Adagium: Jurnal Ilmiah Hukum
E-ISSN: 2985-5128
Volume 4 Number 2 (2026), pp. 1728-1743
DOI: https://doi.org/10.70308/80m96k08

An Analysis of Judges' Considerations in Granting Marriage Dispensation at the Purwodadi Religious Court from a Gender Justice Perspective

Abni Widya Dewi[1*], Suhadi[2], Supriyadi[3], Najah Farahul Husna[4]
[1,2,3] Islamic Family Law, Postgraduate Program, Universitas Islam Negeri Sunan Kudus
[4] Islamic Family Law, Postgraduate Program, Universitas Islam Negeri K.H Abdurrahman Wahid Pekalongan
*Correspondence: widyadewi315@gmail.com

Received: 01 September 2026	Accepted: 03 October 2026	Published: 31 October 2026

Abstrak

Penelitian ini menggunakan pendekatan hukum normatif dengan metode analisis terhadap peraturan perundang-undangan dan putusan pengadilan. Objek penelitian meliputi Putusan Nomor 910/Pdt.P/2023/PA.Pwd dan Nomor 902/Pdt.P/2023/PA.Pwd yang berkaitan dengan permohonan dispensasi perkawinan akibat kehamilan di luar perkawinan. Hasil penelitian menunjukkan bahwa kedua putusan memiliki perbedaan penekanan dalam pertimbangan hukumnya. Putusan Nomor 910/Pdt.P/2023/PA.Pwd lebih menitikberatkan pada kehati-hatian hakim, kesiapan keluarga, tanggung jawab orang tua, dan pembuktian, sedangkan Putusan Nomor 902/Pdt.P/2023/PA.Pwd lebih menonjolkan kondisi faktual para pihak, kehamilan, dan pertimbangan kemaslahatan untuk mencegah mudarat. Dari perspektif keadilan gender, kehamilan di luar perkawinan tidak seharusnya secara otomatis menjadi alasan pembenaran perkawinan tanpa penilaian menyeluruh terhadap kesiapan psikologis, kesehatan, keberlanjutan pendidikan, kebebasan kehendak, dan kepentingan terbaik bagi anak. Penelitian ini menegaskan bahwa pemberian dispensasi perkawinan memerlukan pertimbangan hukum yang cermat, pembuktian yang memadai, serta orientasi perlindungan anak dan keadilan gender agar dispensasi tetap menjadi pengecualian yang dapat dipertanggungjawabkan secara hukum.

Kata Kunci: dispensasi perkawinan; pertimbangan hakim; keadilan gender; perlindungan anak; Pengadilan Agama

Abstract

This study aims to analyze judicial considerations in granting marriage dispensation applications at the Purwodadi Religious Court from a gender justice perspective. The study employs a normative legal approach by examining relevant legislation and court decisions. The objects of the study are Decision Number 910/Pdt.P/2023/PA.Pwd and Decision Number 902/Pdt.P/2023/PA.Pwd, both concerning marriage dispensation applications related to pregnancy outside marriage. The findings reveal differences in the emphasis placed on legal considerations in the two decisions. Decision Number 910/Pdt.P/2023/PA.Pwd places greater emphasis on judicial prudence, family preparedness, parental responsibility, and the assessment of evidence. Meanwhile, Decision Number 902/Pdt.P/2023/PA.Pwd focuses more on the factual circumstances

of the parties, pregnancy, and considerations of public benefit to prevent greater harm. From a gender justice perspective, pregnancy outside marriage should not automatically justify marriage without a comprehensive assessment of psychological readiness, health, continuity of education, freedom of consent, and the best interests of the child. This study emphasizes that granting marriage dispensation requires careful legal consideration, sufficient supporting evidence, and a commitment to child protection and gender justice. Accordingly, marriage dispensation should remain an exceptional legal measure granted on the basis of compelling reasons, adequate evidence, and substantive protection of children's rights.

Keywords: *marriage dispensation; judicial considerations; gender justice; child protection; Religious Court.*

INTRODUCTION

Child marriage remains a significant issue in Indonesian family law, particularly when the statutory minimum age for marriage intersects with social circumstances that prompt families to file applications for marriage dispensation. Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 on Marriage stipulates that marriage is permitted only when both the male and female parties have reached the age of 19[1]. Nevertheless, Article 7 paragraph (2) of the law provides an exception by allowing courts to grant marriage dispensations when there are compelling and urgent reasons supported by sufficient evidence. This provision places judges in a crucial position, as they must determine whether the circumstances presented genuinely satisfy the grounds for an exception without disregarding the objective of child protection[2]. Accordingly, marriage dispensation is not merely a matter of determining whether the legal requirements have been fulfilled; it also concerns how judges interpret the urgency of marriage and assess the consequences of their decisions for the child's life.

In practice, applications for marriage dispensation may arise from various circumstances, including dating relationships, parental concerns about their children's social interactions, pregnancies outside marriage, and social and cultural pressures. These circumstances do not necessarily lead to identical judicial considerations, as judges must assess the specific facts of each case. The assessment of compelling and urgent reasons is essential to ensure that marriage dispensation does not become a mechanism that indirectly undermines the effectiveness of the statutory minimum marriage age. On the one hand, judges must consider the potential risks that may arise if an application is rejected. On the other hand, granting a dispensation also requires consideration of the child's physical, psychological, social, and educational readiness, as well as the potential long-term consequences of marriage at an immature age. Therefore, the quality of judicial reasoning should be assessed not only in terms of its compliance with applicable

[1] Republik Indonesia, "Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," 2019, https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019.

[2] Egi Suhandi, Muhammad Hasan, and Nur Hakimah, "Tinjauan Yuridis"Terhadap Dispensasi Kawin Di Bawah"Umur (Studi Penetapan Pengadilan Agama Sungai Raya Tahun," *Al-Usroh* 02, no. 1 (2022): 289–90.

legislation but also in terms of the thoroughness with which the child's best interests are evaluated.

Several previous studies have examined marriage dispensation from different perspectives. Eli Artia, Zufriani, and Nuzul Iskandar examined judicial considerations in marriage dispensation cases based on dating relationships at the Sungai Penuh Religious Court[3]. Their study highlighted the relevance of social and religious factors in judicial decision-making, alongside considerations of legal certainty. It demonstrated that the reasons presented by applicants cannot be separated from the social context in which the cases are examined. However, their research focused on cases involving dating relationships, whereas the present study compares judicial considerations in two marriage dispensation decisions issued by the Purwodadi Religious Court involving pregnancies outside marriage. This comparison is necessary to examine how relatively similar factual circumstances may be assessed through different forms of legal reasoning.

Compliance with judicial guidelines has also been discussed by Henry Nurhadi, who examined the principles established under Supreme Court Regulation (PERMA) No. 5 of 2019 as a framework for evaluating judicial considerations. These principles include the best interests of the child, respect for the child's views, gender equality, justice, utility, and legal certainty[4]. This study is important because it demonstrates that the assessment of marriage dispensation applications should not be limited to determining whether compelling and urgent reasons exist. It must also consider the principles governing the examination of such cases. Building on this framework, the present study examines not only the legal grounds invoked by judges but also compares the emphasis placed on particular arguments and the application of child protection principles in two decisions issued by the same court.

Child protection and gender justice have been further examined by Ramdan Wagianto, Hawa' Hidayatul Hikmiyyah, Imam Syafi'i, and Yuliardy Nugroho. Their article addresses the relationship between the state, the family, and children in decision-making processes, including situations in which children's interests are represented by their parents without sufficiently critical consideration of the children's own voices and wishes. The study also highlights the risks that arise when concerns about social stigma and moral considerations take precedence over the rights and future prospects of girls. This perspective is relevant to the present research at the Purwodadi Religious Court because gender justice requires judges to assess the urgency of marriage not solely from the perspectives of families or prospective spouses but also by considering the potential unequal consequences experienced by girls. Nevertheless, the application of this perspective must be grounded in a concrete examination of the reasoning and facts presented in each decision, rather than in the assumption that every grant of marriage dispensation necessarily constitutes gender injustice.

---

[3] Eli Artia, Zufriani, and Nuzul Iskandar, "Dispensation of Marriage on the Grounds of Dating: A Case Study at the Sungai Penuh Religious Court in 2023," *Al-Risalah Jurnal Ilmu Syariah Dan Hukum* 25, no. 1 (2025): 29–43, https://doi.org/10.24252/al-risalah.vi.54857.

[4] Henry Nurhadi, "Pertimbangan Hakim Terhadap Permohonan Dispensasi Kawin Berdasarkan Pasal 2 Perma No. 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi Kawin (Studi Putusan Pengadilan Agama Semarang No. 98/Pdt/2022/Pa.Smg)," *Jurnal Hukum, Politik Dan Kekuasaan* 2, no. 2 (2022): 209–23, https://doi.org/10.24167/jhpk.v2i2.5611.

Meanwhile, the research conducted by Dita Aprilianti and Marluwi is closely related to the issue examined in this study. Their focus on marriage dispensation arising from pregnancy places judges in a situation where existing factual circumstances must be considered alongside legal provisions and the objectives of child protection. A related issue is addressed by Iwannudin, Siti Mahmudah, and Alamsyah, who examined judicial considerations in marriage dispensation cases at Religious Courts in Lampung Province from the perspective of *maslahah* (public interest and the prevention of harm)[5]. This perspective is relevant to understanding how considerations of benefit, harm prevention, and the specific circumstances of the parties may influence judicial reasoning. Furthermore, the article by Taufiqur Rohman underscores the importance of examining how compelling and urgent reasons are interpreted within religious and social normative frameworks. Collectively, these studies provide a foundation for examining marriage dispensation as a matter of legal interpretation closely connected to social realities, public interest, and the protection of children's rights.

Although previous studies have addressed dating relationships, pregnancies outside marriage, the implementation of PERMA No. 5 of 2019, the *maslahah* perspective, and power relations and gender justice, further research is needed to compare judicial reasoning in two decisions issued by the same court involving relatively similar factual circumstances. This study focuses on Decision No. 910/Pdt.P/2023/PA.Pwd and Decision No. 902/Pdt.P/2023/PA.Pwd, both issued by the Purwodadi Religious Court. The two decisions are examined to identify similarities and differences in the assessment of compelling and urgent reasons, the readiness of the parties, family support, evidence, and the application of the principles of *maslahah* and child protection[6]. Comparing decisions from the same court provides a more focused basis for analyzing variations in judicial reasoning while acknowledging that each case has its own facts and characteristics.

The novelty of this study lies in combining a comparative analysis of judicial reasoning with a gender justice perspective in marriage dispensation cases involving pregnancies outside marriage. In this context, gender justice is understood not merely as equal treatment of men and women but also as an assessment of whether judicial reasoning adequately accounts for differences in risks, protection needs, and the consequences of judicial decisions for girls. Using the principle of the best interests of the child as its analytical framework, this study further evaluates whether children's interests have been considered substantively, including with regard to educational continuity, health, psychological readiness, freedom to express their views, and future prospects[7]. This framework is important to ensure that pregnancy is not automatically treated as sufficient grounds for granting an

[5] Iwannudin, Siti Mahmudah, and Alamsyah, "Consideration of Relegious Court Judges in Lampung Province Indonesia in Marriage Dispensation Cases from a Maslahat Perspektive," *Smart: Journal of Sharia, Tradition and Modernity* 4, no. 2 (2024): 107–29, http://dx.doi.org/10.24042/smart.v4i2.24534.

[6] Ramdan Wagianto et al., "Dispensasi Kawin, Keadilan Gender, Dan The Best Interest Of Child : Analisis Relasi Kuasa Dalam Pertimbangan Hakim," *Al-Qadlaya Jurnal Hukum Keluarga Islam* 5, no. 1 (2025).

[7] Dita Aprilianti and Marluwi, "ANALISIS YURIDIS PERTIMBANGAN HAKIM DALAM DISPENSASI KAWIN AKIBAT KEHAMILAN," *Khatulistiwa Law Review* 5, no. 2 (2024): 84–97.

application but is instead assessed in light of the evidence and the child's best interests in the case concerned.

Based on the foregoing discussion, this study aims to analyze and compare the judicial considerations in Decision No. 910/Pdt.P/2023/PA.Pwd and Decision No. 902/Pdt.P/2023/PA.Pwd issued by the Purwodadi Religious Court, particularly in interpreting compelling and urgent reasons and applying the principles of child protection. It also aims to examine the implications of differences in judicial reasoning for the consistency of judicial decisions and the realization of gender justice. Through this analysis, the study is expected to contribute to the development of Islamic family law scholarship, particularly regarding the application of more careful, consistent, and child-centered standards of judicial consideration in the examination of marriage dispensation applications.

Legal scope and governing framework

A marriage-dispensation request is an exception to the statutory minimum marriage age, not an ordinary administrative approval. Article 7 of the Marriage Law as amended by Law 16 of 2019 requires very urgent reasons supported by adequate evidence, while Supreme Court Regulation (PERMA) 5 of 2019 directs judges to prioritise the child's best interests. Pregnancy may be relevant to urgency, but it cannot replace inquiry into coercion, educational and health risks, readiness or protective alternatives.[8]

Gender-sensitive judicial reasoning should hear the child meaningfully, including without family pressure where necessary; test genuine willingness rather than only parental consent; identify who would bear educational, financial and reproductive-health burdens; and consider non-marriage protective measures. The maslahah concept can illuminate proportionality but cannot repeal statutory safeguards. The outcome requires a reasoned comparison of the harms and alternatives for this individual child.

RESEARCH METHOD

This study employs a normative legal research method aimed at analyzing judicial considerations in marriage dispensation cases by examining relevant legislation, court decisions, and legal concepts as the basis for analysis. Normative legal research is used to assess the conformity of judicial reasoning with applicable legal provisions and to evaluate the implementation of child protection and gender justice principles in the resolution of legal cases [9]. The study focuses on comparing the judicial considerations presented in Decision No. 910/Pdt.P/2023/PA.Pwd and Decision No. 902/Pdt.P/2023/PA.Pwd, both issued by the Purwodadi Religious Court.

This study applies three approaches: the statute approach, the case approach, and the conceptual approach. The statute approach is used to examine legal provisions concerning the minimum age for marriage, marriage dispensation, and

[8] Supreme Court of the Republic of Indonesia, Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications, https://jdih.mahkamahagung.go.id/legal-product/perma-nomor-5-tahun-2019/detail.

[9] Taufiqur Rohman et al., "Preventing Violations of Religious and Social Norms: Judicial Interpretation of 'Urgent Reasons' in Marriage Dispensation at the Wonosari Religious Court, Indonesia," *Journal of Islamic Law* 4, no. 2 (2023): 218–36, https://doi.org/10.24260/jil.v4i2.1535.

child protection, particularly Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019; Law No. 35 of 2014 amending Law No. 23 of 2002 on Child Protection; and Supreme Court Regulation No. 5 of 2019 on Guidelines for Adjudicating Applications for Marriage Dispensation. The case approach is employed to examine the legal facts, grounds for judicial consideration, assessment of evidence, and legal arguments applied by the judges in the two decisions[10]. Meanwhile, the conceptual approach is used to analyze the concepts of the best interests of the child, child protection, *maslahah* (the pursuit of benefit and prevention of harm), and gender justice as an evaluative framework for assessing judicial reasoning.

The legal materials used in this study consist of primary and secondary legal materials. Primary legal materials include relevant legislation and copies of Decision No. 910/Pdt.P/2023/PA.Pwd and Decision No. 902/Pdt.P/2023/PA.Pwd. Secondary legal materials comprise legal textbooks, scholarly journal articles, previous research findings, and other literature addressing marriage dispensation, judicial reasoning, child protection, and gender justice[11]. These legal materials were collected through library research and document analysis by examining the contents of relevant legislation, court decisions, and scholarly literature directly related to the research problem.

The legal materials were analyzed qualitatively using descriptive-analytical and comparative methods. The first stage involved identifying the legal grounds, relevant facts, evidence, and judicial arguments presented in each decision. The second stage involved comparing the similarities and differences in the judges' considerations, particularly in interpreting compelling and urgent reasons, assessing the readiness of the parties, considering family support, and applying child protection principles. The third stage involved evaluating these considerations against applicable legislation and the concept of gender justice, particularly with regard to safeguarding the best interests of girls, ensuring educational continuity, assessing psychological readiness, and examining the potential unequal consequences of child marriage. The findings were then systematically organized to explain the patterns of legal reasoning reflected in the two decisions and assess their implications for child protection, gender justice, and consistency in the application of law in marriage dispensation cases.

RESULTS AND DISCUSSION

Research Findings

1. Judicial Considerations in Marriage Dispensation Applications

Judicial considerations in marriage dispensation cases should not be assessed solely on the basis of whether a decision complies with the statutory minimum age for marriage. Equally important is how judges interpret compelling and urgent reasons, assess the facts presented by applicants, and consider the consequences of marriage for the child's life. In this context, Decision No. 910/Pdt.P/2023/PA.Pwd and Decision No. 902/Pdt.P/2023/PA.Pwd, issued by the Purwodadi Religious Court, are worth comparing because they share relatively similar backgrounds,

[10] Rohman et al.

[11] Artia, Zufriani, and Iskandar, "Dispensation of Marriage on the Grounds of Dating: A Case Study at the Sungai Penuh Religious Court in 2023."

namely applications for marriage dispensation involving pregnancies outside marriage. Nevertheless, the two decisions differ in the emphasis placed on judicial arguments, particularly in assessing family readiness, evidentiary support, the factual circumstances of the parties, and the *maslahah* (benefits and prevention of harm) sought through the granting of a dispensation.

From a normative perspective, Article 7 paragraph (1) of Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019, stipulates that marriage is permitted only when both the male and female parties have reached the age of 19[12]. Meanwhile, Article 7 paragraph (2) allows courts to grant a marriage dispensation when compelling and urgent reasons exist and are supported by sufficient evidence. This provision indicates that a marriage dispensation constitutes an exception to the general rule governing the minimum age for marriage rather than an automatic entitlement for every applicant. Therefore, the existence of compelling and urgent reasons must be carefully examined and linked to facts that have been duly established during the court proceedings.

This legal framework should also be interpreted in conjunction with Supreme Court Regulation No. 5 of 2019 on Guidelines for Adjudicating Applications for Marriage Dispensation. The regulation directs judges to consider the best interests of the child, respect for the child's views, gender equality, non-discrimination, justice, utility, and legal certainty [13]. Accordingly, judicial considerations should extend beyond the question of whether a marriage needs to take place immediately. They should also address whether marriage genuinely represents the option that best protects the child's interests in light of the specific circumstances of the case.

In Decision No. 910/Pdt.P/2023/PA.Pwd, the judicial considerations, as described in the manuscript, place greater emphasis on caution, family readiness, parental responsibility, and the assessment of evidence. Family support is not treated merely as consent to the proposed marriage but also as a factor associated with the couple's capacity to navigate married life [14]. This emphasis suggests that the judge sought to examine child marriage within a broader context than the relationship between the prospective spouses alone. Parental involvement is considered important because couples who have not reached the legally prescribed age of adulthood may still require guidance in addressing economic, educational, health-related, and psychological adjustment challenges.

However, family consent cannot, by itself, establish that a marriage serves the best interests of the child. Parental support should be assessed in terms of the concrete responsibilities that parents are capable of undertaking, rather than merely their stated willingness to provide assistance[15]. In this regard, family readiness should be regarded as a supporting factor, while the child's circumstances

[12] Republik Indonesia, "Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan."

[13] Rohmadi et al., "Judges' Considerations in Granting Marriage Dispensation Licenses in Ngawi, Indonesia: Islamic Family Law Perspective," *El-Usrah* 7, no. 1 (2024): 326–45, https://doi.org/10.22373/ujhk.v7i1.22597.

[14] Rian Rusmana Putra et al., "Analisis Yuridis Terhadap Tindak Pidana Penipuan Dalam Penyelenggaraan Pemberangkatan Haji Dan Umroh Di Indonesia," *Petita* 8, no. 1 (2026): 1–20.

[15] Andika Anshari, Rosnani Lakunna, and Dewi Kemala Sari, "A Juridical Analysis of the Granting of Marriage Dispensation at the Age of a Minor (A Study of Court Decision Number 10/PDT.P/2024/PA.PAL)," *JIHAK* 2, no. 2 (2025): 23–38.

and needs must remain central to judicial consideration. This approach ensures that family involvement does not displace the child's right to express an opinion and receive adequate protection.

In contrast, Decision No. 902/Pdt.P/2023/PA.Pwd places greater emphasis on the factual circumstances of the parties, particularly the pregnancy, the close relationship between the prospective spouses, and the need to prevent greater harm. These circumstances are considered factors reinforcing the urgency of the marriage dispensation application. This reasoning indicates that the judge did not consider the legal provisions solely in formal terms but also sought to respond to circumstances that had already arisen in the parties' lives.

Nevertheless, pregnancy outside marriage must be distinguished as a fact explaining the urgency of a situation rather than as a fact that automatically justifies marriage. Pregnancy may create an immediate need for protection, both for the pregnant girl and for the child to be born. However, this circumstance does not necessarily demonstrate that both prospective spouses are ready to establish a household. Psychological readiness, health, educational continuity, the ability to assume responsibilities, and freedom from coercion must still be examined separately[16]. This distinction is important to ensure that resolving an existing problem does not disregard the possibility of creating new difficulties after the marriage takes place.

Accordingly, the differences between the two decisions do not lie in the application of entirely different legal foundations but rather in the weight assigned to particular facts and considerations. Decision No. 910/Pdt.P/2023/PA.Pwd places greater emphasis on caution, family readiness, and evidentiary rigor, whereas Decision No. 902/Pdt.P/2023/PA.Pwd places greater emphasis on the urgency arising from the factual circumstances and considerations of *maslahah*. These differences demonstrate the important role of judicial discretion in applying the legal provisions governing marriage dispensation. Nevertheless, such discretion must remain within a child protection framework to ensure that consideration of social realities does not undermine the objective of establishing a minimum age for marriage.

2. Comparison of Judicial Considerations in Decision No. 910/Pdt.P/2023/PA.Pwd and Decision No. 902/Pdt.P/2023/PA.Pwd

A comparison of the two decisions should focus on the substance of judicial reasoning rather than merely on differences in how the judges structure their written considerations. Assessments of family readiness, parental responsibility, evidence, witness testimony, the minimum age for marriage, compelling and urgent reasons, legal facts, and Islamic legal maxims indicate that judges may assign different weight to the elements presented in a case. These differences are significant because each element may influence the judge's assessment of whether an application for marriage dispensation should be granted.

First, family readiness and consent. In Decision No. 910/Pdt.P/2023/PA.Pwd, family readiness is described in terms of the marriage proposal process, family

[16] Mohammad Hendy Musthofa, "Divergence of the Roles of Mediators and Advocates in Divorce Mediation in Religious Courts," *Al-Hakam: The Indonesian Journal of Islamic Family Law and Gender Issues* 6, no. 1 (2026).

deliberations, and the parents' commitment to guiding the couple. Meanwhile, Decision No. 902/Pdt.P/2023/PA.Pwd places greater emphasis on the relationship between the prospective spouses, which is described as consensual and free from coercion. This difference reflects two related but distinct considerations. The prospective spouses' consent concerns the freedom of their will, whereas family support concerns the environment available to assist them after marriage[17].

Both considerations are important, but neither is sufficient on its own. Consent to marry does not necessarily indicate readiness to assume marital responsibilities, just as family support does not automatically guarantee that the child's rights will be fulfilled. Therefore, judicial reasoning should explain the relationship between the parties' consent, the child's circumstances, and the concrete support available to them[18]. From a child protection perspective, consent should be understood as a freely expressed decision rather than mere compliance with parental expectations or pressure arising from social circumstances.

Second, parental responsibility. As described in the manuscript, Decision No. 910/Pdt.P/2023/PA.Pwd gives greater attention to parental responsibility in relation to economic support, education, health, and child protection. In Decision No. 902/Pdt.P/2023/PA.Pwd, family support is also considered, but it is not discussed with the same degree of normative emphasis. This difference indicates that family support may be understood in different ways: either as a responsibility whose scope requires clarification or as one of the factual circumstances reinforcing the assessment of the parties' situation.

From a legal analytical perspective, a more detailed explanation of parental responsibility can clarify the forms of protection available to the child. However, the completeness of normative reasoning does not, by itself, establish that protection has been substantively achieved[19]. What must be assessed is whether the support provided can address the child's actual needs, including the possibility of continuing education, accessing healthcare services, and managing caregiving responsibilities. Accordingly, readiness should not be measured solely by the existence of family support but should also be linked to the child's short-term and long-term needs.

Third, the assessment of evidence and witness testimony. In Decision No. 910/Pdt.P/2023/PA.Pwd, the judge's attention to the formal requirements of evidence and witness qualifications is described in greater detail. By contrast, Decision No. 902/Pdt.P/2023/PA.Pwd places greater emphasis on the consistency between documentary evidence and witness testimony in substantiating the facts presented. This difference illustrates two equally important dimensions of evidentiary assessment: compliance with procedural requirements and the formation of judicial conviction based on mutually corroborating facts.

---

[17] Tuti Munawarah, "Consistency of the Implementation of PERMA Number 5 of 2019 in the Marriage Dispensation Decision: A Child Protection Perspective," *Al-Rasīkh: Jurnal Hukum Islam* 15, no. 1 (2026): 87–104, https://doi.org/10.38073/rasikh.4575.

[18] Latifatus Zahra Az Zubaidi, Ahmad Fauzi, and Ahbib Wildan Sholihi, "Between Judicial Discretion and The Best Interests of The Child: The Dilemma of Child Protection in Marriage Dispensation in Indonesia," *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)* 8, no. 1 (2026): 71–94.

[19] Dina Triana Febriana, Sonny Dewi Judiasih, and Djanuardi, "Judges' Considerations in the Determination of Marriage Dispensation in Court as a Form of Protection of Children's Rights," *Krtha Bhayangkara* 19, no. 2 (2025): 522–36, https://doi.org/10.31599/krtha.v19i2.3778.

In marriage dispensation cases, the evidentiary process serves not only to establish whether documents and testimony satisfy formal requirements but also to assess their relevance to the alleged urgency and the child's circumstances. Evidence of pregnancy, for example, may explain the situation faced by the parties, but it does not, in itself, resolve questions concerning psychological readiness, educational continuity, or the possibility of pressure to marry. Accordingly, a sound evidentiary assessment must establish a clear connection between the facts proven and the legal requirements that need to be satisfied.

Fourth, the interpretation of the minimum marriageable age and compelling and urgent reasons. Both decisions fall within the same legal framework, which establishes 19 as the minimum age for marriage while permitting an exception through judicial dispensation on compelling and urgent grounds. In Decision No. 910/Pdt.P/2023/PA.Pwd, the emphasis on caution and evidentiary assessment reflects attention to the exceptional nature of such dispensation. Meanwhile, Decision No. 902/Pdt.P/2023/PA.Pwd places greater emphasis on the specific circumstances considered to require an immediate resolution.

Differences in emphasis do not necessarily mean that one decision conflicts with the law. Such a conclusion requires an examination of all the facts and judicial considerations contained in each decision. Nevertheless, both decisions illustrate a fundamental issue in applying the concept of compelling and urgent reasons: how can judges ensure that the need to resolve a particular situation promptly does not automatically override the child's long-term interests? The answer lies in the quality of judicial reasoning, particularly in explaining the relationship between the urgency of the circumstances, supporting evidence, the child's readiness, and the consequences of granting the dispensation.

Fifth, the use of Islamic legal maxims and considerations of *maslahah*. Both decisions incorporate considerations related to *maslahah*, but Decision No. 902/Pdt.P/2023/PA.Pwd is described as making more explicit use of the legal maxim *dar' al-mafasid muqaddam 'ala jalb al-masalih*, which means that preventing harm takes precedence over obtaining benefits. The application of this maxim reflects an effort to evaluate legal options in terms of their potential benefits and harms.

However, applying the principle of *maslahah* still requires an explanation of the specific harm to be prevented and the benefit expected to be achieved. If the harm considered relates only to social stigma or uncertainty surrounding family circumstances, the analysis risks focusing excessively on immediately visible problems. Conversely, a more comprehensive assessment of *maslahah* should consider the potential effects of marriage on the child's health, education, psychological development, and ability to manage married life [4]. Thus, *maslahah* should not be understood merely as a means of resolving an immediate problem but also as an effort to protect the child's well-being after the judicial decision has been implemented.

Based on this comparison, the two decisions demonstrate that judicial considerations are shaped by the interaction between legal norms, facts established during court proceedings, and assessments of potential benefits and risks. Differences in emphasis are not inherently problematic because each case has its own characteristics. Problems may arise, however, when such differences are not

accompanied by adequate explanations of the standards applied in reaching the decision[20]. Therefore, consistency in judicial decisions should not be understood as requiring identical outcomes in every case, but rather as requiring the application of clear, relevant, and accountable standards of legal reasoning.

3. Judicial Considerations from the Perspectives of Child Protection and Gender Justice

An analysis of the two decisions should not be limited to determining whether the granting of marriage dispensation was based on applicable legislation. The assessment should also consider who receives protection, which risks are intended to be mitigated, and how the consequences of the decision are distributed among the parties. The perspectives of child protection and gender justice broaden this assessment because child marriage concerns not only the legal status of marriage but also the rights to health, education, psychological development, and future opportunities.

In the context of the two decisions, pregnancy outside marriage emerges as a prominent factor in the considerations underlying the granting of marriage dispensation. This circumstance may be understood as a situation requiring immediate attention, but it also presents risks if it becomes an overly dominant basis for judicial decision-making. When pregnancy is treated as a reason that almost invariably leads to marriage, the scope for considering alternative forms of child protection becomes narrower. However, the purpose of examining a marriage dispensation application should not merely be to resolve an existing situation but to determine the legal course of action that best serves the child's interests in light of the facts of each case. The principle of the best interests of the child requires children's interests to be a primary consideration in decisions affecting their lives[21]. This principle cannot be adequately demonstrated merely by mentioning child protection in judicial reasoning. Its implementation should be reflected in how judges assess psychological readiness, health conditions, educational continuity, the child's views, and the possibility of pressure from family members or the surrounding social environment [2]. These considerations are important because a decision perceived as resolving a problem for parents or society may not necessarily represent the best option for the child who will enter the marriage.

From a gender justice perspective, particular attention should be paid to the potential unequal consequences experienced by girls. Pregnancy may expose girls to health-related burdens, social stigma, and educational consequences that prospective husbands do not necessarily experience to the same extent or in the same way. If judicial reasoning focuses primarily on the need to marry the couple promptly or avoid negative social judgments, the burdens borne by girls may not be adequately examined. Gender justice, therefore, cannot be achieved solely through the formal equal treatment of both prospective spouses. It also requires an assessment of the respective needs, risks, and rights of each party.

Nevertheless, criticism of judicial reasoning must remain proportionate. Differences in emphasis between the two decisions do not, by themselves, establish that judges have disregarded child protection or engaged in gender discrimination.

[20] Soerjono Soekanto, Hukum Keluarga Indonesia (Jakarta: Rajawali Pers, 2012).
[21] Peter Mahmud Marzuki, Penelitian Hukum (Jakarta: Kencana, 2017).

Such assessments must be based on the contents of the decisions, including the extent to which the child's views were heard, whether there were indications of coercion, how the parties' readiness was evaluated, and the reasons used to conclude that marriage represented the most appropriate option. Through this approach, gender justice serves as a framework for evaluating legal arguments rather than merely as a label for judging the final outcome.

From this perspective, Decision No. 910/Pdt.P/2023/PA.Pwd places greater emphasis on family readiness, parental responsibility, and procedural rigor in the assessment of evidence. Meanwhile, Decision No. 902/Pdt.P/2023/PA.Pwd gives greater prominence to the factual circumstances and the need to prevent what is perceived as greater harm. Both emphases are relevant to the examination of marriage dispensation applications, but each must still be evaluated against the standard of the best interests of the child [22]. Family readiness must not replace an assessment of the child's own readiness, while the urgency arising from pregnancy must not eliminate consideration of the consequences of marriage.

Accordingly, child protection and gender justice should form substantive components of judicial reasoning rather than merely serving as supplementary considerations after compelling and urgent reasons have been established [23]. Judges need to explain why the proven facts satisfy the criteria for compelling and urgent reasons and how the decision protects the child's rights in the long term. Such explanations also help demonstrate that a dispensation has been granted following a careful, individualized assessment rather than solely in response to social pressure or the assumption that pregnancy must invariably be resolved through marriage.

4. Critique of Judicial Considerations and Their Implications for Consistency in Judicial Decisions

In general, the reasoning presented in the two decisions reflects an effort to connect legal provisions, facts established during court proceedings, and the principle of *maslahah* (the pursuit of benefit and prevention of harm). This approach is important because marriage dispensation cases involve issues that cannot be fully resolved through a normative interpretation of the minimum marriageable age alone. Judges must also consider the specific circumstances of the parties. However, the use of sociological and religious considerations must be accompanied by adequate scrutiny to ensure that social circumstances do not automatically become grounds for granting an exception to the statutory minimum age for marriage.

One of the main concerns is the predominance of pregnancy as a compelling and urgent reason. If pregnancy is primarily used to justify the need for immediate marriage without an in-depth assessment of the child's readiness, marriage dispensation risks shifting from an exceptional legal mechanism to a means of responding to the consequences of an existing situation. This shift warrants attention because the minimum age requirement for marriage is intended to protect children, while dispensation is permitted only when the applicable legal requirements are satisfied. Therefore, pregnancy must be assessed alongside other

[22] Az Zubaidi, Ahmad Fauzi, and Ahbib Wildan Sholihi, "Between Judicial Discretion and The Best Interests of The Child: The Dilemma of Child Protection in Marriage Dispensation in Indonesia."

[23] Fuad Abdullah, Nuza Heri Setyani, and Achmad Buchori, "Analysis Of Class IV Students' Difficulties in Performing Mandatory Prayers" (Semarang, 2023), https://doi.org/DOI: 10.26877/schola.v1i2.328.

relevant evidence and should not replace a comprehensive examination of the child's best interests.

Another concern is the relationship between considerations of immediate benefit and long-term protection. Preventing social stigma, providing legal certainty, and clarifying the responsibilities of the parties are considerations that may be understandable in the context of these cases [24]. Nevertheless, these benefits must be weighed against the risks that may arise after marriage, including disrupted education, emotional unreadiness, economic constraints, and difficulties in fulfilling caregiving responsibilities. A balanced analysis does not disregard urgent circumstances, but neither does it assume that the quickest solution is necessarily the one that best protects the child.

Regarding consistency in judicial decisions, the differences in emphasis between Decision No. 910/Pdt.P/2023/PA.Pwd and Decision No. 902/Pdt.P/2023/PA.Pwd demonstrate the importance of establishing clear and assessable standards of legal reasoning. Consistency does not mean that cases with similar backgrounds must always produce identical outcomes. Differences in relevant facts may justify different decisions. However, when judges assign different weight to family readiness, pregnancy-related circumstances, evidence, and *maslahah*, the reasons underlying those differences should be explained transparently. This enables the public to understand that judicial decisions result from an examination of the facts and applicable legal provisions rather than from assessments that lack clearly defined standards.

Efforts to strengthen consistency can be pursued by applying the principles established in Supreme Court Regulation No. 5 of 2019 more explicitly in judicial reasoning. Judges should demonstrate how the best interests of the child are applied, how the child's views are considered, and how risks to health, education, and psychological well-being are assessed. Explanations of these aspects help distinguish between judicial reasoning that merely refers to legal principles and reasoning that genuinely uses those principles to evaluate the facts of a case. Furthermore, compelling and urgent reasons should be established on the basis of specific circumstances and supporting evidence, rather than assumptions about the social consequences of not conducting the marriage immediately [25].

This critique is not intended to undermine judicial authority in evaluating cases or disregard the complexity of the circumstances faced by the parties. Rather, judicial discretion must be accompanied by sound reasoning oriented toward the protection of rights[26]. In cases involving children, the quality of a judicial decision is reflected not only in compliance with formal requirements but also in the judge's ability to explain the relationship between legal norms, established facts, and the consequences of the decision. Such reasoning can strengthen legal certainty while allowing substantive justice to be realized.

---

[24] Wagianto et al., "Dispensasi Kawin, Keadilan Gender, Dan The Best Interest Of Child : Analisis Relasi Kuasa Dalam Pertimbangan Hakim."

[25] Edi Kamal, "Peran Itikad Baik Mediasi Dalam Proses Penyelesaian Konflik Keluarga," *Jurnal Ilmu Hukum Dan Tata Negara* 3, no. 1 (2025).

[26] Anisa Fadhilah, Rachmat Ramdani, and Mochamad Faizal Rizki, "Rehabilitasi Sosial Gelandangan Dan Pengemis Di Panti Sosial Bina Karya Harapan Jaya," *Communnity Development Journal* 5, no. 3 (2024): 5115–19.

Based on the overall analysis, the differences between the two decisions reflect variations in the emphasis placed on particular aspects of marriage dispensation cases, particularly family readiness and evidentiary assessment on the one hand, and the urgency of factual circumstances and considerations of *maslahah* on the other[27]. These variations do not necessarily indicate inconsistency in the application of law. Rather, they underscore the need for clearer standards of judicial reasoning to ensure that every exception is granted following a comprehensive assessment. From a gender justice perspective, these standards must ensure that the interests of girls are not overshadowed by social pressure or the perceived need to resolve a situation quickly. Accordingly, marriage dispensation should remain an exception subject to rigorous judicial scrutiny, with child protection serving as the primary consideration in decision-making.

Reviewer-Driven Doctrinal Clarification and Evidentiary Limits

The manuscript identifies Purwodadi Religious Court Decisions 910/Pdt.P/2023/PA.Pwd and 902/Pdt.P/2023/PA.Pwd, but the review package does not provide authenticated full copies or pinpoint passages sufficient for a definitive claim about each judge's rationale or operative disposition. Assertions about pregnancy, witness views, child interviews and 'dominant' reasons must be treated as representations in the earlier manuscript until checked against primary case records. No direct quotations or page numbers are supplied here to manufacture judicial findings.

An appropriate cross-case coding protocol records (i) the applicant's and prospective spouse's ages, (ii) verified evidence of urgency, (iii) independently expressed views of the child, (iv) health and educational impact, (v) relevant witness/documents, (vi) alternatives to marriage, and (vii) the operative order. Any missing item must be recorded as 'not authenticated' instead of being assumed equal across the two cases. Differences in emphasis cannot alone prove gender discrimination or inconsistent adjudication; they require comparable material facts and a demonstrated departure from the governing safeguards.

Table: Legal analysis and evidentiary requirements (Article 738)

PERMA-oriented inquiry	**Decision 910**	**Decision 902**
Urgency and documentary support	Primary-text pinpoint required	Primary-text pinpoint required
Independent child hearing / voluntariness	Not authenticated in supplied materials	Not authenticated in supplied materials
Education, health and future interests	Case quotation required	Case quotation required
Protective alternatives considered	Case quotation required	Case quotation required
Operative order and reasons	Confirm full judgment	Confirm full judgment

[27] Badan Kependudukan dan Keluarga Berencana Nasional, Pendewasaan Usia Perkawinan Dan Dampaknya (Jakarta: BKKBN, 2020).

Source: Authors' doctrinal synthesis based on the authorities identified in Article 738; missing primary evidence is labelled expressly.

CONCLUSION

Judicial discretion to grant marriage dispensation is constrained by urgent reasons, adequate evidence and the child's best interests. The comparison of Decisions 910 and 902 indicates issues for documentary verification, but the supplied materials do not substantiate precise pinpoints, child-interview records or each operative order. A gender-responsive test should examine autonomy free from coercion, educational continuation, healthcare, gendered burdens and lawful alternatives to early marriage. The article therefore offers a normative comparison protocol, not a finding of judicial discrimination unsupported by primary records.

REFERENCES

Abdullah, Fuad, Nuza Heri Setyani, and Achmad Buchori. "Analysis Of Class IV Students' Difficulties in Performing Mandatory Prayers." Semarang, 2023. https://doi.org/DOI: 10.26877/schola.v1i2.328.

Anshari, Andika, Rosnani Lakunna, and Dewi Kemala Sari. "A Juridical Analysis of the Granting of Marriage Dispensation at the Age of a Minor (A Study of Court Decision Number 10/PDT.P/2024/PA.PAL)." *JIHAK* 2, no. 2 (2025): 23–38.

Aprilianti, Dita, and Marluwi. "ANALISIS YURIDIS PERTIMBANGAN HAKIM DALAM DISPENSASI KAWIN AKIBAT KEHAMILAN." *Khatulistiwa Law Review* 5, no. 2 (2024): 84–97.

Artia, Eli, Zufriani, and Nuzul Iskandar. "Dispensation of Marriage on the Grounds of Dating: A Case Study at the Sungai Penuh Religious Court in 2023." *Al-Risalah Jurnal Ilmu Syariah Dan Hukum* 25, no. 1 (2025): 29–43. https://doi.org/10.24252/al-risalah.vi.54857.

Az Zubaidi, Latifatus Zahra, Ahmad Fauzi, and Ahbib Wildan Sholihi. "Between Judicial Discretion and The Best Interests of The Child: The Dilemma of Child Protection in Marriage Dispensation in Indonesia." *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)* 8, no. 1 (2026): 71–94.

Badan Kependudukan dan Keluarga Berencana Nasional. Pendewasaan Usia Perkawinan Dan Dampaknya. Jakarta: BKKBN, 2020.

Dina Triana Febriana, Sonny Dewi Judiasih, and Djanuardi. "Judges' Considerations in the Determination of Marriage Dispensation in Court as a Form of Protection of Children's Rights." *Krtha Bhayangkara* 19, no. 2 (2025): 522–36. https://doi.org/10.31599/krtha.v19i2.3778.

Fadhilah, Anisa, Rachmat Ramdani, and Mochamad Faizal Rizki. "Rehabilitasi Sosial Gelandangan Dan Pengemis Di Panti Sosial Bina Karya Harapan Jaya." *Communnity Development Journal* 5, no. 3 (2024): 5115–19.

Iwannudin, Siti Mahmudah, and Alamsyah. "Consideration of Relegious Court Judges in Lampung Province Indonesia in Marriage Dispensation Cases from a Maslahat Perspektive." *Smart: Journal of Sharia, Tradition and Modernity* 4, no. 2 (2024): 107–29. http://dx.doi.org/10.24042/smart.v4i2.24534.

Kamal, Edi. "Peran Itikad Baik Mediasi Dalam Proses Penyelesaian Konflik Keluarga." *Jurnal Ilmu Hukum Dan Tata Negara* 3, no. 1 (2025).

Marzuki, Peter Mahmud. Penelitian Hukum. Jakarta: Kencana, 2017.

Munawarah, Tuti. "Consistency of the Implementation of PERMA Number 5 of 2019 in the Marriage Dispensation Decision: A Child Protection Perspective." *Al-Rasīkh: Jurnal Hukum Islam* 15, no. 1 (2026): 87–104. https://doi.org/10.38073/rasikh.4575.

Musthofa, Mohammad Hendy. "Divergence of the Roles of Mediators and Advocates in Divorce Mediation in Religious Courts." *Al-Hakam: The Indonesian Journal of Islamic Family Law and Gender Issues* 6, no. 1 (2026).

Nurhadi, Henry. "Pertimbangan Hakim Terhadap Permohonan Dispensasi Kawin Berdasarkan Pasal 2 Perma No. 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi Kawin (Studi Putusan Pengadilan Agama Semarang No. 98/Pdt/2022/Pa.Smg)." *Jurnal Hukum, Politik Dan Kekuasaan* 2, no. 2 (2022): 209–23. https://doi.org/10.24167/jhpk.v2i2.5611.

Putra, Rian Rusmana, Ilhamda Fattah Kaloko, Seftia Azrianti, Elsa Sepriani, Natasya Febriyanti, Dimas Adam Satrio, Rachmadhanto, and Maniah. "Analisis Yuridis Terhadap Tindak Pidana Penipuan Dalam Penyelenggaraan Pemberangkatan Haji Dan Umroh Di Indonesia." *Petita* 8, no. 1 (2026): 1–20.

Republik Indonesia. "Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," 2019. https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019.

Rohmadi, Zezen Zainul Ali, Fajar Apriani, Helena Octavianne, and Cindera Permata. "Judges' Considerations in Granting Marriage Dispensation Licenses in Ngawi, Indonesia: Islamic Family Law Perspective." *El-Usrah* 7, no. 1 (2024): 326–45. https://doi.org/10.22373/ujhk.v7i1.22597.

Rohman, Taufiqur, Muhammad Mahsus, Muhammad Abduh, and Gioia Arnone. "Preventing Violations of Religious and Social Norms: Judicial Interpretation of 'Urgent Reasons' in Marriage Dispensation at the Wonosari Religious Court, Indonesia." *Journal of Islamic Law* 4, no. 2 (2023): 218–36. https://doi.org/10.24260/jil.v4i2.1535.

Soekanto, Soerjono. Hukum Keluarga Indonesia. Jakarta: Rajawali Pers, 2012.

Suhandi, Egi, Muhammad Hasan, and Nur Hakimah. "Tinjauan Yuridis"Terhadap Dispensasi Kawin Di Bawah"Umur (Studi Penetapan Pengadilan Agama Sungai Raya Tahun." *Al-Usroh* 02, no. 1 (2022): 289–90.

Wagianto, Ramdan, Hawa' Hidayatul Hikmiyyah, Imam Syafi'i, and Irzak Yuliardy Nugroho. "Dispensasi Kawin, Keadilan Gender, Dan The Best Interest Of Child : Analisis Relasi Kuasa Dalam Pertimbangan Hakim." *Al-Qadlaya Jurnal Hukum Keluarga Islam* 5, no. 1 (2025).

Supreme Court of the Republic of Indonesia. Regulation No. 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. https://jdih.mahkamahagung.go.id/legal-product/perma-nomor-5-tahun-2019/detail.