JOURNAL
AXIOMA LEX PRIMA

OPEN ACCESS
Volume 1 No 3 Tahun 2026
ISSN: 0000-0000 (Online)

Juridical Evaluation of Marriage Dispensation Based on the Best Interests of the Child Principle

Wisnu Jaya Wardana[1], Lina Sinaulan[2], Edi Saputra Hasibuan[3], Diana Fitriana[4]
[1]Master of Laws Program, Faculty of Law, Universitas Bhayangkara Jakarta Raya, Indonesia
Correspondence: wisnujayawardana1@gmail.com

Keywords:

marriage dispensation; best interests of the child; juridical evaluation; child protection; judicial reasoning.

ABSTRACT

This study evaluates marriage dispensation in Indonesia by placing the best interests of the child as a substantive standard for examining legal regulation and judicial reasoning. It addresses three issues: the conformity of marriage-dispensation regulation with child-rights protection; the application of the best-interests principle in Religious Court Determination Number 3/Pdt.P/2026/PA.Btl.; and indicators for evaluating judicial reasoning. This is normative legal research using statutory, conceptual, and case approaches. Primary legal materials include Law Number 16 of 2019, Law Number 35 of 2014, Supreme Court Regulation Number 5 of 2019, Presidential Decree Number 36 of 1990, Constitutional Court Decision Number 22/PUU-XV/2017, and the case material available in the research manuscript. The findings show that Indonesian law establishes a protective framework through a minimum marriage age of nineteen years, compelling reasons, supporting evidence, and procedural guidance. The main challenge is translating the open standard of compelling reasons into child-centered and traceable reasoning. The study formulates ten indicators: age and maturity, the child's views, health, education, safety, compelling reasons, economic readiness, protective alternatives, family support, and long-term impact. They function as an argumentative audit tool, not a scoring mechanism or substitute for judicial discretion. Because the complete Bantul determination was unavailable, factual assertions are limited to the original thesis.

Kata Kunci:

dispensasi kawin; kepentingan terbaik bagi anak; evaluasi yuridis; perlindungan anak; pertimbangan hakim.

ABSTRAK

Penelitian ini mengevaluasi pemberian dispensasi kawin di Indonesia dengan menempatkan prinsip kepentingan terbaik bagi anak sebagai standar substantif untuk menilai kualitas pengaturan hukum dan penalaran hakim. Penelitian membahas tiga persoalan, yaitu kesesuaian pengaturan dispensasi kawin dengan perlindungan hak anak, penerapan prinsip kepentingan terbaik bagi anak dalam Penetapan Pengadilan Agama Bantul Nomor 3/Pdt.P/2026/PA.Btl., serta indikator yang dapat digunakan untuk mengevaluasi penalaran hukum. Penelitian merupakan penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Bahan hukum primer meliputi Undang-Undang Nomor 16 Tahun 2019, Undang-Undang Nomor 35 Tahun 2014, PERMA Nomor 5 Tahun 2019, Keputusan Presiden Nomor 36 Tahun 1990, Putusan Mahkamah Konstitusi Nomor 22/PUU-XV/2017, serta bahan perkara yang tersedia dalam naskah penelitian. Hasil penelitian menunjukkan bahwa sistem hukum Indonesia telah membangun kerangka perlindungan melalui batas usia minimum 19 tahun, syarat alasan sangat mendesak, bukti pendukung, dan pedoman pemeriksaan. Persoalan utamanya adalah bagaimana standar alasan sangat mendesak yang bersifat terbuka diterjemahkan menjadi pertimbangan yang berpusat pada anak dan dapat ditelusuri. Penelitian merumuskan sepuluh indikator evaluasi, yaitu usia dan kematangan, pendapat anak, kesehatan, pendidikan, keamanan, alasan sangat mendesak, kesiapan ekonomi, alternatif perlindungan, dukungan keluarga, dan dampak jangka panjang. Indikator tersebut

JOURNAL
AXIOMA LEX PRIMA
OPEN ACCESS
Volume 1 No 3 Tahun 2026
ISSN: 0000-0000 (Online)

merupakan alat bantu audit argumentasi, bukan sistem skor dan bukan pengganti diskresi hakim. Karena salinan lengkap penetapan Bantul tidak tersedia dalam bahan penelitian, pernyataan faktual dalam artikel dibatasi pada informasi yang tercantum dalam tesis dan tidak menyimpulkan bahwa aspek tertentu pasti diabaikan oleh hakim.

© 2026 The Authors. Published by Punggawa Legacy Center. This is an open access article under the CC BY license (https://creativecommons.org/licenses/by/4.0/)

A. Introduction

Children are legal subjects entitled to life, survival, development, education, protection from violence, and the opportunity to have their views heard in matters affecting their lives. Accordingly, every policy and legal action concerning children must be assessed from the perspective of fulfilling their rights rather than solely from the interests of adults making decisions.[1] In marriage dispensation proceedings, this position is particularly important because a judicial decision can affect a child's education, health, family relationships, economic opportunities, and long-term development.[2]

Raising the minimum marriage age to 19 years for both men and women reflects a shift in legal policy that prioritizes age equality and child protection. This age limit establishes the general rule, while marriage dispensation is an exceptional mechanism available only where compelling reasons and adequate supporting evidence exist. Accordingly, dispensation should not be understood as an automatic parental right to marry off a child, but as judicial authority to rigorously assess individual circumstances.[3]

The legal status of children is further reinforced by Law Number 35 of 2014[4] on Child Protection and the ratification of the Convention on the Rights of the Child

[1] Azis, M. A., Putri, R. A. K., dan Rahman, N. (2022). Keping Puzzle Yang Hilang: Menelaah Hak Yang Sirna Terhadap Narapidana. Jurnal Hukum & Pembangunan, 52(3), 674–684. https://doi.org/10.21143/jhp.vol52.no3.1493.
[2] Yuhelson, Sinaulan, R. L., dan Rahmat, A. (2020). "Perlindungan Sosial Bagi Perempuan Korban Pernikahan Dini di Gorontalo." Jurnal Pemberdayaan Masyarakat, 4(1). https://doi.org/10.14421/jpm.2020.041-10.
[3] Indonesia. (2019a). Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
[4] Indonesia. (2014). Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak.

through Presidential Decree Number 36 of 1990[5]. These instruments recognize children as rights holders and require legal institutions to give serious consideration to their interests. General Comment Number 14 of the Committee on the Rights of the Child explains that the best interests of the child are multidimensional and must be assessed through a process that identifies relevant circumstances, weighs competing interests, and provides reasons for the conclusion reached.[6]

In judicial proceedings, Supreme Court Regulation (PERMA) Number 5 of 2019 on Guidelines for Adjudicating Marriage Dispensation Applications provides a framework for examining such applications. These guidelines matter because examination cannot be reduced to parental consent or socially accepted justifications. Judicial proceedings must consider the child's circumstances, views, potential risks, and other conditions relevant to protection. The central legal question, therefore, is not merely whether dispensation may be granted, but whether the reasoning connecting facts, evidence, legal norms, and consequences adequately protects the child and can be justified.[7]

The term “compelling reasons” is an open-ended legal standard. Such a standard is needed because children and families face diverse circumstances, but it also demands disciplined judicial reasoning. A circumstance may genuinely exist without automatically constituting a legally sufficient reason to justify an exception. This distinction is important in cases involving pregnancy, social pressure, family concerns, or economic conditions. Each circumstance must be connected to the purpose of the exception and tested against available protective alternatives. This approach is consistent with responsive law, which responds to social realities without abandoning its normative objectives.[8]

[5] Indonesia. (1990). Keputusan Presiden Nomor 36 Tahun 1990 tentang Pengesahan Convention on the Rights of the Child.
[6] Committee on the Rights of the Child. (2013). General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration. Geneva: United Nations.
[7] Indonesia. (2019b). Peraturan Mahkamah Agung Nomor 5 Tahun 2019 tentang Pedoman Mengadili Permohonan Dispensasi Kawin.
[8] Nonet, P., dan Selznick, P. (2001). Law and Society in Transition: Toward Responsive Law. New Brunswick: Transaction Publishers.

Previous studies indicate that this issue remains under development. Yasniwati et al.[9] examine the relationship between judicial discretion, PERMA Number 5 of 2019, and child protection, identifying difficulties in applying normative safeguards to concrete circumstances. Abdul Adhim, Subeitan, dan Shofia[10] examine judicial reasoning in non-pregnancy marriage dispensation cases before the Yogyakarta Religious Court and demonstrate the importance of examining how judges establish urgency. Fajrin dan Nurani[11] likewise employ a normative approach to examine a dispensation ruling through the best interests of the child principle. These studies show a shift in scholarly attention from the existence of age limits toward the quality of judicial reasoning and the application of child-centered protection.

This study contributes to that discussion through a more operational analytical approach. Rather than treating the best interests of the child solely as a general value, it operationalizes the principle through ten indicators for auditing the completeness of legal reasoning. These indicators do not create new legal requirements and are not intended to dictate whether a judge must grant or deny an application. Their narrower function is to help identify whether relevant dimensions of the child's interests have been examined and whether conclusions can be traced to facts, evidence, norms, risks, and alternatives.

The illustrative case is Bantul Religious Court Determination Number 3/Pdt.P/2026/PA.Btl. The thesis records circumstances involving pregnancy and considerations regarding harm and legal certainty for the unborn child. However, the complete determination was unavailable among the research materials. Consequently, this article does not add facts absent from the thesis, reconstruct the

[9] Yasniwati, Y., Fitri, D., Rosa, M., Yanri, D., dan Hardianto, A. (2026). "When Courts Permit Child Marriage: Judicial Discretion and the Limits of Child Protection in Indonesia." USRATY: Journal of Islamic Family Law, 4(1), 86–99. https://doi.org/10.30983/usraty.v4i1.11285.
[10] Abdul Adhim, Z., Subeitan, S. M., dan Shofia, N. (2026). "Unveiling Judicial Reasoning in Underage Marriage Dispensation: Non-Pregnancy Cases at the Yogyakarta Religious Court." Referensi Islamika, 4(3), 40–56. https://doi.org/10.66053/ri.v4i3.645.
[11] Fajrin, F., dan Nurani, S. M. (2026). "Analisis terhadap Penetapan Dispensasi Kawin Nomor 25/Pdt.P/2025/Pa. Thn dengan Penerapan Prinsip Kepentingan Terbaik bagi Anak dalam Undang-Undang No. 35 Tahun 2014." RIGGS: Journal of Artificial Intelligence and Digital Business, 5(2). https://doi.org/10.31004/riggs.v5i2.12325.

court's entire reasoning through assumptions, or conclude that the judge necessarily overlooked particular considerations. The case serves as an object of normative evaluation subject to the availability of materials.

This study raises three questions. First, to what extent does Indonesia's legal framework for marriage dispensation conform to the protection of children's rights and the best interests of the child principle? Second, how can the available materials concerning the Bantul determination be evaluated without exceeding the study's evidentiary limits? Third, how can ten indicators be integrated into legal reasoning without turning them into a rigid checklist? Answers to these questions are expected to provide an analytical framework for normative legal scholarship and discussions of accountability in judicial reasoning on marriage dispensation.

B. Research Method

This study employs normative legal research. It examines legal norms, concepts, and available judicial materials rather than collecting field data through respondents or statistical measurements. Its normative character matters because the research questions concern the relationship between legal authority, child protection principles, evidence-based reasoning, and the quality of judicial determinations. Statutory, conceptual, and case approaches are employed.[12][13]

The statutory approach examines Law Number 1 of 1974[14] as amended by Law Number 16 of 2019, Law Number 35 of 2014 on Child Protection, PERMA Number 5 of 2019, Presidential Decree Number 36 of 1990, Law Number 48 of 2009[15] on Judicial Power, and Constitutional Court Decision Number 22/PUU-XV/2017[16]. The conceptual approach explains the best interests of the child principle, responsive law, balancing, legal protection, and judicial reasoning. The case approach is confined to information concerning Bantul Religious Court Determination Number 3/Pdt.P/2026/PA.Btl. expressly included in the thesis.

[12] Marzuki, P. M. (2016). Penelitian Hukum. Jakarta: Kencana.
[13] Soekanto, S., dan Mamudji, S. (2022). Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Depok: Rajagrafindo Persada.
[14] Indonesia. (1974). Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
[15] Indonesia. (2009). Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman.
[16] Mahkamah Konstitusi Republik Indonesia. (2017). Putusan Nomor 22/PUU-XV/2017.

Primary legal materials carry the greatest authority in determining the content of legal duties and judicial powers. Secondary materials, including books and journal articles, clarify concepts, compare analytical perspectives, and trace research developments. This distinction prevents secondary authors' opinions from being treated as legislative provisions. The analysis proceeds through an inventory of norms, mapping of children's rights, identification of genuinely available facts, conceptual interpretation, application of ten indicators, and formulation of conclusions and recommendations.

The term “juridical evaluation” refers here to a normative assessment of the quality of legal construction and reasoning. It does not imply moral judgment of children, parents, or judges. The evaluation asks whether reasoning conforms to applicable norms, relevant facts and evidence have been identified, the child's interests have been substantively considered, competing interests and protective alternatives have been weighed, and conclusions can be traced to the preceding analysis. These criteria are qualitative and are not converted into numerical scores.

The methodological limitation concerning the Bantul case is deliberately maintained. Because the complete determination was absent from the research materials, the thesis defines the limit of available factual information. The absence of a detail from the thesis is not taken as proof that the court failed to consider it. This restraint safeguards academic integrity and prevents gaps in the record from becoming unsupported accusations or factual conclusions.

C. Results and Discussion

1. Legal Framework for Marriage Dispensation

Law Number 16 of 2019 establishes a minimum marriage age of 19 for men and women. This legal framework begins with a general rule and permits limited exceptions. The exception means that a court does not simply record the parties' wishes, but evaluates whether the circumstances justify departing from the general rule. The requirements for compelling reasons and supporting evidence underscore the exceptional character of marriage dispensation.[17]

[17] Indonesia. (2019a). Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.

The open-ended nature of the compelling-reasons standard does not mean that judicial discretion is unlimited. Discretion remains constrained by statutory objectives, procedural safeguards, evidentiary requirements, and the duty to provide reasons. The more open-ended a standard is, the more important its legal explanation becomes. A finding of urgency should identify the circumstances giving rise to it, explain how those circumstances create a need for dispensation, and demonstrate why less burdensome protective options are insufficient or unavailable.

This is important because an applicant's reasons may combine legal, social, economic, and familial considerations. Parental consent, for example, may be relevant to the facts but does not itself resolve the issue of child protection. Similarly, pregnancy may raise genuine health, social, or legal concerns, but its occurrence does not automatically establish that marriage is the only or safest protective option. The court must distinguish the existence of a circumstance from its legal consequences.

PERMA Number 5 of 2019 provides a procedural bridge between statutory exceptions and a child's individual circumstances. It strengthens child-centered examination by requiring attention to the child and their surrounding conditions. In this sense, PERMA represents an institutional response to the difficulty of applying general standards to highly individualized cases. It does not eliminate judicial discretion, but structures its exercise.

Law Number 48 of 2009 on Judicial Power provides additional context for judges' duties in examining and deciding cases. Judges must not apply legal provisions mechanically, but must understand the legal values and sense of justice prevailing in society. In marriage dispensation cases, this duty must be exercised alongside the obligation to protect children. The quality of legal reasoning therefore forms an essential part of a decision's legitimacy, particularly when judges apply open-ended standards.

Constitutional Court Decision Number 22/PUU-XV/2017 is also important for understanding this policy direction. It provided one basis for amending the marriage-age rules through Law Number 16 of 2019. For this study, the change

concerns both equalizing the minimum age for men and women and strengthening child protection. Assessments of dispensation must therefore consider the wider legal policy underpinning that amendment.

This framework shows that raising the minimum marriage age has consequences for interpreting dispensation applications. When 19 becomes the general legal age, the exception must be regarded as a corrective mechanism for individual circumstances genuinely requiring judicial intervention. The starting point of analysis is therefore not the desire to marry, but whether circumstances meet the exception standard and what legal consequences follow for the child. This perspective helps prevent dispensation from becoming an alternative route that weakens the practical force of the minimum-age requirement.

2. The Best Interests of the Child as a Substantive Standard

The best interests of the child principle must be understood both as a substantive orientation and a procedural consideration. Substantively, it concerns the effect of a decision on the child's rights and development. Procedurally, it requires decision-makers to identify the child's interests, hear the child as appropriate, consider competing interests, and give reasons that make the balancing process understandable. General Comment Number 14 emphasizes the need for individualized assessment rather than general assumptions about what is best for all children.[18]

The principle also requires distinct interests to be identified separately. A marriage dispensation application may involve the interests of parents, the prospective spouse, the child intending to marry, and, where pregnancy is involved, the interests of the unborn child. These interests may overlap but must not automatically be treated as identical. Keeping them distinct helps courts determine whose interests are actually protected and whether adult interests have simply been presented as the child's welfare.

The best interests principle does not require every case to produce the same outcome. Rather, it requires consistency in the method of assessment. Two cases

[18] Committee on the Rights of the Child. (2013). General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration. Geneva: United Nations.

may yield different decisions because their facts, evidence, risks, and protective alternatives differ. The consistent requirement is to examine relevant circumstances and explain how they support the conclusion. The quality of the *ratio decidendi* is therefore a more appropriate measure than uniform outcomes across all cases.

From the perspective of responsive law, child-centered adjudication must recognize social realities without allowing them to displace the objectives of legal protection. Judges need to understand family pressure, economic constraints, pregnancy, educational circumstances, and social conditions. Yet understanding a circumstance does not mean accepting it automatically. Responsive law continues to operate through legal norms, rights, proportionality, and institutional accountability.[19]

The best interests principle is also closely connected to non-discrimination and child development. Protection must not depend on labeling a child "mature enough" merely because they can perform certain tasks. Maturity must be assessed comprehensively, including the capacity to understand consequences, bargaining power within relationships, access to assistance, and the ability to retain education and healthcare. Maturity thus forms part of a vulnerability analysis rather than a mere label assigned to a child.

Child participation is an essential element of this framework. The child's views should be treated as legal information requiring careful assessment, not as the sole determinant of the outcome. A child may express consent for various reasons, including family pressure, social anxiety, economic dependence, or a perception that marriage is the only option. The evidentiary value of the child's views is therefore stronger when expressed freely and without pressure, and when considered alongside other objective circumstances.

The best interests of the child must also be distinguished from short-term "benefits." A decision may resolve a family's immediate social difficulties while causing longer-term effects on the child's education, health, economic circumstances, and development. Assessing best interests thus requires a temporal

[19] Nonet, P., dan Selznick, P. (2001). Law and Society in Transition: Toward Responsive Law. New Brunswick: Transaction Publishers.

perspective. Judges should consider the circumstances at the time of application and the consequences reasonably foreseeable after the decision.

3. Evaluation of the Bantul Determination Based on Available Materials

Bantul Religious Court Determination Number 3/Pdt.P/2026/PA.Btl. serves as the principal case in this study. The research materials record circumstances involving pregnancy and judicial considerations of harm and legal certainty for the unborn child. These considerations are legally relevant because courts must address concrete consequences and cannot decide dispensation applications in the abstract.

At the same time, the research materials do not contain the complete determination. The article therefore cannot responsibly reconstruct all case facts, evidentiary proceedings, the full *ratio decidendi*, or every consideration that may have arisen at the hearing. The evaluation is instead formulated as a methodological inquiry: if the purpose of examination is to demonstrate the child's best interests, what elements should appear in the reasoning so that the conclusion is independently understandable and traceable?

The distinction between “unavailable in the research materials” and “not considered by the judge” is crucial. Academic writing must not turn the first proposition into the second. Accordingly, this study does not assert that the Bantul judge failed to examine the child's education, health, safety, or views. The case instead illustrates the importance of access to complete determinations when evaluating the quality of judicial reasoning. When primary documents are incomplete, the appropriate conclusion concerns evidentiary limitations, not a factual judgment about the judge.

This limitation also demonstrates the practical value of an indicator framework. The indicators can be applied in subsequent research once the complete determination becomes available. Researchers may systematically trace whether the reasoning addresses facts, evidence, the child's views, risks, alternatives, and long-term effects. In this way, the study moves beyond declaring that best interests matter and provides a means of assessing how the principle is expressed in judicial reasoning.

JOURNAL
AXIOMA LEX PRIMA
OPEN ACCESS
Volume 1 No 3 Tahun 2026
ISSN: 0000-0000 (Online)

Limitations in the case record also affect how findings should be formulated. In legal research, primary documents are essential to establish precisely what was decided, which facts were found, which legal norms were applied, and how the reasons connect those facts to the operative ruling. Where any of these elements is unavailable, the level of certainty attached to conclusions must be reduced. This approach is more defensible than filling gaps through assumptions drawn from other cases.

4. Ten Indicators for Evaluating the Best Interests of the Child

The following ten indicators are formulated to help evaluate the completeness of legal reasoning. They do not create additional legal requirements, a scoring system, or a substitute for judicial discretion.

Table 1. Ten indicators as an evaluation framework.

No.	Indicator	Analytical Focus
1	Age and maturity	Age, ability to understand consequences, emotional readiness, vulnerability, and capacity to assume responsibilities.
2	Child's views	Opportunity to speak freely and safely; substance of views; circumstances in which views are expressed; reasons when views are not followed.
3	Health	Physical and reproductive health, relevant medical information, risks, and access to continuing healthcare.
4	Education	Educational circumstances, risk of dropping out, realistic continuity plans, and family or institutional support.
5	Safety	Potential coercion, violence, exploitation, threats, power imbalances, and available safeguards.
6	Compelling reasons	Concrete circumstances, connection with the need for dispensation, urgency, evidence, and proportionality of the exception.
7	Economic readiness	Income, employment, housing, ability to meet basic needs, and realistic caregiving capacity.
8	Protective alternatives	Counseling, healthcare, educational support, family assistance, social protection, or other less burdensome options.
9	Family support	The ability and willingness of the family to provide care, education, healthcare, supervision, and protection.
10	Long-term effects	Effects on education, health, safety, development, economic opportunities, family relationships, and well-being.

Source: developed from the analytical framework in the thesis. The indicators are not additional legal requirements or a scoring system and do not replace judicial discretion.

Within these limits, references to harm and legal certainty can be considered at the balancing stage. The next question is whether those considerations are

connected to the child's rights and whether the reasoning also examines the effects of marriage on education, health, safety, economic conditions, family support, and long-term development. The ten indicators provide a structured means of asking these questions without assuming that all answers in the Bantul case are already known.

The ten indicators are most useful when integrated into the structure of the *ratio decidendi*. Courts need not mechanically reproduce all ten headings in every determination. Instead, the indicators can serve as a substantive map of matters requiring examination. The method may be summarized in six layers: identifying applicable norms, establishing proven facts, assessing evidence, evaluating the child's interests, examining alternatives and competing interests, and reaching a conclusion explaining the legal consequences of the entire analysis.

The compelling-reasons indicator connects the general rule with the concrete circumstances. Such reasons should not merely be stated, but tested through causal reasoning. Relevant questions are what circumstances generate urgency, why they require a judicial decision, what evidence supports them, and whether the same protective objective could be achieved by other means. This examination preserves judicial flexibility under an open-ended standard while preventing overly general grounds from justifying exceptions.

The indicators need not carry identical weight in every application. A case involving suspected coercion, for example, calls for greater attention to safety and the child's ability to speak freely. Pregnancy-related cases require particular consideration of health, support, and protection without disregarding education and safety. Cases dominated by financial hardship should examine whether social or family support provides an alternative. This flexibility keeps the framework compatible with the nature of normative legal research.

The ten indicators are interconnected and should not be applied in isolation. Age and maturity concern the child's ability to understand consequences; the child's views concern participation; health and education concern development; safety concerns vulnerability; and compelling reasons establish the grounds for an exception. Economic readiness, family support, protective alternatives, and long-

term effects help assess the consequences of a decision. These relationships make the indicators an evaluation framework rather than a mere list of questions.

5. Integrating Indicators into the *Ratio Decidendi*

The first layer identifies the general rule and authority to grant exceptions. This establishes the legal starting point that marriage below the minimum age is not the ordinary legal position and dispensation is available only as an exception. The second layer identifies facts that have actually been proven. This distinction matters because the parties' assumptions and allegations must not be equated with established facts.

The third layer evaluates the evidence. Evidentiary requirements should correspond to the issues under examination. Health-related claims require relevant medical information; educational claims require an understanding of the child's educational circumstances; safety claims require attention to coercion or violence; and economic claims require realistic information about income and caregiving. This approach strengthens the connection between evidence and conclusions.

The fourth layer examines the child's interests. The ten indicators provide a map of questions rather than a list of mandatory conditions. Courts may assign greater relevance to particular indicators according to the facts. However, when an indicator is closely connected to the case, it should be addressed in the reasoning. The fifth layer evaluates alternatives and balances competing interests. It asks whether the exception is proportionate to the identified risks and whether less burdensome protective options exist.

The sixth layer is the conclusion. The determination should explain why an exception is granted or denied in light of proven facts and applicable norms. Where dispensation is granted, the reasons must still explain how the child's rights will be protected. Where it is denied, the reasoning should address the applicant's concerns and explain other available protective mechanisms. In both situations, transparent reasoning is central to accountability.

This framework is not designed to restrict judicial freedom in assessing evidence. Instead, it clarifies where discretion is exercised. Discretion supported by traceable reasons is more readily understood as the exercise of judicial authority

than discretion expressed only as a brief conclusion. In cases involving children, this need is particularly pressing because a decision can affect the child's life long after proceedings have ended.

Traceability is equally important for academic and institutional review. A reader should be able to follow the court's reasoning: which norms govern, which facts have been established, how those facts were evaluated, whose interests were protected, what options were available, and why a particular conclusion was reached. The clearer these connections, the easier it becomes to distinguish legally grounded considerations from mere social assumptions.

The six layers of the *ratio decidendi* formulated in this study maintain continuity between facts and conclusions. If norms are identified but facts are unproven, the conclusion is weakened. If facts and evidence are examined without articulating the child's interests, the protective orientation remains unclear. If the child's interests are discussed but alternatives are overlooked, the necessity of marriage remains insufficiently explained. The structure therefore serves as an argumentative bridge.

This approach also helps avoid two opposing tendencies. On the one hand, dispensation cases should not be decided merely by repeating the age limit without considering the circumstances presented. On the other, circumstances such as pregnancy, social pressure, or financial hardship should not automatically be considered sufficient without legal scrutiny. The ten indicators mediate between these tendencies: the general norm remains the starting point, while individual circumstances are examined to determine whether an exception is justified and child protection is maintained.

The relationship between child protection and judicial discretion must be assessed proportionately. Protecting children does not mean disregarding family circumstances, but ensuring that family interests do not replace those of the child as a legal subject. Conversely, judicial discretion is not unlimited freedom, but the space to evaluate individual circumstances on the basis of norms and evidence. The relevant measure is whether discretion is used to explain exceptions rationally and with a protective orientation.

The indicators are not intended to produce one uniform answer to all applications. They ensure that the reasons for an exception are considered alongside the child's actual circumstances. If an indicator is irrelevant in a particular case, that irrelevance can be explained. Conversely, if an indicator closely relates to the facts, the reasoning should make its consideration more explicit. This approach balances legal flexibility with judicial accountability. It also permits cautious evaluation in this study without converting the limited Bantul case materials into unsupported conclusions.

Ultimately, the framework treats child protection as a concrete assessment process. Judges retain authority to weigh evidence and determine legal consequences, while the indicators help ensure that the process remains attentive to children's rights.

The evaluation therefore remains normative and is not intended to predict the court's decision.

This approach preserves individualized assessment while strengthening accountability for legal reasoning.

The approach remains proportionate.

6. Legal Gaps and Research Novelty

The principal legal gap identified is not the absence of a legal basis for protecting children. Indonesia already has a minimum marriage age, an exceptional mechanism, child protection legislation, Supreme Court examination guidelines, and international commitments to children's rights. The gap lies more precisely in operationalizing open-ended standards. “Compelling reasons” and “the best interests of the child” require structured application so that judicial discretion can be explained and subjected to academic scrutiny.

The novelty of this study lies in connecting the best interests of the child principle, ten operational indicators, and a six-layer structure of legal reasoning. Previous studies have examined PERMA Number 5 of 2019, judicial discretion, urgent reasons, and specific determinations. Research on judicial reasoning in Yogyakarta, for example, addresses non-pregnancy dispensation proceedings, while other studies in 2026 examine child protection in particular dispensation

rulings.[2021] This study contributes a more explicit audit framework for the judicial reasoning process.

This contribution must nevertheless be stated proportionately. The ten indicators are research instruments, not new sources of law. Before being used for empirical comparison, they should be tested against a larger number of complete determinations. The focus on a single case and the absence of the full Bantul determination constrain generalizability. These limitations are disclosed as part of the scope governing what the study may legitimately claim.

7. Implications for Judicial and Institutional Practice

For judges, this framework shows that application grounds must be connected to evidence and the child's specific circumstances. General statements about social consequences are less informative than explanations of concrete risks, their urgency, and available protective alternatives. This accords with the development of child-centered judicial reasoning in the Religious Courts.

For the Supreme Court and judicial education and training institutions, the findings support developing practical guidance on open-ended standards. Training may emphasize distinguishing adults' interests from children's interests, assessing evidentiary quality, hearing children safely, and documenting the balancing process and alternatives. The objective is not to standardize outcomes, but to improve transparency and consistency in reasoning methods.

For educational, healthcare, social protection, and family-support institutions, the analysis indicates that judicial assessment cannot operate in isolation. The more credible the available protective alternatives, the more meaningful the court's inquiry into whether marriage is genuinely necessary. Counseling, healthcare, educational support, family assistance, and social

[20] Abdul Adhim, Z., Subeitan, S. M., dan Shofia, N. (2026). "Unveiling Judicial Reasoning in Underage Marriage Dispensation: Non-Pregnancy Cases at the Yogyakarta Religious Court." Referensi Islamika, 4(3), 40–56. https://doi.org/10.66053/ri.v4i3.645.
[21] Fajrin, F., dan Nurani, S. M. (2026). "Analisis terhadap Penetapan Dispensasi Kawin Nomor 25/Pdt.P/2025/Pa. Thn dengan Penerapan Prinsip Kepentingan Terbaik bagi Anak dalam Undang-Undang No. 35 Tahun 2014." RIGGS: Journal of Artificial Intelligence and Digital Business, 5(2). https://doi.org/10.31004/riggs.v5i2.12325.

protection form part of the institutional environment in which the best interests principle can be applied.

Further research should collect complete copies of several marriage dispensation determinations for comparative analysis. Subsequent studies may code the presence and quality of each indicator, compare granted and rejected applications, examine differences among courts, and test whether the proposed indicators improve the transparency of the *ratio decidendi*. Such research could develop this normative proposal into an analytical model tested systematically.

D. Conclusion

Indonesia's legal framework for marriage dispensation has established a protective architecture through a minimum marriage age of 19, exceptions based on compelling reasons and supporting evidence, child protection norms, and examination guidelines under PERMA Number 5 of 2019. The legal challenge lies not merely in the existence of exceptions, but in interpreting and justifying them consistently with the objectives of legal protection.

Bantul Religious Court Determination Number 3/Pdt.P/2026/PA.Btl. illustrates the importance of connecting concrete circumstances with child-centered reasoning. The thesis records circumstances involving pregnancy and considerations concerning harm and legal certainty for the unborn child. Because the complete determination was unavailable, the study does not conclude that the court overlooked particular matters. Rather, it demonstrates that complete judicial records are necessary for a definitive assessment of the quality of the *ratio decidendi*.

Ten indicators, namely age and maturity, the child's views, health, education, safety, compelling reasons, economic readiness, protective alternatives, family support, and long-term effects, can serve as a qualitative evaluation framework. They do not introduce new legal requirements, generate numerical scores, or replace judicial discretion. Their function is to make the connections between facts, evidence, norms, risks, alternatives, and conclusions more visible.

The principal implication is that accountability in marriage dispensation cases should be assessed through the quality and traceability of legal reasoning

rather than by demanding identical outcomes in all cases. Consistency means examining relevant issues and explaining different outcomes through differences in facts, evidence, risks, and alternatives. This approach respects judicial authority while strengthening child protection within the exception mechanism.

E. Recommendations

First, judicial guidelines and training should continue strengthening the practical application of the best interests of the child principle and the assessment of compelling reasons. Emphasis should be placed on the quality of reasoning, evidence, child participation, and protective alternatives rather than a rigid checklist.

Second, legal reasoning must distinguish adult consent from child welfare. Pregnancy, social concerns, economic circumstances, or family approval may be relevant, but should not automatically determine the outcome without examining children's rights and the proportionality of the exception.

Third, public institutions should strengthen education, healthcare, counseling, social protection, and family-support services. Credible alternatives are essential because courts cannot meaningfully assess whether marriage is necessary if non-marital protective options exist only in theory.

Fourth, future studies should analyze several complete marriage dispensation determinations using the ten indicators and compare their reasoning across courts and factual patterns. Such research would provide stronger empirical grounds for refining the framework and evaluating its usefulness in judicial studies.

References

Abdul Adhim, Z., Subeitan, S. M., dan Shofia, N. (2026). “Unveiling Judicial Reasoning in Underage Marriage Dispensation: Non-Pregnancy Cases at the Yogyakarta Religious Court.” Referensi Islamika, 4(3), 40–56. https://doi.org/10.66053/ri.v4i3.645.

Azis, M. A., Putri, R. A. K., dan Rahman, N. (2022). Keping Puzzle Yang Hilang: Menelaah Hak Yang Sirna Terhadap Narapidana. Jurnal Hukum & Pembangunan, 52(3), 674–684. https://doi.org/10.21143/jhp.vol52.no3.1493.

Committee on the Rights of the Child. (2013). General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration. Geneva: United Nations.

Fajrin, F., dan Nurani, S. M. (2026). “Analisis terhadap Penetapan Dispensasi Kawin Nomor 25/Pdt.P/2025/Pa. Thn dengan Penerapan Prinsip Kepentingan Terbaik bagi Anak

dalam Undang-Undang No. 35 Tahun 2014.” RIGGS: Journal of Artificial Intelligence and Digital Business, 5(2). https://doi.org/10.31004/riggs.v5i2.12325.

Indonesia. (1974). Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.

Indonesia. (1990). Keputusan Presiden Nomor 36 Tahun 1990 tentang Pengesahan Convention on the Rights of the Child.

Indonesia. (2009). Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman.

Indonesia. (2014). Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak.

Indonesia. (2019a). Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.

Indonesia. (2019b). Peraturan Mahkamah Agung Nomor 5 Tahun 2019 tentang Pedoman Mengadili Permohonan Dispensasi Kawin.

Mahkamah Konstitusi Republik Indonesia. (2017). Putusan Nomor 22/PUU-XV/2017.

Marzuki, P. M. (2016). Penelitian Hukum. Jakarta: Kencana.

Nonet, P., dan Selznick, P. (2001). Law and Society in Transition: Toward Responsive Law. New Brunswick: Transaction Publishers.

Soekanto, S., dan Mamudji, S. (2022). Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Depok: Rajagrafindo Persada.

Yasniwati, Y., Fitri, D., Rosa, M., Yanri, D., dan Hardianto, A. (2026). “When Courts Permit Child Marriage: Judicial Discretion and the Limits of Child Protection in Indonesia.” USRATY: Journal of Islamic Family Law, 4(1), 86–99. https://doi.org/10.30983/usraty.v4i1.11285.

Yuhelson, Sinaulan, R. L., dan Rahmat, A. (2020). “Perlindungan Sosial Bagi Perempuan Korban Pernikahan Dini di Gorontalo.” Jurnal Pemberdayaan Masyarakat, 4(1). https://doi.org/10.14421/jpm.2020.041-10.