

Legal Analysis of Judges' Considerations in Granting Marriage Dispensation and Vulnerability Factors for Early Divorce: A Case Study of Decision Number 106/Pdt.P/2025/PA.Smg

¹Choiril Anam ²Lailasari Ekaningsih, ³Idul Hanzah Alid, ⁴Abdul Azim
Muhamad Bin Abdul Aziz

^{1,2,3}Fakultas Hukum, Universitas Darul Ulum Islamic Centre Sudirman GUPPI (UNDARIS),
Indonesia

⁴Faculty of Electrical Engineering and Technology, University Malaysia Perlis (UniMAP), Malaysia

*email corresponding author: choirilanam322@gmail.com

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ABSTRACT

Marriage dispensation remains a significant issue in Indonesian family law following the enactment of Law Number 16 of 2019, which raised the minimum legal age for marriage to 19 years for both men and women. Despite this reform, courts continue to grant marriage dispensations, raising questions about judicial reasoning and the extent to which substantive child protection principles are applied. This study examines the judicial reasoning in Decision Number 106/Pdt.P/2025/PA.Smg, evaluates its compliance with the applicable legal framework, and identifies vulnerability factors that may affect the sustainability of early marriages. This research employed a normative juridical approach using statutory, conceptual, and case approaches. Legal materials were analyzed qualitatively through a descriptive-analytical method. The findings show that the Court complied with procedural requirements under Law Number 16 of 2019, Supreme Court Regulation (PERMA) Number 5 of 2019, and the Compilation of Islamic Law. However, procedural compliance was not accompanied by a comprehensive substantive assessment of the child's best interests, particularly regarding psychological readiness, educational continuity, economic capacity, reproductive health, and long-term welfare. The decision also reveals a cumulative vulnerability profile involving young age, limited educational attainment, economic vulnerability, and premarital pregnancy. These factors should be treated not as deterministic causes of marital instability but as indicators requiring prospective judicial assessment. Theoretically, this study proposes a procedural substantive dual layer model of judicial reasoning arguing that procedural compliance is necessary but insufficient for child-protective adjudication. It further conceptualizes the

gap between procedural legality and substantive child protection as a judicial child-protection gap positioning cumulative vulnerability assessment as a mechanism for operationalizing the best-interests principle.

Keywords: Early Divorce Vulnerability; Islamic Family Law; Judicial Reasoning; Marriage Dispensation; Substantive Child Protection.

Introduction

Legal reform on child marriage often appears progressive, yet its effectiveness may be weakened when courts continue to grant exceptions through marriage dispensation. Previous research shows that minimum-age marriage laws remain vulnerable to legal exceptions, parental consent, pregnancy-related reasons, and judicial discretion (Arthur et al., 2018). In Indonesia, this issue became particularly significant after Law Number 16 of 2019 amended Marriage Law Number 1 of 1974 by raising the minimum marriageable age from 16 to 19 years for women, thereby establishing the same minimum age for men and women (Rizki et al., 2024). Although the reform sought to strengthen equality and child protection, marriage dispensation continues to provide a legal pathway for underage marriage. This creates a fundamental tension between procedural legality and substantive child protection: whether judicial reasoning merely satisfies the formal requirements for granting an exception or sufficiently safeguards the child's present and future interests.

This tension must be understood within Indonesia's constitutional and legal framework. Article 1 paragraph (3) of the 1945 Constitution establishes Indonesia as a state based on law, requiring the exercise of state authority to remain grounded in applicable legal norms (Nurddin et al., 2023). This principle extends to marriage regulation, which occupies both religious and social dimensions (Jahwa et al., 2024).

The problem is particularly visible in Central Java. Based on Dinas P3AP2KB's Data between January and September 2024, 6,064 marriage dispensation applications were submitted, of which approximately 5,522, or more than 90%, were granted. The province recorded approximately 7,903 child marriage cases during 2024. In Semarang City, reported child marriage cases declined from 259 in 2021 to 64 by July 2024, while within the jurisdiction of the Ambarawa Religious Court, 178 applications were filed in 2024 and 177 had been adjudicated or resolved (Pengadilan Agama Ambarawa, 2024). These figures demonstrate that the effectiveness of the statutory minimum-age reform depends substantially on judicial discretion because the courts determine whether exceptional circumstances justify departure from the general rule.

Previous scholarship provides important insights into this judicial problem but approaches it from different angles. Horii (2019, 2020) demonstrates how teenage pregnancy and plural legal institutions shape child marriage practices, while Sona (2020) highlights tensions between Islamic norms, state law, and the best interests of the child. Ramadhita et al. (2023) further show that judicial discretion in Indonesian Muslim family law can influence gender justice and family vulnerability. Other studies identify premarital pregnancy, low parental educational attainment, economic hardship, inadequate parental supervision, parenting practices, and socio-cultural expectations as factors encouraging applications for marriage dispensation (Gultom & Frety, 2024). Lestari et al. (2023) similarly find that the increased statutory marriage age contributed to the rise in dispensation applications, with premarital pregnancy becoming an important consideration in judicial decision-making. Habiburrahman (2023) characterizes dispensation as a legal mechanism for accommodating exceptional circumstances considered sufficiently urgent under Indonesian law.

Research has also examined how judges are expected to exercise this discretion. Hakim et al. (2022) identify the best interests of the child, *maslahah*, psychological and physical health, maturity, and the views of children and parents as relevant considerations. Yuni emphasize that PERMA Number 5 of 2019 provides judges with a structured framework for assessing the grounds and circumstances underlying marriage dispensation applications (Yuni, 2021). Imran et al. (2024) similarly argue that judges must balance legal certainty with the best interests of the child, while Colaun et al. (2023) conceptualize judicial discretion as the authority to interpret and apply law in response to the particular circumstances of each case. From this perspective, a dispensation should not merely legalize an underage marriage but should function as a child-protection measure when the circumstances genuinely justify an exception (Ilhami et al., 2023; Horii, 2020). Nevertheless, a critical synthesis of these studies reveals an important gap. Existing research has substantially discussed the prevalence and determinants of marriage dispensation, the legal framework governing judicial decisions, and the considerations that judges may employ. However, limited attention has been given to the analytical relationship between procedural legal compliance and substantive child protection within a specific judicial decision. This distinction matters because a court may satisfy formal procedural requirements while insufficiently assessing psychological readiness, educational continuity, economic capacity, reproductive health, and long-term welfare. Moreover, young age, limited educational attainment, economic vulnerability, and premarital pregnancy should not automatically be interpreted as direct causes of early divorce. Instead, they may constitute a cumulative

vulnerability profile requiring prospective judicial assessment. This is particularly important because early marriage has been associated with educational discontinuation, restricted employment opportunities, economic vulnerability, psychological difficulties, and other risks (Burgess et al., 2022).

Accordingly, this study examines Decision Number 106/Pdt.P/2025/PA.Smg through three questions: how did the judges construct their legal reasoning in assessing the circumstances underlying the dispensation; to what extent was that reasoning consistent with Law Number 16 of 2019, PERMA Number 5 of 2019, and the Compilation of Islamic Law, particularly concerning the child's circumstances and best interests; and what factual circumstances identified in the decision may constitute vulnerability factors for future marital conflict and early divorce? The study employs a normative juridical approach using statutory, conceptual, and case approaches.

Theoretically, this study proposes a procedural-substantive dual-layer model of judicial reasoning. The model conceptualizes procedural compliance as a necessary but insufficient condition for child-protective adjudication. The first layer concerns formal legal compliance, while the second requires substantive assessment of the child's psychological, educational, economic, reproductive, and long-term interests. The gap between these layers is conceptualized as a judicial child-protection gap, while cumulative vulnerability assessment is positioned as a mechanism for operationalizing the best-interests principle. The central argument is that marriage dispensation should not be evaluated solely by whether judges have fulfilled formal legal requirements. Instead, legitimate judicial reasoning requires the integration of procedural legality with substantive child protection. At the same time, marriage dispensation should not be treated as a direct cause of early divorce; instead, it may authorize marriage in circumstances characterized by cumulative vulnerabilities that warrant more rigorous judicial scrutiny.

Methods

This study employs a normative juridical research design using statutory, conceptual, and case approaches, with Decision Number 106/Pdt.P/2025/PA.Smg as the unit of analysis. The study focuses on the judges' legal reasoning, the factual circumstances considered by the court, and the vulnerability factors that may increase the risk of marital conflict and early divorce among young couples. The primary legal materials consist of Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, Supreme Court Regulation (*Peraturan Mahkamah Agung/PERMA*) Number 5 of 2019, the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*), and the court decision, while secondary legal materials include

books, journal articles, previous studies, and expert opinions. The data were collected through library research and analyzed qualitatively by examining the factual background, applicable legal norms, judicial reasoning, and ratio decidendi of the decision, followed by an assessment of its conformity with the relevant legal framework and the identification of vulnerability factors such as young age, limited education, economic capacity, reproductive health, psychological readiness, and the best interests of the child.

Findings

Facts of the Case and Judicial Considerations in Granting the Marriage Dispensation

The findings of this study are based on Decision Number 106/Pdt.P/2025/PA.Smg concerning an application for marriage dispensation submitted to the Semarang Religious Court. The application was filed because both prospective spouses had not yet reached the minimum marriageable age stipulated under Law Number 16 of 2019. The prospective bride was 18 years and 8 months old, while the prospective groom was 18 years and 3 months old. As neither had reached the age of 19, the proposed marriage could not be registered by the Office of Religious Affairs (*Kantor Urusan Agama/KUA*).

According to the facts set out in the decision, the prospective spouses had been in a relationship for approximately three years and became formally engaged on November 15, 2024. The application for marriage dispensation was submitted after the prospective bride was found to be pregnant, with the pregnancy having reached approximately eight months at the time the case was examined. The decision also recorded that the prospective spouses had been found together on three occasions. This circumstance formed part of the background that prompted both families to submit the application for marriage dispensation.

Before examining the substance of the application, the judge advised the applicants to postpone the marriage until both prospective spouses reached the minimum age prescribed by law. However, the applicants maintained their application and expressed their intention to proceed with the marriage. During the proceedings, the court examined sixteen documentary exhibits (P.1–P.16), including identity documents, family cards, birth certificates, educational documents, documents relating to the pregnancy, employment documents concerning the prospective groom, and the official letter issued by the *KUA* refusing to register the marriage. The court also heard testimony from two witnesses concerning the relationship between the parties, their closeness, the absence of any blood or nursing relationship constituting a legal impediment to marriage, and the prospective groom's employment.

In addition, the applicants, both prospective spouses, and their respective parents had attended counseling provided by the Semarang City Office of Women's Empowerment and Child Protection (*Dinas Pemberdayaan Perempuan dan Perlindungan Anak/DP3A*). The decision also recorded the educational and economic circumstances of the prospective spouses. The prospective bride had completed primary education and earned Rp750,000 per month, while the prospective groom had completed junior secondary education and earned Rp3,417,000 per month.

Consistency of the Judge's Considerations with the Legal Framework Governing Marriage Dispensation

The judge's considerations in Decision Number 106/Pdt.P/2025/PA.Smg were based on Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019. The amended law establishes the minimum marriageable age at 19 years for both men and women. Since both prospective spouses had not yet reached the statutory minimum age, the proposed marriage could only proceed through a marriage dispensation granted by the Religious Court.

The decision also refers to Supreme Court Regulation (*PERMA*) Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation. In accordance with this regulation, the judge advised the applicants to postpone the marriage until both prospective spouses reached the statutory minimum age. The Court subsequently examined documentary evidence, heard statements from the applicants, the prospective spouses, their parents, and witnesses, and considered the results of counseling conducted by the Semarang City Office of Women's Empowerment and Child Protection (*DP3A*) before rendering its decision.

The findings further indicate that the Court considered several factual circumstances presented during the proceedings, including the prospective spouses' educational background, employment, monthly income, pregnancy, and counseling results. These facts formed part of the evidentiary basis considered by the Court in examining the application for marriage dispensation.

In relation to the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*), the decision records that the Court established the absence of legal impediments to the proposed marriage, including prohibited blood and nursing relationships (*rada'ah*). The Court also considered the prospective bride's pregnancy and referred to Article 53 of the Compilation of Islamic Law concerning the marriage of a pregnant woman, as well as Article 99 regarding the legal status of children born within a lawful marriage.

Factual Circumstances Associated with Potential Marital Vulnerability

The decision identifies several factual circumstances concerning the prospective spouses that are relevant to assessing their condition at the time the marriage dispensation was granted.

The first circumstance relates to age. Both prospective spouses had not reached the statutory minimum marriageable age established under Law Number 16 of 2019. The prospective bride was 18 years and 8 months old, while the prospective groom was 18 years and 3 months old when the application was submitted.

The second circumstance concerns educational attainment. The decision records that the prospective bride had completed only primary education, whereas the prospective groom had completed junior secondary education. These educational backgrounds formed part of the factual information considered during the proceedings.

The third circumstance concerns the parties' economic condition. The decision states that the prospective bride earned approximately IDR 750,000 per month, while the prospective groom earned approximately IDR 3,417,000 per month from his employment. These financial conditions were documented through the evidence presented before the Court.

Another factual circumstance identified in the decision is the pregnancy of the prospective bride, which had reached approximately eight months at the time of the hearing. The pregnancy constituted one of the principal factual grounds advanced in support of the application for marriage dispensation.

Finally, the decision records that both prospective spouses and their respective parents participated in counseling conducted by the Semarang City Office of Women's Empowerment and Child Protection (*DP3A*) before the Court rendered its decision. The counseling report formed part of the documentary evidence examined during the proceedings. Taken together, the decision identifies five principal factual circumstances, namely the parties' age, educational background, economic condition, pregnancy, and counseling history. These factual circumstances constitute the basis for the subsequent discussion on potential vulnerability to marital conflict and early divorce.

Discussion

Judicial Reasoning in Assessing the Grounds and Factual Circumstances for Granting Marriage Dispensation

The judicial reasoning in Decision Number 106/Pdt.P/2025/PA.Smg demonstrates that the Court did not base its decision solely on the applicants' failure to meet the statutory minimum marriageable age. Instead, the judges constructed their legal reasoning by assessing a series of factual circumstances established during the proceedings and determining whether those circumstances constituted

compelling grounds for granting a marriage dispensation. Accordingly, the decision was not founded on a single factual element but on a cumulative assessment of the evidence presented before the Court.

The Court first examined the factual background underlying the application. It established that the prospective spouses had maintained a relationship for approximately three years and had become formally engaged before the application was submitted. The Court also found that the prospective bride was approximately eight months pregnant at the time of the hearing. In addition, the decision recorded that the couple had been found together by members of the local community on three separate occasions, a circumstance that created social pressure on both families to formalize their relationship through marriage. These facts formed the background against which the application for marriage dispensation was submitted.

Beyond these circumstances, the Court examined whether any legal impediments prevented the proposed marriage. Documentary evidence and witness testimony confirmed that no blood relationship or breastfeeding relationship (*rada'ah*) existed between the prospective spouses. The proceedings also established that the prospective groom had been employed, while both families had expressed their agreement with the proposed marriage. Furthermore, the Court considered the results of counselling conducted by the Semarang City Office of Women's Empowerment and Child Protection (DP3A), together with the statements of the applicants, the prospective spouses, and the witnesses.

Rather than considering each circumstance separately, the judges assessed them collectively in determining the urgency of the application. The prospective bride's pregnancy became the principal factual circumstance supporting the application, while the long-standing relationship between the parties, their engagement, the repeated incidents in which they had been found together by local residents, the absence of legal impediments to marriage, and the support of both families reinforced the Court's conclusion that sufficient grounds existed to grant the requested dispensation.

Accordingly, the judicial reasoning in Decision Number 106/Pdt.P/2025/PA.Smg was constructed through a cumulative assessment of factual circumstances that the Court considered relevant to the application. The judges relied upon documentary evidence, witness testimony, the parties' statements, and counselling results to establish the factual basis of the case before applying the legal provisions governing marriage dispensation. This pattern of reasoning demonstrates that the Court sought to determine whether the applicants'

circumstances justified an exception to the statutory minimum marriage age through an integrated assessment of the facts presented during the proceedings.

Judicial Reasoning in Light of Law Number 16 of 2019, PERMA Number 5 of 2019, and the Compilation of Islamic Law

The application of Article 7 of Law Number 16 of 2019 in Decision Number 106/Pdt.P/2025/PA.Smg began with an examination of whether the statutory minimum marriageable age had been met. Based on the facts established during the proceedings, the prospective bride was 18 years and 8 months old, while the prospective groom was 18 years and 3 months old. Since neither had reached the age of 19 as required under Article 7 paragraph (1) of Law Number 16 of 2019, the Office of Religious Affairs (*Kantor Urusan Agama/KUA*) refused to register the proposed marriage. Consequently, the parents of both prospective spouses submitted an application for marriage dispensation to the Religious Court.

Article 7 paragraph (1) of Law Number 16 of 2019 provides:

“Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years.”

Article 7 paragraph (2) of Law Number 16 of 2019 further provides:

“In the event of a deviation from the age requirement referred to in paragraph (1), the parents of the male party and/or the parents of the female party may request a dispensation from the Court on the basis of compelling reasons, accompanied by sufficient supporting evidence.”

The amendment to the minimum marriageable age through Law Number 16 of 2019 was intended not only to establish an equal minimum marriageable age for men and women but also to serve as a legal policy aimed at reducing child marriage and strengthening the protection of children's rights. Accordingly, marriage dispensation is positioned as an exception that may only be granted where genuinely compelling circumstances exist and are supported by adequate evidence, as required under Article 7 paragraph (2).

Marriage dispensation constitutes a legal exception for prospective spouses who have not yet satisfied the statutory minimum marriageable age. As an exception, it cannot be granted automatically but must be based on compelling reasons supported by sufficient evidence. The mechanism must therefore be applied cautiously so that it does not undermine the principal objective of Law Number 16 of 2019, namely preventing child marriage through the establishment of a minimum marriageable age. Indeed, a dispensation mechanism with an excessively permissive threshold has been characterized as a fatal flaw in efforts to eliminate child marriage because it may legitimize the practice even though the law imposes an obligation on parents to prevent such marriages (Rismana et al., 2024).

The judicial reasoning in Decision Number 106/Pdt.P/2025/PA.Smg indicates that the judge began the examination by verifying compliance with the age requirement under Law Number 16 of 2019. After establishing that both prospective spouses had not reached the statutory minimum marriageable age, the judge proceeded to examine the reasons advanced by the applicants and the supporting evidence before rendering a decision. This approach is consistent with the findings of Hakim et al., who demonstrate that, in adjudicating applications for marriage dispensation, judges do not rely solely on statutory provisions but also consider the best interests of the child, the principle of benefit, psychological condition, health, maturity, and the views of the child and parents in reaching a decision (Hakim et al., 2022).

Unlike that previous study, the present research specifically examines the application of Article 7 of Law Number 16 of 2019 in Decision Number 106/Pdt.P/2025/PA.Smg by analyzing how the statutory minimum marriageable age serves as the initial legal basis for the examination before the judge evaluates the compelling reasons advanced by the applicants.

This judicial reasoning is also consistent with Sudikno Mertokusumo's theory of legal certainty, which emphasizes that judicial decisions must be grounded in the applicable legal rules (Mertokusumo, 2007). In Decision Number 106/Pdt.P/2025/PA.Smg, the judge first established that both prospective spouses had not fulfilled the statutory minimum marriageable age prescribed under Article 7 of Law Number 16 of 2019 before proceeding to examine the application for marriage dispensation. This approach demonstrates that the judge complied with the formal legal requirements governing marriage dispensation by applying the statutory framework as the basis for judicial examination. Nevertheless, compliance with Article 7 of Law Number 16 of 2019 alone is insufficient to determine whether the child's best interests were substantively protected. Such an assessment requires further examination through the procedural and substantive safeguards provided by Supreme Court Regulation (*PERMA*) Number 5 of 2019.

In examining whether the child's best interests had been adequately considered, it is therefore necessary to refer to Supreme Court Regulation (*PERMA*) Number 5 of 2019, which provides the procedural framework for adjudicating marriage dispensation applications. Under this regulation, judicial examination extends beyond verifying formal legal requirements and requires judges to evaluate the circumstances of the child and the prospective spouses based on the facts established during the proceedings. Accordingly, compliance with *PERMA* Number 5 of 2019 should not be assessed solely by determining whether the prescribed procedural stages have been completed, but also by examining the extent to which

the facts established at trial are used to evaluate the child's welfare and long-term best interests.

This principle is consistent with the 1989 Convention on the Rights of the Child (CRC), which establishes non-discrimination, the best interests of the child, the right to life and development, and the right of the child to express his or her views as core principles of child protection (Kerka, 2024). In particular, Article 3 of the CRC requires the best interests of the child to be a primary consideration in all decisions concerning children, while Article 12 guarantees the child's right to express his or her views in matters affecting his or her life (Ha & D, 2022; Pavlogiannis et al., 2024). In marriage dispensation cases, these principles require judges to consider not only the child's consent to the proposed marriage but also its potential effects on the child's education, health, psychological condition, and future.

Article 12 of *PERMA* No. 5 of 2019 requires judges to provide advice to the Applicants, the Child, the Prospective Husband or Wife, and the Parents or Guardians of the Prospective Husband or Wife. The advice must address the risks associated with child marriage, including the potential interruption of education, reproductive health considerations, economic, social, and psychological consequences, as well as the possibility of marital disputes and domestic violence. This provision demonstrates that *PERMA* No. 5 of 2019 regulates not only the procedure for examining marriage dispensation applications but also directs judges to assess the best interests of the child comprehensively. Such assessment should not stop at determining whether the child consents to the marriage but should also examine the child's capacity to enter married life and the long-term consequences for education, health, psychological well-being, economic conditions, and child protection.

Article 13 of *PERMA* No. 5 of 2019 further requires judges to hear the statements of the Child for whom the marriage dispensation is sought, the Prospective Husband or Wife, the Child's Parents or Guardians, and the Parents or Guardians of the Prospective Husband or Wife. Article 14 additionally requires judges to ascertain several important matters, including whether the child understands and agrees to the proposed marriage, the child's psychological and health conditions, and whether any element of coercion is involved in the proposed marriage.

Based on Decision Number 106/Pdt.P/2025/PA.Smg, the judge carried out several stages of examination required under *PERMA* No. 5 of 2019. Before examining the substance of the application, the judge advised the Applicants regarding the risks of marriage at a young age and recommended postponing the

marriage until both prospective spouses reached the statutory minimum marriageable age. Nevertheless, the Applicants maintained their application.

The judge also heard statements from the parties involved in the proposed marriage. In addition, the decision records that the prospective spouses and their respective parents had participated in counseling provided by the Semarang City Office of Women's Empowerment and Child Protection (*DP3A*). These facts indicate that the examination involved several procedural stages contemplated by *PERMA* No. 5 of 2019.

Nevertheless, the completion of these procedural stages does not automatically demonstrate that the best interests of the child constituted the primary basis of the judge's reasoning. The issue is not merely whether the judge heard the statements of the parties or recorded the circumstances of the prospective spouses, but whether those facts were substantively analyzed to assess the child's welfare and long-term well-being after the marriage. The decision records the prospective spouses' educational backgrounds, employment, income, and the pregnancy of the prospective bride. However, it remains necessary to assess whether these facts were examined in sufficient depth to determine the prospective spouses' readiness and their long-term interests.

Table 1. Procedural Compliance vs. Judicial Assessment Depth

Provision of <i>PERMA</i> No. 5 of 2019	Facts Established in Decision No. 106/Pdt.P/2025/PA.Smg	Evaluation
Provision of advice to the child and parents	The judge advised the Applicants to postpone the marriage until both prospective spouses reached the age of 19.	Procedurally fulfilled.
Hearing the statements of the child and the parties	The judge heard the statements of the Applicants, the prospective groom, and the parents of both parties.	The statements of the parties were heard, but the depth of the assessment of the prospective spouses' readiness and willingness to marry requires further analysis.
Psychological readiness	The prospective spouses had been in a relationship for approximately three years and had participated in counseling provided by DP3A in Semarang.	Psychological readiness was not clearly analyzed in depth in the judge's reasoning.
Risks to education	The prospective bride had completed elementary education, while the prospective groom had	The impact of marriage on the continuation of education was not explicitly analyzed.

	completed junior secondary education.	
Economic capacity	The prospective bride earned IDR 750,000 per month, while the prospective groom earned IDR 3,417,000 per month.	The adequacy of the couple's income to meet childbirth, household, and childcare expenses was not examined in depth.
Health and reproductive risks	The prospective bride was approximately eight months pregnant, and the parties had participated in counseling provided by DP3A.	Health risks and preparedness for childbirth were not comprehensively analyzed.
Best interests of the child	The pregnancy and the circumstances of the prospective spouses formed part of the facts considered in granting the dispensation.	The best interests of the child were not expressly and comprehensively formulated in the judicial reasoning.

Source: Author's analysis based on the relevant legal framework and Decision Number 106/Pdt.P/2025/PA.Smg.

The analysis of Decision Number 106/Pdt.P/2025/PA.Smg reveals an important conceptual distinction between procedural legality and substantive child protection. Procedural legality is reflected in the court's fulfilment of formal requirements under Law Number 16 of 2019, PERMA Number 5 of 2019, and the Compilation of Islamic Law. The judge advised the applicants, heard the statements of the parties, examined documentary evidence, considered counselling results, and confirmed the absence of legal impediments to marriage. However, the deeper question is whether these procedural steps were sufficient to demonstrate that the child's best interests had been substantively protected.

Substantive child protection requires more than recording the facts of age, pregnancy, income, education, and counselling. It requires judicial reasoning that connects those facts to the child's future welfare. In this case, the decision acknowledged that both prospective spouses were under the statutory marriageable age, that the prospective bride had completed only primary education, that the prospective groom's income was limited, and that the prospective bride was eight months pregnant. Yet the decision did not sufficiently explain how these circumstances would affect the couple's psychological readiness, educational future, economic sustainability, reproductive health, and capacity to build a stable household. This gap demonstrates that formal compliance with marriage dispensation procedures may coexist with insufficient substantive protection of children.

This distinction is theoretically significant because it reframes marriage dispensation as a judicial practice that must be assessed at two levels. At the first level, judges must comply with statutory procedure. At the second level, they must provide a reasoned and child-centred assessment of whether granting the dispensation genuinely serves the child's long-term interests. Without this second level of analysis, marriage dispensation risks becoming a legal pathway that normalizes underage marriage while only formally invoking child protection language. Therefore, the present study contributes to Islamic family law and child protection scholarship by showing that the legitimacy of marriage dispensation should be measured not merely by procedural fulfilment, but by the depth of judicial reasoning concerning the child's future vulnerability.

This finding is consistent with Pardede et al., who criticize a positivist-legalistic approach to judicial reasoning in the interpretation of Law Number 16 of 2019 because such an approach may prevent the regulation's objectives of protecting and guaranteeing children's rights from being fully realized. They advocate a progressive approach to legal reasoning that enables judges not merely to apply legal provisions textually but also to examine the substance of the law in light of the concrete facts and issues established during the proceedings (Pardede et al., 2021).

In the context of Decision Number 106/Pdt.P/2025/PA.Smg, *PERMA* No. 5 of 2019 served as the procedural framework for the examination, while the facts concerning age, pregnancy, education, economic circumstances, and counseling formed part of the material considered by the judge. This finding also supports the conclusion that *PERMA* No. 5 of 2019 expands the scope of judicial consideration in marriage dispensation cases (Yuni, 2021). However, the present study demonstrates that the completion of the prescribed examination stages does not, in itself, establish that child protection has been fully integrated into the judicial reasoning. In Decision Number 106/Pdt.P/2025/PA.Smg, relevant facts were examined and recorded, but the depth of the analysis concerning the circumstances of the prospective spouses and the best interests of the child remains an important aspect requiring further consideration in judicial reasoning. In addition to applying Law Number 16 of 2019 and Supreme Court Regulation (*PERMA*) Number 5 of 2019, the judge also referred to the Compilation of Islamic Law (*KHI*) because the case involved Muslim parties and fell within the jurisdiction of the Religious Court.

One of the facts that became central to the judge's consideration was that the prospective bride was pregnant with the prospective groom's child. This circumstance prompted the court to examine the application not only within the framework of the Marriage Law and *PERMA* Number 5 of 2019 but also through the relevant provisions of the Compilation of Islamic Law. For Muslim parties

whose cases are examined by the Religious Court, the application of the *KHI* is intended to ensure that the proposed marriage is consistent with the principles of Islamic family law.

The relevance of the *KHI* in this case cannot be separated from its position as the substantive law applied by the Religious Courts in resolving family law disputes involving Muslim parties. Promulgated through Presidential Instruction Number 1 of 1991, the *KHI* serves as a codification of Islamic family law that consolidates various jurisprudential opinions into a unified normative reference (Abubakar et al., 2024). Article 2 of the *KHI* defines marriage as a solemn covenant (*mitsaqan ghalizhan*) to obey the commands of Allah, the performance of which constitutes an act of worship. Article 3 further provides that the purpose of marriage is to establish a household founded upon *sakinah*, *mawaddah*, and *rahmah*. These provisions provide a normative framework for assessing whether a marriage sought through a marriage dispensation has a realistic prospect of achieving the objectives of marriage, rather than merely serving as a means of addressing the consequences of premarital pregnancy.

Before considering the pregnancy, the judges first established that there was no prohibited *mahram* relationship, relationship by breastfeeding (*rada'ah*), or other legal impediment preventing the prospective couple from marrying. After establishing these facts, the judges referred to the provisions governing the marriage of a pregnant woman as regulated under Article 53 of the *KHI*.

Article 53 of the *KHI* provides that:

- 1) A woman who is pregnant outside marriage may marry the man who caused the pregnancy.
- 2) The marriage may be solemnized without waiting for the birth of the child.
- 3) Once the marriage has been solemnized during the pregnancy, no remarriage is required after the child is born.

This provision is directly relevant to the facts established during the proceedings. The judges found that the prospective bride was approximately eight months pregnant with the prospective groom's child. Accordingly, the marriage could be solemnized without waiting for the birth of the child. The judges also considered that postponing the marriage could potentially generate broader social consequences for the parties and their families. Article 53 of the *KHI* was therefore not merely cited as a legal provision but applied directly to address the specific circumstances of the case.

Nevertheless, it is necessary to critically examine whether pregnancy outside marriage can automatically be classified as a compelling reason sufficient to justify the granting of a marriage dispensation. Article 53 of the *KHI* permits the marriage

of a pregnant woman, but the provision is permissive in nature. It establishes a legal possibility rather than an obligation to marry. Accordingly, the provision does not automatically relieve the judges of their obligation to examine the prospective couple's readiness to marry as required by Supreme Court Regulation Number 5 of 2019. Islami argues that judges must comprehensively assess a child's readiness for marriage, the existence or absence of coercion, and the compelling circumstances underlying the application. An disproportionate application of Islamic legal principles may undermine the very objectives of marriage (Islami, 2023). In the context of Decision Number 106/Pdt.P/2025/PA.Smg, two competing interests can be identified. On the one hand, there is an interest in protecting the legal status of the child to be born. On the other hand, there is an interest in preventing the normalization of child marriage, which may create new vulnerabilities for young couples.

This tension becomes more apparent when Article 3 of the *KHI* concerning the objectives of marriage is taken into account. A marriage characterized by *sakinah*, *mawaddah*, and *rahmah* presupposes a certain level of psychological, social, economic, and health readiness on the part of both prospective spouses. Limited knowledge, experience, and financial capacity were identified as factors that could contribute to domestic conflict and could even result in one spouse no longer living with the other (Tanuri, 2022). This finding demonstrates that pregnancy as a biological circumstance does not, by itself, guarantee the achievement of the objectives of marriage as contemplated by the *KHI*.

The judges also referred to Article 99 paragraph (1) of the *KHI*, which regulates the legal status of a legitimate child. This reference indicates that the judicial consideration was directed not only toward the interests of the prospective couple but also toward protecting the legal status of the child to be born. In this context, the pregnancy of the prospective bride constituted one of the reasons why legal certainty concerning the status of the child was considered relevant before the marriage dispensation was granted.

Nevertheless, the protection of the child's legal status under Article 99 of the *KHI* must be situated within a broader analytical framework. Article 100 of the *KHI* provides that a child born outside marriage has a lineage relationship only with the mother and her family (Alfarisi et al., 2023). This legal consequence may create an urgency to solemnize the marriage before the child is born. However, such urgency should not obscure the fact that the prospective spouses in this case were still below the statutory minimum age for marriage. Their readiness to assume marital and parental responsibilities therefore required serious examination. Several studies have found that judges in Religious Courts frequently rely on the theory of *maslahah*

as a basis for deciding marriage dispensation cases, while overlooking certain principles under PERMA Number 5 of 2019 that should guide the realization of justice and the best interests of the child (Lahilote et al., 2022; Pasondong et al., 2023).

The judges further supported their reasoning by referring to the *Qur'an, Surah An-Nur*, verse 32, which encourages marriage for those who are unmarried provided that no prohibition under Islamic law applies. Habiburrahman explains that marriage dispensation constitutes a legal exception granted in compelling or emergency circumstances to prospective spouses who have not reached the statutory minimum age for marriage (Habiburrahman, 2023). The present study complements this finding by demonstrating that, in practice, judges do not rely solely on statutory provisions. They also integrate the norms contained in the *KHI* with the facts established during the proceedings before reaching a decision.

The judicial consideration may also be understood through the theory of *maslahah* developed by Amir Syarifuddin. From this perspective, granting a marriage dispensation may be viewed as an option that produces greater benefit, particularly by ensuring legal certainty regarding the marriage, protecting the legal status of the unborn child, and preventing social consequences that may arise if the marriage is postponed (Satria, 2017).

However, an adequate *maslahah* analysis cannot be conducted in only one direction. Within the framework of *maqashid al shariah*, the granting of a marriage dispensation in this case requires a more precise classification of the circumstances involved. The question is whether the situation constitutes *daruriyyah*, namely an urgent necessity threatening one of the five essential objectives of Islamic law, *hajiyyah*, namely a need that alleviates hardship, or merely a pragmatic response to premarital pregnancy. Thoyib and Bukhori emphasize that the granting of a dispensation must not conflict with the objectives of Islamic law. The protection of lineage, or *hifz al nasl*, should be considered at the level of *al daruriyyah* or, at minimum, *al hajiyyah*, while also taking into account the protection of life, or *hifz al nafs*, and the continuation of education, or *hifz al aql*, for children granted marriage dispensations (Thoyib & Bukhori, 2022). In the context of Decision Number 106/Pdt.P/2025/PA.Smg, protecting the legal status of the child, or *hifz al nasl*, may be regarded as an important interest. At the same time, significant potential harm, or *mafsadah*, may also arise, including the interruption of the prospective spouses' education, the economic vulnerability of young couples who have limited income, psychological immaturity in managing a household, and the increased risk of early marital conflict and divorce associated with marriage at a young age.

The statutory limitation on the minimum marriageable age is consistent with the framework of *maqashid al-shariah*. It seeks to protect religion (*hifz al-din*) by

promoting marriage at an appropriate age, protect life (*hifz al-nafs*) from the risks associated with child marriage, protect intellect (*hifz al-aql*) by preserving opportunities for education, protect lineage (*hifz al-nasl*) from health-related risks, and protect property (*hifz al-mal*) from the threat of poverty. Accordingly, Islamic legal reasoning in marriage dispensation cases should weigh both dimensions proportionately. The analysis should consider the *maslahah* arising from protecting the legal status of the child and preventing social consequences, as well as the potential *mafsadah* arising from marital instability, economic vulnerability, and the disruption of the development of prospective spouses who remain under the statutory marriageable age. The Islamic legal maxim *dar'u al-mafasid muqaddamun 'ala jalb al-mashalih*, meaning that preventing harm takes precedence over obtaining benefit, which is frequently invoked in marriage dispensation cases, requires a careful assessment of the nature and weight of the potential *mafsadah* arising from marriage at a young age. It should not be used merely as a formal justification for granting the application (Hadi et al., 2023).

Based on this analysis, the judges' reference to Articles 53 and 99 of the Compilation of Islamic Law (*KHI*) in Decision Number 106/Pdt.P/2025/PA.Smg satisfies the formal legal requirements concerning the marriage of a pregnant woman and the protection of the legal status of the child. However, the judicial reasoning does not explicitly examine whether the substantive objectives of marriage as regulated in Articles 2 and 3 of the *KHI*, namely establishing a family characterized by *sakinah*, *mawaddah*, and *rahmah*, can realistically be achieved by prospective spouses who are still below the statutory minimum marriageable age. The absence of a comprehensive assessment of the prospective spouses' psychological maturity, educational continuity, economic capacity, and readiness for married life indicates that the application of the *KHI* in this case remained focused primarily on formal legal compliance rather than on a substantive evaluation of child protection. Consequently, although the decision demonstrates consistency with the applicable statutory provisions and Islamic legal principles, it also shows that judicial reasoning in marriage dispensation cases should place greater emphasis on balancing the *maslahah* of protecting the legal status of the child with the potential *mafsadah* arising from child marriage, including educational discontinuity, economic vulnerability, marital instability, and the risk of early divorce.

From the perspective of Islamic family law, the issue is not simply whether the marriage of a pregnant woman is permitted under Article 53 of the Compilation of Islamic Law. The more fundamental question is whether the dispensation supports the broader objectives of marriage, namely the formation of a household based on

sakinah, mawaddah, and rahmah. Pregnancy may create an urgent social and legal circumstance, particularly in relation to the protection of the unborn child's legal status. However, pregnancy should not automatically override the need to assess the prospective spouses' readiness for marriage.

In *maqashid al-shariah* terms, the court's reasoning must balance the protection of lineage (*hifz al-nasl*) with other essential objectives, including the protection of life (*hifz al-nafs*), intellect and education (*hifz al-'aql*), and economic welfare (*hifz al-mal*). Granting a dispensation may serve a *maslahah* by protecting the legal status of the unborn child, but it may also produce *mafsadah* if the marriage exposes the young couple to educational discontinuity, economic pressure, reproductive health risks, psychological immaturity, and future marital conflict. Therefore, a stronger Islamic legal analysis requires judges to weigh both *maslahah* and *mafsadah* before concluding that marriage dispensation is the most protective legal option.

Vulnerability Factors Contributing to Marital Conflict and Early Divorce in Young Marriages

The granting of a marriage dispensation in Decision Number 106/Pdt.P/2025/PA.Smg should not be interpreted as evidence that the marriage will inevitably end in divorce. The decision merely authorized the marriage to proceed despite the fact that both applicants had not yet reached the statutory minimum marriage age. Nevertheless, the facts established during the proceedings reveal several circumstances that warrant attention when assessing the vulnerability of the couple after marriage. Both prospective spouses were under the age of nineteen, the prospective bride was approximately eight months pregnant, both had limited educational backgrounds, and their economic circumstances had not yet reached a stable condition. Taken together, these circumstances represent vulnerability factors that previous studies have associated with an increased risk of marital conflict and early divorce among young couples (Kamaruddin et al., 2021). Accordingly, the legal issues in this case extend beyond the authorization of the marriage itself and also concern the couple's capacity to undertake marital responsibilities while facing limitations related to age, education, and economic resources.

One of the most apparent vulnerability factors identified in this case concerns the couple's economic condition. The decision records that the prospective bride had completed only elementary school and earned approximately IDR 750,000 per month, while the prospective groom had completed junior high school and earned IDR 3,417,000 per month. His monthly income was slightly below the 2025 Semarang Municipal Minimum Wage, which was set at IDR 3,454,827. At the same

time, the prospective bride was already eight months pregnant, meaning that the couple would soon be required to meet the financial demands of childbirth and child-rearing. These circumstances indicate a condition of economic vulnerability in which limited household income must support increasing family responsibilities.

Economic vulnerability may subsequently develop into psychological stress within family life. Financial hardship has consistently been associated with emotional distress and deterioration in family relationships (Lee & Allen, 2021). From the perspective of the Family Stress Model, economic pressure may weaken communication between spouses and increase the likelihood of marital conflict (Keating et al., 1995). This framework is particularly relevant to the present case because the couple would enter marriage at a very young age while simultaneously assuming parental responsibilities under financially constrained circumstances. Consequently, the economic issue extends beyond the amount of income earned and encompasses the couple's ability to cope with the pressures arising from household expenditures and childcare responsibilities. Previous studies have likewise demonstrated that marriage at a very young age, combined with limited psychological maturity, is associated with greater vulnerability to marital instability and divorce (Hartini & Utomo, 2021; Mutalip & Rozihan, 2020).

Educational background constitutes another important vulnerability factor. The prospective bride had completed only elementary education, whereas the prospective groom had completed junior high school. Limited educational attainment may reduce an individual's capacity to make informed decisions, manage financial challenges, and resolve conflicts within married life. Education also influences personal autonomy and bargaining power within the family (Sudirman et al., 2023). Earlier research has shown that limited education, economic hardship, and premarital pregnancy frequently underlie applications for marriage dispensation (Lestari et al., 2023). In the present case, these factors not only formed the background to the application but may also remain sources of vulnerability after the marriage is solemnized. When economic constraints, limited education, and premarital pregnancy occur simultaneously, they create cumulative vulnerabilities that may complicate the couple's adjustment to their new marital and parental roles (Prabowo et al., 2023).

These circumstances are closely connected to the couple's readiness to establish a family. The legal validity of a marriage does not necessarily indicate that the spouses are adequately prepared to fulfil the rights and responsibilities arising from married life. In Decision Number 106/Pdt.P/2025/PA.Smg, the prospective groom had already secured employment. However, this fact should be considered alongside the parties' young age, limited educational attainment, the advanced

stage of the prospective bride's pregnancy, and the imminent responsibilities of parenthood. Readiness in this context extends beyond earning an income; it also includes psychological and emotional maturity, decision-making ability, resilience under pressure, and conflict management skills. Since these capacities are still developing during late adolescence, young couples may be more vulnerable to marital disharmony unless they receive sufficient preparation and ongoing support (Komalasari et al., 2023).

Marriage at an early age may also generate difficulties when spouses have not yet attained adequate emotional maturity or acquired the skills necessary to manage marital conflict and family responsibilities (Subchi et al., 2021). Marital instability may become even more likely when the marriage is entered into under circumstances that are not entirely based on mutual readiness, including an unplanned pregnancy (Darmawan et al., 2022). Previous research has similarly linked child marriage with a range of social and psychological vulnerabilities, including poverty and an elevated risk of divorce, particularly where couples receive insufficient social support (Wantu et al., 2021).

Accordingly, the possibility of divorce in the present case should be understood as a potential consequence of multiple interacting vulnerability factors rather than as an automatic result of granting a marriage dispensation. The combination of young age, limited educational attainment, economic constraints, premarital pregnancy, and the immediate responsibilities of parenthood may significantly increase the challenges faced by the couple in adapting to married life. While the granting of a marriage dispensation resolves the legal issue of whether the marriage may proceed, it does not eliminate the vulnerabilities inherent in the applicants' circumstances. Therefore, evaluating marriage dispensation requires distinguishing between compliance with procedural legal requirements and a substantive assessment of the couple's readiness to sustain a stable marriage after judicial authorization has been granted.

The findings of this study are relevant to international debates on child marriage, judicial discretion, and the effectiveness of minimum-age marriage laws. Comparative scholarship shows that raising the statutory minimum age of marriage does not automatically eliminate child marriage when legal systems continue to provide exceptions through parental consent, pregnancy-related urgency, or judicial authorization. The Indonesian experience, as reflected in Decision Number 106/Pdt.P/2025/PA.Smg, illustrates this broader problem. The law formally protects children by setting the minimum age at 19, yet the dispensation mechanism allows courts to authorize underage marriage when urgent circumstances are presented. This study contributes to international scholarship by showing that the

central issue is not merely the existence of legal exceptions, but the quality of judicial reasoning used to justify those exceptions. A child-protection-oriented court must therefore assess not only whether the legal requirements have been fulfilled, but also whether the decision reduces or reproduces long-term vulnerabilities for the child.

Theoretically, the study contribute to the existing literature by illustrating how Law Number 16 of 2019, *PERMA* Number 5 of 2019, and the Compilation of Islamic Law were applied simultaneously in a single marriage dispensation case. More importantly, this study highlights the distinction between procedural compliance and substantive child protection in judicial reasoning. Accordingly, the examination of marriage dispensation applications should not merely focus on fulfilling statutory requirements but should also incorporate a more rigorous assessment of the applicants' readiness and the potential long-term consequences of marriage for both the child and family welfare. Consistent with previous studies, reducing the vulnerabilities associated with child marriage requires integrated and continuous support from the government, child protection institutions, families, and the wider community to strengthen family resilience after a marriage dispensation has been granted.

Conclusion

The present study demonstrates that the judicial reasoning in Decision Number 106/Pdt.P/2025/PA.Smg was procedurally consistent with Law Number 16 of 2019, Supreme Court Regulation (*PERMA*) Number 5 of 2019, and the Compilation of Islamic Law (*KHI*). The court fulfilled the procedural requirements by providing legal advice, examining documentary evidence, hearing applicants and witnesses, and considering counselling results. However, the analysis shows that procedural compliance was not matched by an equally comprehensive substantive assessment of psychological maturity, educational continuity, economic capacity, reproductive health, and the child's long-term best interests. The study therefore identifies a critical distinction between procedural legal compliance and substantive child protection, which constitutes its principal conceptual contribution. The study further answers the research questions by showing that the judges' reasoning was legally grounded but substantively incomplete in assessing the broader consequences of the proposed marriage. The case also reveals a cumulative vulnerability profile involving underage status, limited educational attainment, relatively weak economic conditions, and premarital pregnancy. These factors should not be interpreted as direct or deterministic causes of early divorce; rather,

they represent vulnerabilities that may increase the potential for marital conflict and therefore require prospective judicial assessment.

Theoretically, this study proposes a procedural-substantive dual-layer model of judicial reasoning, in which procedural compliance is a necessary but insufficient condition for child-protective adjudication. It further conceptualizes the discrepancy between formal legality and substantive protection as a judicial child-protection gap. This framework shifts the evaluation of marriage dispensation from legal validity alone toward judicial responsibility, child protection, and family sustainability. Practically, judges should provide explicit reasoning on psychological readiness, educational continuity, economic capacity, reproductive health, and the child's best interests. Religious Courts should also strengthen coordination with child-protection agencies, counselling institutions, and families. However, this study is limited to a single judicial decision and therefore does not establish general causal relationships between marriage dispensation and divorce. Future research should examine multiple decisions and jurisdictions to test and refine the proposed conceptual framework.

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