



## Judicial Discretion and Legal Certainty in Marriage Dispensation: A Normative Analysis of Supreme Court Regulation No. 5 of 2019 Implementation in Indonesian Religious Courts

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**Abstract**

**Background:** As part of efforts to protect young people and reduce underage marriage, the legal marriage age was raised to 19 for everyone under Law No. 16 of 2019. This regulatory change has, in fact, led to a surge in requests for exemptions within the judicial system, raising questions about its overall impact. Although the Supreme Court has intervened with the Supreme Court Regulation (*PERMA*) No. 5 of 2019 to provide guidelines for judges, differing viewpoints in court rulings continue to undermine legal consistency.

**Objective:** This research investigates the judicial reasoning behind the approval of marriage exceptions under *PERMA* Number 5 of 2019 and what it signifies for the predictable and consistent application of Law Number 16 of 2019.

**Methods:** The methodology for this research relies on normative legal studies, utilizing case, conceptual, and statutory approaches. It gathers foundational evidence from primary instruments like Law Number 16 of 2019, *PERMA* Number 5 of 2019, and judicial decisions, alongside secondary data from legal doctrines, journals, and books. To evaluate the information, a qualitative analysis was conducted to compare legal standards against their implementation.

**Results:** Findings identify three dominant judicial reasoning patterns: pregnancy-based considerations (most frequent), family pressure, and economic hardship. Although *PERMA* emphasizes child welfare, its application is inconsistent, resulting in disparities in court decisions.

**Conclusion:** The study shows a gap between normative regulation and judicial practice, which weakens legal certainty. It proposes strengthening the binding force of *PERMA* No. 5 of 2019 to improve consistency and child protection outcomes.

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### INTRODUCTION

Under Article 2 of the Compilation of Islamic Law, marriage represents a deeply sacred and binding commitment meant to fulfill the divine orders of Allah SWT. Meanwhile, the legal framework of Law Number 1 of 1974 on Marriage characterizes it as both a physical and spiritual connection between a husband and wife, intended to establish a peaceful, long-lasting household founded on devotion to the One Supreme God (Fatullah 2021; Munib 2022). The differences in these formulations indicate that marriage regulations in Indonesia are not only based on religious values but also incorporate a legal dimension aimed at providing certainty, order, and protection

for every family member (Busriyanti et al, 2025). Therefore, any policy governing marriage including changes to the minimum age for marriage must strike a balance between respect for religious teachings and the state's responsibility to ensure the protection of children's rights and promote family well-being.

The Indonesian legal system, through its 1974 legislation on marriage, characterizes the marital union as a bond meant to foster a permanent, balanced, and blissful family environment centered around faith in the One and Only God (Munib, 2022). The state updated its marriage age policies through Law No. 16 of 2019 in response to shifting legal landscapes and child protection advocacy, making 19 the uniform minimum age required for both men and women to wed (Hidayat, 2022). This adjustment reflects the state's commitment to reducing the incidence of child marriage and ensuring that prospective spouses are better prepared physically, psychologically, and socially. Thus, this policy aims not only to provide legal certainty but also to mitigate the risks associated with early marriage, such as dropping out of school, reproductive health issues, and various social problems that may affect the quality of family life in the future (Muqaffi et al, 2021).

Despite the introduction of Law No. 16 of 2019, judicial requests for age waivers actually went up (Ilma, 2020). A marriage dispensation serves as a loophole to the legal age restriction and is regularly granted by judges under highly urgent conditions, such as pregnancies outside of marriage or specific social dynamics within the household (Judiasih et al, 2020). For the purpose of steering judges as they deliberate on marriage dispensation lawsuits, the Supreme Court created Regulation Number 5 of 2019, which sets forth explicit instructions on how to resolve these underage marriage applications (Yusuf, 2022). In reality, inconsistencies remain in the way judicial officers analyze and resolve age exemption petitions, creating doubts about legal predictability and undermining the successful implementation of the minimum marriage age policy (Rivaldi, 2025).

Records from both the Directorate General of Religious Courts and the Supreme Court of Indonesia demonstrate how widespread this occurrence has become. Information from the Supreme Court of the Republic of Indonesia 2023 Annual Report reveals that total marriage dispensation filings grew heavily from close to 23,700 in 2018 under the legacy age requirements to upwards of 65,000 in 2020, meaning cases nearly tripled in the first full year after Law No. 16 of 2019 took effect (Mahkamah Agung Republik Indonesia, 2023). While figures stabilised somewhat in subsequent years, the volume remained consistently above 50,000 annual applications between 2021 and 2022, indicating that the age-equalisation reform has not suppressed demand for dispensation but has instead institutionalised it as a routine legal pathway. These figures underscore the urgency of ensuring that the examination procedure mandated by the Supreme Court Regulation (PERMA) No. 5 of 2019 is consistently applied.

However, previous studies on marriage dispensation in Indonesia have predominantly focused on either the frequency of dispensation grants or the socio-demographic profiles of applicants (Ilma, 2020; Judiasih et al, 2020), without systematically classifying the types of judicial reasoning employed and evaluating each type against the dual standards of legal certainty and child-protection principles. This study addresses that gap. Accordingly, this study asks: (1) What common analytical frameworks do judges utilize when deciding on marriage dispensation applications following the introduction of PERMA No. 5 of 2019, and do these decisions truly support the child welfare goals mandated by Law No. 16 of 2019? (2) In what ways do these reasoning patterns affect legal certainty at the normative level (statutory provisions) and at the decisional level (consistency of court rulings)?

The core objective of marriage goes past creating a legally recognized bond between a husband and wife, as it aims to form a supportive family, propagate future generations, uphold personal honor, and achieve absolute peace and fulfillment in life together (Kurniawan et al, 2025). From a wider perspective, marriage carries a societal responsibility since it helps build a structured community, which means maintaining the union is vital not just for the couple but also for the collective progress of the nation and the state (Suryatni, 2021). In line with this, Law No. 1 of 1974 on Marriage affirms that marriage is a bond rooted in spiritual and religious values, thus encompassing not only a physical relationship but also an emotional bond that serves as the

foundation for building a happy and enduring family. From this bond arises the parents' responsibility to care for, educate, and fulfill the rights of their children as part of the primary purpose of marriage in creating a prosperous family (Hanifah, 2019).

Because of this, the birth of a child is an event that households always anticipate, most notably for married partners who have spent a significant amount of time trying to conceive without success (Nasution, 2023). Such an arrival brings great delight and is a cherished moment for the parents and their kin, who hope above all for a healthy baby born with perfectly functioning physical traits (Tajiri, 2020).

Following the enactment of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, marital applications that were registered prior to this shift were processed without interruption under the older rules of the 1974 Marriage Law. Law Number 16 of 2019 serves as an impactful initiative to protect children and enhance community well-being by restructuring the legal marriage age. Equalizing the marriage requirement to 19 years old for both partners is anticipated to decrease juvenile marriages, boost academic opportunities, and alleviate health complications often caused by youthful pregnancies (Dini & Nurhelita, 2020).

As outlined in Law No. 1 of 1974, the legal conditions for marriage tie back to Article 6 paragraph (1), which mandates that a union requires the explicit agreement of both the prospective bride and groom. This legal text underscores the necessity of willing participation from both partners without external coercion, ensuring the relationship is positioned to form a permanent, blissful home rooted in mutual peace and love. The Marriage Law stipulates in Article 6 paragraph (2) that anyone under the age of 21 must get approval from both parents to get married, while Article 7 paragraph (1) establishes the minimum age threshold, permitting marriage only when the man is 19 years of age and the woman is 16 years of age.

In a similar vein, the Compilation of Islamic Law defines the age requirements for entering a union under Article 15 paragraphs (1) and (2), explaining that to safeguard the welfare of the family, marriage is restricted to individuals who meet the age thresholds established in Article 7 of Law Number 1 of 1974, which requires the future husband to be at least 19 years old and the future wife to be at least 16 years old. As stipulated in paragraph (2), when prospective spouses are below the 21-year age threshold, they are legally bound to obtain the consent outlined across paragraphs (2), (3), (4), and (5) of Article 6 in Law Number 1 of 1974.

Existing scholarship has examined marriage dispensation from multiple angles. Muqaffi, Rusdiyah, and Rahmi (2021) analyzed the normative tensions between dispensation regulation and child-protection goals following the 2019 amendment; Yusuf (2022) assessed the effectiveness of PERMA No. 5 of 2019 in reducing underage marriage; and Rivaldi (2025) conducted a case study of dispensation decisions at the Tanjung Karang Religious Court. Despite this body of work, no study has developed a systematic typology of judicial reasoning patterns across multiple cases and subjected each type to dual evaluation against legal-certainty and child-protection theories simultaneously. The novelty of this study lies precisely in constructing such a typology and using it as an analytical lens to evaluate the functioning of PERMA No. 5 of 2019 in practice, thereby contributing a replicable doctrinal framework for future normative legal research on judicial discretion in family law.

## METHOD

This paper adopts a doctrinal legal research design, which primarily evaluates the legal principles, norms, and codes that oversee the subject at hand. Because the focus is restricted to legislative acts, jurisprudential philosophies, and academic discourse, a library-based review serves as the main data collection strategy. The investigation is therefore executed through the close reading and interpretation of primary legal instruments and secondary references, such as treatises and journal publications, to build a complete perspective on the legal question (Sloan & Sloan, 2009).

In particular, this research utilizes three interconnected methods under its normative legal structure. To begin with, the statutory method reviews core legislative documents, including the 1974 Marriage Law, the 2019 Marriage Law Amendment, Supreme Court Regulation Number

5 of 2019, and the 2014 Child Protection Act. Additionally, the case method evaluates specific Religious Court verdicts on age exemption requests, zeroing in on the legal justifications behind each decree to map out the underlying judicial logic. Lastly, the conceptual framework places the results into the context of legal certainty theories by Gustav Radbruch and Lon Fuller, Soerjono Soekanto's legal effectiveness theory, and the best interests of the child doctrine from Article 3 of the UN Convention on the Rights of the Child. The information was processed qualitatively through thematic content review and legal interpretation, contrasting the core of judicial arguments with the criteria set by *PERMA* No. 5 of 2019 and the child-welfare objectives of Law No. 16 of 2019.

Frequently termed doctrinal legal research, this methodology relies entirely on documentary or library analysis because its focus is restricted to codified regulations and text-based authorities. At its core, the investigation involves evaluating literature and secondary data categorized into primary, secondary, and tertiary legal sources. This form of inquiry utilizes these secondary materials to catalog positive legal rules, reveal fundamental legal tenets, and uncover the philosophical underpinnings of current statutes, which helps clarify both the normative framework and how individuals behave within legal relationships. The focus of this inquiry is a juridical evaluation of marital waivers granted to minors, assessing how these exceptions influence the efficiency of the age limits mandated under Law No. 16 of 2019's amendments to Law No. 1 of 1974, utilizing library resources and existing legislative codes as a foundation. Doctrinal legal inquiry reaches beyond codified statutes to evaluate the foundational principles connected to the research topic. As noted in the introductory background, adopting this specific methodology is intended to provide an objective analysis of all investigated issues, serving as the groundwork for this academic paper.

Derived from the project title and research questions, this inquiry takes a descriptive, analytical, and prescriptive path through qualitative means, aiming to offer detailed deductive insights based on real-world facts. Prescriptive investigations focus on delivering practical solutions to solve specific dilemmas. Viewed as a prescriptive field, jurisprudence evaluates legal tenets, structural frameworks, comparative systems, statutory goals, certainty values, and operational codes, while acting as an applied discipline to set the standard operating procedures and metrics for legal tasks.

This inquiry is designed to carefully document the current realities regarding the legal weight of age-exemption waivers for minors and their impact on the performance of marriage age restrictions under the amendments in Law No. 16 of 2019. Beyond clarifying these issues, the study seeks to bolster established theoretical concepts. Data compilation is executed via document analysis, drawing secondary evidence from an array of literary texts that include primary statutes, secondary commentaries, and tertiary research aids.

## RESULTS AND DISCUSSION

### Results

#### ***Analysis of the Problems in Judges' Considerations in Granting Marriage Dispensation Based on Supreme Court Regulation Number 5 of 2019 after the Enactment of Law Number 16 of 2019***

Indonesia's legal basis for granting underage marriage exemptions depends on three hierarchical regulations. Under Law No. 16 of 2019, the standard marriage age is set at 19 years for both partners, but deviations are permitted through judicial dispensation under highly critical circumstances and with verified documentation. To implement this, *PERMA* No. 5 of 2019 defines a compulsory court procedure where judges must scrutinize the child's best interests, psychological stability, medical health, schooling continuity, and freedom from pressure serving as the official benchmark for assessing judicial decisions. This is further supported by Law No. 35 of 2014 on Child Protection, which solidifies the duty to safeguard youth welfare and outlaws any practices that compromise a child's physical, mental, or social path.

The challenges surrounding how judges evaluate marriage dispensation requests under *PERMA* No. 5 of 2019 following the passage of Law No. 16 of 2019 reveal a gap between policy and practice. Even though the regulation mandates an assessment process centered strictly on the

child's best interests, judges frequently rely on sociological dynamics like premarital pregnancy, family coercion, and financial hardships. Consequently, the enforcement of this Supreme Court directive lacks consistency, resulting in significant disparities among judicial rulings ([Djamilah & Kartikawati, 2014](#)).

**Table 1.** Typology of Judicial Reasoning Patterns in Marriage Dispensation Decisions

Type of Judicial Reasoning	Primary Consideration Cited by Judges	Conformity with PERMA 5/2019	Impact on Legal Certainty
Pregnancy-Driven	Pre-marital pregnancy; prevention of child born out of wedlock; protection of family honour	Partial — child welfare assessment often superficial; urgency accepted without full psychological evaluation	Weakened — inconsistent threshold application across cases
Family Pressure-Driven	Parental arrangement; betrothal commitment; social stigma avoidance	Low — coercion screening (Art. 15 PERMA 5/2019) rarely documented; child consent assumed	Significantly weakened — decisions diverge substantially from normative mandate
Economic Hardship-Driven	Poverty; bride-price payment; reduction of household financial burden	Very low — economic factors fall outside the scope of PERMA 5/2019 child-welfare criteria	Most severely weakened — creates precedent for extra-legal dispensation

*Source: Synthesised by authors from analysis of Religious Court decisions and PERMA No. 5 of 2019*

The legislative framework governing marriage has been revised, specifically concerning the minimum age criteria for couples. Prior to this statutory update, the legal age threshold was 16 for women and 19 for men. Following the 2019 amendment, the law established an equal requirement of 19 years of age for both genders. However, despite this upward adjustment in the legal limit, the incidence of underage marriage in practice continues to be elevated ([Irawan, 2011](#)).

As a result, the frequency of underage marriages in Indonesia has been exacerbated by court decrees that authorize early marriage exemptions. While the Marriage Law plainly defines the minimum age standard, individual judges continue to sign off on dispensations due to varying localized pressures and distinct legal interpretations. At its core, the persistent approval rate stems from protecting the interests of the minors' children, highlighting a critical non-juridical element that policy creators must analyze when auditing the efficiency of current age restrictions ([Subekti, 2015](#)).

The passage of Law No. 16 of 2019 the statutory amendment updating Law No. 1 of 1974 has directly corresponded with a major surge in marriage dispensation filings, driven by the new uniform minimum age of 19 for brides. This type of dispensation functions as a legal mechanism authorizing underage individuals to marry. If critical situations dictate, the law provides a pathway for one or both partners to bypass the standard age criteria, allowing them to legally set aside the minimum threshold. The revised legislation dictates that both partners must be at least 19 years old to marry, an amendment designed to curb youth marriage statistics. However, Article 7 paragraph (2) of Law No. 1 of 1974 preserves an exception, allowing parents of the underage bride or groom to file a dispensation request with the Religious Court. To successfully override the age restriction, the petition must demonstrate a critical emergency backed by clear supporting evidence ([Soekanto, 2008](#)).

Consequently, current policy dictates that both male and female partners must be at least

19 years old to contract a legally recognized marriage. This baseline is codified in Article 7 paragraph (1) of Law Number 16 of 2019, which restricts marriage eligibility to individuals who have reached this threshold. However, paragraph (2) of the same article allows for flexibility, specifying that if a couple must bypass this age rule, the parents of either individual can formally petition the court for an exemption by offering compelling justifications backed by verifiable, concrete evidence.

In accordance with the Republic of Indonesia's Supreme Court Regulation Number 5 of 2019 on the Guidelines for Hearing Marriage Dispensation Cases, the specific purposes behind establishing these procedural benchmarks are detailed as follows:

- a) To enforce the core values highlighted in Article 2, which encompass prioritizing the child's welfare, safeguarding their right to life and healthy growth, and honoring their perspective. This framework also demands a commitment to upholding human dignity, preventing discrimination, fostering gender equity, ensuring legal equality, and promoting fairness, practical utility, and predictability under the law;
- b) To guarantee the operation of a court system that actively safeguards the legal rights of minors;
- c) To enhance the accountability of parents in actively halting early and underage marriages;
- d) To detect whether any form of duress or external pressure forms the true basis of the marriage dispensation request; and
- e) To establish a uniform and standardized procedure for evaluating and deciding marriage dispensation petitions within the judicial system.

An analysis reveals that Supreme Court Regulation No. 5 of 2019 serves to supply the necessary legal foundations for processing underage marriage dispensations, filling a regulatory void left by earlier legislation. In its guiding philosophy, the regulation declares that children are a divine blessing and trust, endowed with fundamental human dignity alongside equal opportunities to live and mature.

The implementation of Law Number 16 of 2019 introduced pivotal updates to Indonesia's marital age requirements by setting a uniform minimum of 19 years for both brides and grooms. This legislative shift aligns domestic statutes with global child protection standards and anti-child marriage initiatives, aiming to curb the long-standing health, mental, and social consequences associated with early unions.

Despite the implementation of a strict age floor, the legal framework preserves a loophole via marriage dispensations. Governed by Article 7 paragraph (2) of the Marriage Law, this clause allows parents of either the bride or groom to petition the judiciary for an exemption under highly critical circumstances, provided they supply adequate documentation. Consequently, a marriage dispensation functions as a structured legal tool that serves as an exception to standard age regulations.

To strengthen the oversight of marriage dispensation hearings, the judiciary implemented Supreme Court Regulation Number 5 of 2019. The directive explicitly requires judges to champion child protection principles, carefully analyze the mental health, physical well-being, and schooling of the individuals involved, and ensure that a wedding is the only remaining solution. Thus, the legal norms surrounding dispensations have been narrowed significantly to close potential loopholes.

## Discussion

### ***Analysis of the Implications of Granting Marriage Dispensation for Legal Certainty and the Effectiveness of Enforcing the Minimum Age for Marriage after Law Number 16 of 2019***

The analytical question guiding this Discussion is: how should the dominance of sociological reasons in marriage dispensation decisions be evaluated against the dual standards of legal certainty and child-protection principles? To answer this question, the Discussion draws on three theoretical pillars. First, Gustav Radbruch's legal-value triad identifies legal certainty (*Rechtssicherheit*), justice (*Gerechtigkeit*), and utility (*Zweckmässigkeit*) as the three foundational values of law; where these values conflict, legal certainty provides the predictable and stable baseline without which a legal system cannot function (Radbruch, 1946). Second, Soerjono

Soekanto's five-factor framework for legal effectiveness (legislative quality, law-enforcement capacity, legal facilities, community legal awareness, and cultural factors) provides a structural lens through which the implementation gap between *PERMA* No. 5 of 2019 and judicial practice can be diagnosed (Soekanto, 2008). Third, the 'best interests of the child' principle (UN CRC, Art. 3; Law No. 35 of 2014, Art. 2) requires that in any decision concerning a child, the child's long-term welfare must be the primary consideration, superseding short-term sociological convenience.

Essentially, the statutory execution of Law Number 16 of 2019 updates the original 1974 Marriage Law by clarifying the pre-marital qualifications for couples, declaring that legal unions require both partners to be at least 19 years old. This specific section justifies the equal 19-year age standard for both men and women as a vital step toward preserving the medical and physical health of the family unit.

A dispensation can therefore be viewed as a formal exemption allowing someone to wed despite falling short of the statutory 19-year age requirement. Normally, marriage is restricted to men and women who have attained this age baseline; however, pressing situations can justify a union even if one or both partners are minors. According to Law Number 1 of 1974, any court-ordered dispensation must align with child marriage prevention efforts and be strictly measured against cultural, customary, moral, religious, psychological, and physiological consequences.

Regarding the statutory age thresholds established by Law Number 1 of 1974, certain core marriage principles are omitted from the main articles and are only expanded upon in the official general elucidation. These six guiding doctrines, as outlined by the lawmakers, consist of:

- a) Marriage is fundamentally intended to create and nurture a resilient, unified, and deeply harmonious family unit;
- b) The validity of a marriage depends on compliance with the religious laws of each individual, combined with formal civil registration as dictated by current statutes;
- c) The doctrine of qualified monogamy, meaning polygamy is permissible for a husband under specific religious and legal provisions, as long as it adheres to the formal criteria established by state law;
- d) Women must achieve both physiological and psychological maturity to ensure the birth of healthy children;
- e) It may facilitate the occurrence of divorce;
- f) Husbands and wives hold equal status and identical rights under the law. However, according to the original text of Article 7 paragraph (1) of the 1974 Marriage Act, a marriage is only legally permissible once the groom is at least 19 years old and the bride is at least 16 years old.

Establishing a minimum age requirement for marriage is designed to safeguard the welfare of the couple, as underage unions frequently end in divorce due to emotional immaturity or a lack of legal capacity. Furthermore, the age restrictions enforced by the 1974 Marriage Act aim to elevate the institution of marriage into a dignified, joyful, and permanent partnership rooted in faith, while simultaneously protecting the physical health of both spouses to ensure healthy descendants.

When connected to the statutory definitions found in the Child Protection Act, a child is legally recognized as any individual from conception until they reach 18 years of age. Passing this specific age threshold shifts an individual's legal status from minor to adult. Consequently, this alignment ensures total harmony and eliminates any legal contradictions between child welfare legislation and national marriage laws.

The establishment of a minimum age for marriage is fundamentally intended to ensure that prospective spouses have attained a sufficient level of maturity before entering married life. This policy is expected to reduce the rate of child marriage while supporting the formation of healthy, harmonious, and sustainable families. Furthermore, the minimum age requirement serves as a form of state protection for children's rights, particularly in ensuring access to education, safeguarding reproductive health, and fostering mental, social, and economic readiness before marriage.

Nevertheless, the implementation of these provisions still faces various challenges due to

the existence of a mechanism for granting marriage exemptions through court rulings. In practice, requests for dispensations are still quite frequently filed, and many are granted based on various considerations, such as the family's economic circumstances, the influence of local norms and culture, or pregnancy outside of marriage. This situation indicates that the minimum age requirement has not yet become an absolute rule, as there remains room for exceptions based on the judge's discretion.

As a result, the core mission of Law No. 16 of 2019 to mitigate child marriage has not been realized to its full potential. The practical application of the dispensation mechanism frequently serves as a workaround that undermines the enforcement of the 19-year age limit. This disparity between legislative intent and actual outcomes underscores that legal efficacy in this arena is deeply entangled with societal conditions and the subjective ruling power of judges.

Legal certainty is weakened in two analytically distinct senses. At the normative level, Law No. 16 of 2019 and *PERMA* No. 5 of 2019 provide a formally coherent and sufficiently precise regulatory framework: both the minimum age standard and the examination guidelines are clearly articulated. At the decisional level, however, legal certainty is seriously compromised by the inconsistency of judicial reasoning: the same type of factual situation (e.g., pre-marital pregnancy) may result in different outcomes depending on the weight each judge assigns to sociological factors versus child-welfare criteria. This decisional inconsistency is the primary mechanism through which legal certainty is eroded, as it prevents citizens, practitioners, and policy-makers from predicting the probable outcome of a dispensation application and undermines confidence in the uniform application of the law.

In conclusion, the widespread issuance of marriage dispensations acts as a major barrier to the success of mandatory age limits. The sheer volume of approved waivers means that the underlying policy objective minimizing premature unions has yet to be fully realized on a practical level.

## CONCLUSION

This investigation points to three central outcomes. First, although *PERMA* No. 5 of 2019 introduced formal guidelines to complement Law No. 16 of 2019, presiding judges heavily favor real-world sociological issues like pregnancy, economic strain, and family demands, which fuels erratic jurisprudence. Second, the high volume of approved dispensations weakens the rule of law and the efficacy of age minimums, effectively normalizing a tool that was meant to be an absolute exception and stalling the child protection aims of Law No. 16 of 2019. Third, although *PERMA* No. 5 of 2019 is normatively designed as a child-welfare-based assessment framework, its implementation in judicial practice functions more as a procedural guideline rather than a binding substantive standard, since judges often acknowledge child-welfare criteria but ultimately decide based on contextual sociological factors without systematic documentation of child welfare assessment, creating a significant gap between normative design and judicial practice. Based on these findings, this study recommends strengthening *PERMA* No. 5 of 2019 by converting its provisions into mandatory and enforceable assessment standards, introducing standardized judicial reasoning templates to ensure consistent application of all criteria, and improving public legal literacy through targeted education programs to reduce the demand for marriage dispensation applications.

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### AUTHOR CONTRIBUTION STATEMENT

This study reflects equal contributions from all named authors. Responsibility for the project's conceptual design, statutory analysis, data acquisition, and manuscript drafting rested with the first author. The second author provided expertise in methodological structure, case file evaluation, and legal data synthesis. Meanwhile, the third author supported the project through literature compilation, legal source verification, and text refinement. All authors together reviewed and gave final approval to the paper, collectively standing behind the validity of the work.

### REFERENCES

- Busriyanti, B., Pujiono, P., & Chamdan, U. (2025). Marriage Law Reform in Indonesia A Maqasid Al-Usrah Perspective on Legal Adaptation. *Al-Istinbath: Jurnal Hukum Islam*, 10(2), 631-649.
- Dini, A. Y. R., & Nurhelita, V. F. (2020). Hubungan Pengetahuan Remaja Putri Tentang Pendewasaan Usia Perkawinan Terhadap Risiko Pernikahan Usia Dini. *Jurnal Kesehatan*, 11(1), 50-59.
- Djamilah, D., & Kartikawati, R. (2014). Dampak perkawinan anak di Indonesia. *Jurnal Studi Pemuda*, 3(1), 1-16.
- Fatullah, F. (2021). *Dilema Pengaturan Dispensasi Kawin Di Indonesia (Analisis Hukum Islam Terhadap Undang-Undang Nomor 16 Tahun 2019 dan PERMA NO 5 Tahun 2019)* (Doctoral dissertation, UIN Fatmawati Sukarno).
- Hanifah, M. (2019). Perkawinan Beda Agama Ditinjau dari Undang-undang Nomor 1 Tahun 1974 Tentang Perkawinan. *Soumatara Law Review*, 2(2), 297-308.
- Hidayat, T. (2022). Tinjauan saad al-dzari'ah terhadap aturan batas usia minimal perkawinan di indonesia. *El-Usrah: Jurnal Hukum Keluarga*, 5(1), 56-67.
- Ilma, M. (2020). Regulasi dispensasi dalam penguatan aturan batas usia kawin bagi anak pasca lahirnya UU No. 16 Tahun 2019. *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, 2(2), 133-166.
- Irawan, N. K. (2011). Menumpas penyakit dengan darah tali pusat. *Jakarta: Berlian Medika*.
- Judiasih, S. D., Dajaan, S. S., & Nugroho, B. D. (2020). Kontradiksi antara dispensasi kawin dengan upaya meminimalisir perkawinan bawah umur di Indonesia. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 3(2), 203-222.
- Kurniawan, R., Arsyad, M., & Santoso, H. (2025). Upaya Mewujudkan Keluarga Sakinah Pada keluarga Tanpa Keturunan Perspektif Fiqih Munakahat di Desa Tegal Mukti, Kecamatan Negeri Besar, Kabupaten Way Kanan. *Berkala Hukum, Sosial dan Agama*, 2(1), 151-164.
- Mahkamah Agung Republik Indonesia. (2023). Laporan Tahunan 2022: Data Perkara Dispensasi Kawin. Jakarta: Mahkamah Agung RI.
- Munib, A. (2022). Kompilasi Tujuan Perkawinan dalam Hukum Positif, Hukum Adat, dan Hukum Islam. *VOICE JUSTISIA: Jurnal Hukum Dan Keadilan*, 6(2), 36-48
- Muqaffi, A., Rusdiyah, R., & Rahmi, D. (2021). Menilik Problematika Dispensasi Nikah Dalam Upaya Pencegahan Pernikahan Anak Pasca Revisi UU Perkawinan. *Journal of Islamic and Law Studies*, 5(2).
- Nasution, M. M. (2023). *Upaya keluarga dalam menjaga keharmonisan pasangan suami istri tanpa anak di Desa Sianggungan* (Doctoral dissertation, UIN Syekh Ali Hasan Ahmad Addary Padangsidempuan).
- Radbruch, G. (1946). Gesetzliches unrecht und übergesetzliches recht. *Süddeutsche Juristen-Zeitung*, (5), 105-108.
- Rivaldi, M. (2025). *Analisis Putusan Perkara Dispensasi Kawin Pasangan Di Bawah Umur Di Wilayah Hukum Pengadilan Agama Tanjung Karang (Studi Putusan Tahun 2017-2022)* (Doctoral Dissertation, Fakultas Hukum).
- Sloan, A. E., & Sloan, A. E. (2009). *Basic legal research: Tools and strategies* (pp. 25-28). Wolters Kluwer Law & Business.
- Soekanto, S. (2008). Faktor yang mempengaruhi penegakan hukum. *Jakarta: Raja Grafindo Persada*, 8.

- Subekti, S. B. (2015). Konsep Kepastian Hukum Dalam Kepemilikan Satuan Rumah Susun Bagi Konsumen. *Konsep Kepastian Hukum Dalam Kepemilikan Satuan Rumah Susun Bagi Konsumen*, 1(1), 39-67.
- Suryatni, L. (2021). Perkawinan Merubah Status Pria Dan Wanita Dalam Kehidupan Di Masyarakat. *Jurnal Ilmiah Hukum Dirgantara*, 11(2).
- Tajiri, H. (2020). Belajar Kepada Sosok Da'i Kharismatik Bagaimana menjadi Pendakwah yang Baik dalam Kepribadian, Keahlian Komunikasi Efektif dan Konteks Situasi.
- Yusuf, M. R. (2022). Efektivitas Hukum Terhadap Pemberlakuan PERMA No 5 Tahun 2019 Dalam Mengatasi Perkawinan Di Bawah Umur. *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, 4(2), 409-418.