevent the child from entering into marriage when reproductive risks and biological unreadiness could not yet be regarded as consistent with the best interests of the child. Conversely, the prospective husband's nonobservance of prayer is not specified as a formal requirement for marriage or for a marriage dispensation in Law No. 16 of 2019 or PERMA No. 5 of 2019. This aspect cannot serve as a standalone ratio decidendi. Under a more cautious interpretation, spiritual information may function only as a supporting consideration where it is linked to evidence concerning commitment, responsibility, capacity to fulfill family obligations, or the risk of neglect. This placement preserves the connection between religious values in the Compilation of Islamic Law [13] and the judge's obligation to base the court determination on objective, measurable grounds. Accordingly, the ratio decidendi for the denial is more appropriately grounded in the failure to meet health-related and biological-readiness and child-protection requirements, whereas spirituality constitutes an additional contextual factor. This formulation avoids the impression that the court assesses an individual's religious qualities as an independent requirement without a basis in positive law.

3.2.3. Comparison of Ratio Decidendi

Table 3. Comparison of the Application of Parameters in Two Court Determinations

Parameter	No. 177 (Granted)	No. 189 (Denied)
Urgent grounds	Pregnancy constituted the primary circumstance that had already occurred.	No urgency was found that outweighed the risks of unreadiness.
Consent/readiness	The parties' relative readiness was considered.	Overall suitability was found not to have been met.
Education	The female party had dropped out of school.	Not detailed in the available data.
Health-biological	Pregnancy was considered together with the parties' circumstances.	Biological and reproductive maturity constituted substantive grounds.
Economy/economic responsibility	The prospective husband's circumstances and family support were assessed.	Detailed data were not available in the research manuscript.
Social context	Uncertainty and social impacts were considered.	Social factors did not outweigh health risks.
Spirituality	Not a determinative factor.	A supporting factor; unable to stand alone.
Ratio decidendi	Urgency + relative readiness + lesser harm.	Health-biological unreadiness and the best interests of the child.
Dispositive ruling	The application was granted.	The application was denied.

This comparison shows that the same factors do not invariably carry the same weight. In the first case, pregnancy acquired legal significance because it was combined with relative readiness and an assessment of harm. In the second case, health and biological maturity precluded the granting of the application, whereas spirituality merely reinforced concerns regarding responsibility. This finding constitutes the study's methodological contribution: judicial reasoning should be read as a hierarchy of determinative grounds rather than as a list of coequal factors.

3.3. Model for a Marriage Dispensation Assessment Matrix

The practical implication of this study is the need for an assessment form that assists judges in documenting the relationship among facts, evidence, risks, and conclusions. The following instrument is not intended as a scoring system that replaces judicial discretion, but rather as a checklist to enhance the consistency and transparency of judicial considerations.

Table 4. Design of a Multidimensional Assessment Matrix

Aspect and Key Question	Evidence and Assessment Direction
Legal-procedural: Is the applicant authorized, are the documents complete, and have all parties been heard?	Population documents, KUA refusal, service report, and examination record. Fundamental deficiencies must be remedied before the merits are considered.
Urgency: What concrete harm would result if the marriage were postponed, and are alternatives available?	Pregnancy or medical evidence, social circumstances, and protective alternatives. Urgency does not operate automatically.
Consent and power relations: Does the child consent freely and understand the consequences?	The child's separate statement, age disparity, and indications of coercion, violence, or exploitation.
Education and psychosocial factors: What are the plans for schooling, emotional maturity, and the capacity to manage conflict?	School letters, educational plans, counseling, and psychological assessments where necessary.
Biological and health factors: Do reproductive and health conditions permit marriage and pregnancy to proceed safely?	Statements from health professionals, medical history, and reproductive risk assessments.
Economic responsibility: Are maintenance, housing, and family support available?	Employment, income, housing, maintenance commitments, and support systems.
Post-determination risks and protection: How can violence, neglect, and school dropout status be prevented?	Follow-up plans, access to services, family support, and child-protection referrals.
Spiritual-moral factors: Is this information genuinely related to commitment and responsibility?	These are only supporting considerations and must not be used as independent legal requirements without a connection to risks to the child.

This model requires judges to explain three relationships: between facts and evidence, between evidence and risk, and between risk and the dispositive order. Under this approach, considerations concerning health, education, economic, social, and spiritual factors do not remain mere general statements but instead assume a proportionate place in legal reasoning.

3.4. Research Limitations

This study has three limitations. First, the in-depth analysis covered only two court determinations; therefore, its results cannot be generalized to all marriage dispensation cases before the Marisa Religious Court or other courts. Second, interviews were limited to one judge as an informant and were used as contextual data that must be read together with the case documents. Third, data for 2019–2025 are available in annual aggregate form and do not include the proportions granted or denied, age, school status, pregnancy, or patterns of grounds. Accordingly, the findings are positioned as a contextual case study that may provide a basis for research involving a broader sample of court determinations and informants.

4. Conclusion

In the context of the two court determinations analyzed at the Marisa Religious Court, the parameters of judicial consideration comprise legal-procedural dimensions, urgent grounds and evidentiary proof, the child's consent, educational and psychosocial factors, biological and health factors, economic responsibility, social context, and spiritual and moral factors. The best interests of the child function as a cross-parameter principle requiring assessment of education, reproductive health, power relations, risks of violence, the child's consent, economic capacity, and post-determination protection. Court Determination No. 177/Pdt.P/2025/PA.Msa was granted because of the combination of pregnancy, school dropout status, relative preparedness, supporting statements, and an assessment of lesser harm. Court Determination No. 189/Pdt.P/2025/PA.Msa was denied primarily because biological and reproductive health preparedness had not been met. The spirituality of the prospective husband cannot be positioned as an independent legal requirement; its relevance is only supportive when linked to responsibility and child-protection risks. The contribution of this study lies in its comparison of two court determination outcomes within the same court and year, its distinction between ratio decidendi and additional considerations, and its formulation of a multidimensional assessment matrix. Given the limited database, these conclusions are contextual. Religious Courts may use the matrix as a tool for documenting judicial considerations, while further research should involve more court determinations, judges, disaggregated data, and evaluations of effects after a dispensation has been granted.

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