


Child Marriage Dispensation and the Paradox of Legal Protection: A Normative Analysis of Judges' Legal Reasoning

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Abstract

This article examines the practice of child marriage dispensation within the Indonesian marriage law system by highlighting the paradox of legal protection embedded in judicial reasoning. Following the reform of the minimum marriage age under Law Number 16 of 2019, the study aims to analyze whether the dispensation mechanism is applied consistently with the objective of child protection. Employing a normative legal research approach, this study analyzes statutory regulations, child protection principles, and the structure of judicial reasoning in court decisions granting child marriage dispensation. The findings reveal that although child protection is normatively acknowledged, judicial practice tends to prioritize short-term pragmatic and social considerations, thereby weakening the preventive function of the minimum marriage age norm. Judicial reasoning frequently normalizes dispensation as an expedient solution, resulting in a shift from substantive child protection to a formal-procedural approach. This article concludes that strengthening child protection in child marriage dispensation cases requires a reorientation of judicial reasoning that consistently places the best interests of the child as the primary evaluative standard and substantive objective in judicial decision-making.

Keywords: Child Marriage Dispensation, Legal Protection, Judicial Reasoning

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INTRODUCTION

Child marriage is a crucial issue in contemporary family law discourse because it directly intersects with issues of protecting children's rights, reproductive health, education, and social sustainability.(Dağ, 2021). Various international studies show that child marriage has a strong correlation with increased social vulnerability and violations of children's basic rights, especially the right to education, health, and optimal personal development.(Aditya & Waddington, 2021)Therefore, the international community, through various human rights instruments, such as the Convention on the Rights of the Child (CRC), has placed the prevention of child marriage as an integral part of the child protection agenda.

In the context of national law, reform of the minimum age of marriage regulations is one of the state's normative steps to respond to demands for child protection.(Mayasari, 2020)However, the existence of a marriage dispensation mechanism as an exception to the minimum age limit presents its own complexities. On the one hand, the dispensation is intended as a legal solution for certain conditions deemed urgent; on the other hand, this mechanism opens up extensive judicial discretion and has the potential to undermine the primary goal of child protection itself.(Thalib, PA, & Latumeten, PE, 2025)This phenomenon has also been noted in various comparative studies which assess that legal exceptions to the age of marriage often become normative loopholes that prolong the practice of child marriage legally and formally.(Nadia et al., 2021).

Judges, in the family court system, play a central role in determining whether a child marriage dispensation is appropriate.(Kaha et al., 2023). The judge's decision is not only applicable to written legal norms, but also reflects a pattern of legal reasoning (judicial reasoning) that

combines norms, social facts, and value considerations. (Tanja, 2019) Studies on judicial discretion confirm that in family cases, judges often operate in a gray area between enforcing legal norms and responding to complex social realities. This condition makes judges' legal reasoning a crucial locus for assessing the extent to which child protection is truly internalized in judicial practice. (Hariyanto & Efendi, 2021).

A paradox arises when normative legal protection for children is used as the basis for argument, but at the same time it actually leads to the legalization of child marriage through dispensation decisions. (Santosa et al., 2025). In many cases, reasons such as maintaining family honor, preventing social harm, or considering economic conditions are used to justify dispensation, even though the implications are potentially detrimental to the child in the long term (Ramadhani & Sakti, 2023) This paradoxical phenomenon is also highlighted in international legal literature, which criticizes the tendency of the justice system to prioritize short-term social stability over the substantive protection of children's rights. (Tan et al., 2024).

Conceptually, the principle of the best interests of the child demands that every decision concerning children be oriented towards the protection and welfare of children as the primary consideration. (Lintas et al., nd) However, this principle is not always consistently translated into judicial practice. Several studies have shown that the principle is often reduced to normative justification without in-depth analysis of the real impact of judicial decisions on children's futures. (Kilkelly & Pleysier, 2023). In the context of child marriage dispensation, this reduction has the potential to shift the meaning of legal protection from substantive protection to purely formal-procedural protection.

Several studies have highlighted the dynamics of child marriage dispensations and the challenges of child protection in judicial practice and legal policy. For example, an empirical study in Indonesia describing the phenomenon of child marriage dispensations at the Purwodadi Religious Court showed that judges often interpret the reason for "urgency" narrowly and give more weight to social pressures such as out-of-wedlock pregnancy and family honor than to the long-term impact on children's rights and welfare, indicating a gap between the normative objectives of the law and judicial practice. (Akbari et al., 2025) This is in line with Kurniawan's findings, which show how judges' discretionary powers often prioritize cultural norms over a holistic assessment of the child's best interests in dispensation decisions in Muara Bulian, thereby weakening legal protection for children. (Kurniawan et al., 2025) On the other hand, a study that analyzed the principle of the best interests of the child in the decision of dispensation at the Malang Religious Court proposed the concept of *maqāṣid al-syarī'ah fī ḥifẓ al-awlād* as an effort to align judicial reasoning with the interests of child protection in a more substantive manner. (Nurcholis & Anshor, 2025). Other relevant literature, although with a different focus, also shows that the application of the best interests principle is often challenged in the context of family law, because discretionary norms still dominate judges' argumentation without clear evaluative parameters. (Sucia & Patittingi, 2023).

Local Indonesian studies have also enriched understanding of the problematic nature of child marriage dispensations. Research by UPN Veteran Chusnida and Anggriawan, which examines marriage dispensations from a child rights perspective, found that the increasing number of dispensations is related to socio-cultural factors such as customs and community pressure, while also emphasizing the need for firmer judicial guidelines to ensure judges' decisions align with child protection principles. (Chusnida & Anggriawan, 2022) Other normative-juridical research shows that judges' considerations are often influenced by conditions such as premarital pregnancy without in-depth study of the child's rights needs, so that the potential negative impacts on the child's health, education, and welfare are not taken into account substantially. (Aprilianti et al., 2024) Meanwhile, an empirical study at the Singaraja District Court highlighted how the principle of the best interests of the child is often only stated formally, without clear evaluative parameters in the legal considerations of dispensation decisions. (Juliananta et al., 2026). Compared to these studies, this article differs because it does not only describe the practice of judges, but places the judges' legal reasoning as the focus of normative analysis that evaluates the paradox between the national legal objectives on child protection and the permissive judicial practice of child marriage dispensation, a conceptual gap that has not been fully filled by the existing literature.

While the literature reviewed above has made significant contributions to the understanding of child marriage and the practice of dispensation, several conceptual gaps remain unaddressed. Most international studies place child marriage within the framework of human

rights, reproductive health, or socioeconomic factors, focusing on its structural impacts and determinants. Meanwhile, national studies following the amendment to Law Number 16 of 2019 tend to be descriptive-empirical, mapping the reasons judges grant dispensations or the cultural factors influencing requests. However, this literature has not systematically examined the structure of judges' legal reasoning as the primary locus where child protection norms are tested, interpreted, and operationalized. The principle of the best interests of the child is often cited as a basis for consideration, but is rarely critically analyzed as a measurable evaluative standard in judicial argumentation. In other words, the main deficiency in the literature lies in the absence of in-depth normative analysis of how judicial discretion operates within the epistemic framework of child legal protection.

This study fills this gap by placing judges' legal reasoning as the primary object of analysis, rather than simply the background to the practice of dispensation. Unlike previous research that focused on identifying social factors or statistics on the rise in dispensation, this study evaluates the internal consistency of judicial argumentation regarding the protective objectives of marriage law and the principle of the child's best interests. By introducing the "paradox of legal protection" framework, this study demonstrates that the problem of dispensation lies not merely in lax norms, but in how these norms are understood and applied in the construction of decisions. This approach provides a new conceptual contribution to the study of Indonesian family law, shifting the focus from textual analysis of regulations to a critical evaluation of the practice of legal reasoning as a key factor determining whether child protection is truly realized or diminished in judicial practice.

METHOD

This research is normative legal research that focuses on a doctrinal analysis of the judge's legal reasoning in child marriage dispensation decisions. This approach is used because the primary object of study is legal norms, child protection principles, and the legal arguments contained in the judge's legal considerations, rather than the empirical behavior of the parties. This research positions court decisions as legal texts analyzed to assess the consistency between the objectives of child legal protection and the construction of legal reasoning used in granting child marriage dispensations.

In analyzing the research object, several approaches were used, namely the legislative approach to examine legal norms related to the age of marriage and child protection, a conceptual approach to examine the principle of the best interests of the child and judicial discretion, and a case approach by analyzing relevant child marriage dispensation decisions. The legal materials used include primary legal materials in the form of Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning Marriage, Law Number 35 of 2014 concerning Child Protection, and court decisions related to the object of study, secondary legal materials in the form of scientific literature and international journal articles, as well as tertiary legal materials as supporting materials. The analysis technique is carried out prescriptively and evaluatively by assessing the suitability of the judge's legal reasoning to the normative objectives of child legal protection and applicable legal standards.

RESULTS AND DISCUSSION

Top of Form Child Marriage Dispensation in the Marriage Law System

Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage marks a significant paradigm shift in the Indonesian marriage legal system, particularly regarding child protection. The most significant change is the equalization of the minimum age for marriage for men and women to 19 years, which is normatively intended to strengthen the protection of children's rights and prevent the practice of child marriage. (Sulistyarini, 2022) This reform is in line with the principle of the best interests of the child as recognized in international law and various human rights instruments, and reflects the state's commitment to making marriage law an instrument of protection, not merely a means of legalizing social relations. (Santosa et al., 2025).

However, Article 7 paragraph (2) of Law Number 16 of 2019 still opens up space for marriage dispensation which can be granted by the court for very urgent reasons and accompanied by sufficient evidence. (Hamid et al., 2021) Conceptually, this provision shows that the legislators still maintain the exception mechanism as a form of compromise between normative protection and complex social realities. (Sulistyarini, 2022) However, from a legal theory perspective, the existence of this dispensation presents normative ambiguity because, on the one hand, the law

affirms the minimum age limit as a standard for child protection, but on the other hand, it provides legal space to deviate from that standard through judicial discretion. This condition aligns with the findings of international comparative studies that state that legal exceptions to the age of marriage are often a weak point in child protection regimes. (Nafis, 2024).

In the post-Law Number 16 of 2019 marriage legal system, judges are positioned as key actors in interpreting and operationalizing the concept of "very urgent reasons" as referred to in the law. (Naifa & Izadi, nd) The absence of detailed normative criteria in the law makes the assessment of the urgency and interests of the child very dependent on the judge's legal reasoning. (Wahyuningsih et al., 2025) From a judicial discretion perspective, this situation expands the scope for subjectivity in decision-making, potentially leading to variation and inconsistency in judicial practice. International family law literature shows that such discretion, if not framed by strict child protection guidelines, tends to result in decisions that are more responsive to social pressure than to the child's long-term interests. (Kaha et al., 2023).

Although Law Number 16 of 2019 requires judges to hear statements from both parents of the prospective bride and groom, this provision still implicitly places children in a subordinate position in the decision-making process. (Hamid et al., 2021) From a child protection perspective, this condition is problematic because children as legal subjects who are directly affected are not explicitly positioned as the center of consideration. (Sulistyarini, 2022). International studies on the application of the principle of best interests of the child confirm that child protection will lose its substantive meaning if legal decisions are dominated by the interests of the family or community rather than the needs and rights of the child himself. (Asni, 2019).

From a theoretical and conceptual perspective, child marriage dispensations in the post-Law 16 of 2019 marriage legal system reflect the tension between the normative goals of child protection and the legal exception mechanisms provided by the law. Dispensations serve not only as procedural instruments but also as a reflection of the legal system's value orientation in interpreting child protection. (Rinto et al., 2021) Therefore, analysis of child marriage dispensation needs to be directed at a critical evaluation of how the legal norms are interpreted and implemented by judges, as well as the extent to which the legal reasoning used is truly consistent with the goal of child protection that is the basis for marriage law reform itself.

Child marriage dispensations can be understood as an exceptional legal mechanism designed to bridge the tension between general norms and specific social realities. Conceptually, the dispensation is not intended to negate the minimum age for marriage norm, but rather to accommodate exceptional circumstances that cannot be resolved through the rigid application of norms. (Katamsyah & Songgirin, 2025) However, when this exception mechanism is not framed within the framework of child protection as the primary objective of marriage law, the dispensation has the potential to shift from a corrective instrument to a channel for normalizing the practice of child marriage, as reflected in the previously analyzed patterns of legal reasoning of judges. (Ebbbers-pardijs et al., 2026).

From the perspective of legal protection theory, children should be positioned as legal subjects who have autonomous interests and require special protection due to their inherent structural vulnerabilities. (Cheng & Wang, 2024) In the context of child marriage dispensation, legal protection is not simply defined as providing access to the judicial process, but must be realized through a substantive assessment of the long-term impact of the decision taken. (Ramadhani & Sakti, 2023) This conceptual framework requires that judges not only examine the fulfillment of the formal reasons for a request for dispensation, but also evaluate whether the granting of dispensation is in line with the legal objectives of marriage as an instrument for protecting and developing the quality of life of children.

At a broader conceptual level, the integration of child protection principles into the marriage legal system requires a paradigm shift from a reactive approach to a preventive and transformative approach. (Politis et al., 2025). Child marriage dispensation should be treated as a last resort mechanism (*ultima ratio*) which can only be used when all other protection alternatives are inadequate. (Fakhria, 2021). Within this framework, the judiciary's role extends beyond resolving individual conflicts, serving as a normative agent that reinforces the message that marriage law exists to protect children from the structural risks of early marriage. This theoretical and conceptual approach emphasizes that the primary problem with child marriage dispensation lies not in the existence of the mechanism itself, but rather in how it is understood and operationalized in judicial practice.

Construction of the Judge's Legal Reasoning in Child Marriage Dispensation Decisions

In cases of child marriage dispensation, the judge's legal reasoning is generally constructed through an effort to balance the minimum age for marriage norm as stipulated in Article 7 paragraph (1) of Law Number 16 of 2019 and the dispensation provisions as exceptions in Article 7 paragraph (2). Judges tend to begin their legal considerations by emphasizing that the minimum age for marriage is an imperative child protection norm, but then immediately shift focus to the existence of "very urgent reasons" submitted by the applicant.(Mutakin, 2022)This pattern shows that from the outset, the judge's reasoning construction has acknowledged the existence of protective norms, but at the same time opened up space for legitimacy for deviations from these norms.

In practice, the reason "very urgent" is often interpreted broadly and contextually by judges.(Muslimin et al., 2021). Considerations frequently cited include the condition of an out-of-wedlock pregnancy, concerns about social stigma, cultural pressures, and family economic reasons. This argument demonstrates that judges' legal reasoning is not solely based on written legal norms, but is heavily influenced by an assessment of the social realities faced by the parties.(Sayuti, 2023)As a result, social and moral considerations often receive greater weight than a thorough analysis of the impact of marriage on the long-term interests of children as legal subjects.

On other occasions, many dispensation decisions position children in the structure of legal reasoning as objects that must be "saved" from certain social impacts, not as legal subjects who have autonomous rights and interests.(Fauziyah et al., 2019)Judges often use the narrative of protection to justify granting dispensation, for example by stating that marriage is necessary to protect the child's future or honor.(Najib, 2023)However, these narratives are rarely accompanied by comprehensive assessments of the child's psychological readiness, reproductive health, and educational sustainability, which should be key elements of substantive child protection.

The judge's legal reasoning also shows a tendency to use a preventive-pragmatic approach, namely preventing short-term social risks at the expense of long-term protection goals. In this context, dispensation is positioned as a quick solution to a problem deemed urgent, without critical analysis of whether such a solution actually prolongs the child's vulnerability.(Aji, 2016)This kind of reasoning pattern indicates a shift in the orientation of legal protection from protecting children's rights to managing social risks, which ultimately weakens the normative function of marriage law as a protective instrument.

The pattern of legal reasoning of judges in cases of child marriage dispensation shows a tendency towards the dominance of a legal-formal approach that is not fully integrated with the goal of child protection as a substantive value of law.(Fakhria, 2021)Judges generally place the authority of dispensation within a broad discretionary space, but this discretion is often used without a strict evaluative framework to assess the long-term impact on the child's life.(Mutakin, 2022)Dispensation is positioned as an administrative remedy for non-compliance with the minimum marriage age, rather than as an exception mechanism that should be rigorously and restrictively tested. This situation reinforces previous findings that judges' legal reasoning tends to reproduce the logic of exceptions, thus obscuring the protective function of the minimum marriage age norm.

This tendency indicates a fragmentation between the normative goals of child protection and judicial practices oriented towards short-term social stability. In many decisions, considerations of social, moral, and environmental pressures are treated as the primary justification for granting dispensation, without any proportional analysis of children's vulnerabilities and the structural risks inherent in child marriage.(Gilligan et al., 2025)This reinforces the paradox of legal protection that has been analyzed previously, where child protection is recognized normatively, but is weakened through compromising legal reasoning.(Ismail, 2022). Thus, this additional discussion confirms that the main problem of child marriage dispensation does not lie in the absence of norms, but rather in the way these norms are interpreted and operationalized in the practice of judges' legal reasoning.

Furthermore, the lack of detailed operational standards in Law Number 16 of 2019 regarding the "very urgent reasons" parameter further expands the scope for judicial discretion. The absence of clear normative guidelines results in dispensation decisions being highly dependent on the judge's individual preferences and perspectives.(Grijns, 2018). Consequently, there is variation in reasoning and inconsistency in decisions between courts, which in turn reduces legal

certainty and weakens the binding force of the minimum age of marriage norm as a standard for child protection.

The judge's legal reasoning in child marriage dispensation decisions still demonstrates a tension between normative recognition of child protection and pragmatic argumentative practices. The judge formally affirms the objectives of Law Number 16 of 2019, but in its implementation places greater emphasis on resolving short-term social problems. This pattern of reasoning underpins the emergence of a paradox of legal protection, which will be further analyzed in the discussion of the normative implications of child marriage dispensation for the child legal protection system.

The Paradox of Legal Protection in Child Marriage Dispensation Decisions

The paradox of legal protection in child marriage dispensation decisions is rooted in the tension between the normative objectives of the marriage legal system and the way these objectives are operationalized in judicial practice.(Fauziyah et al., 2019). Legal reform through Law Number 16 of 2019 is explicitly intended to strengthen child protection by raising the minimum age for marriage, in line with the child protection regime and international child rights standards.(K. Nasution et al., 2021)However, the existence of a dispensation mechanism as a normative exception makes this protection conditional and highly dependent on the judge's judgment. In this context, the law simultaneously functions as an instrument of prevention and legitimacy, thus opening up a space for contradiction between the norms of protection and the practice of exception.(Abiansyah & Putra, 2023).

This paradox becomes increasingly apparent when the principle of child protection is used as argumentative justification in decisions, but is not followed by substantive analysis of the impact of the decision on the interests of children.(MI Nasution et al., 1907). In many dispensation decisions, the child's interests are represented through the perspective of the parents or surrounding social considerations, rather than through an independent assessment of the child's needs, readiness, and future.(K. Nasution et al., 2021)As a result, the principle of the best interests of the child tends to function as a normative symbol that strengthens the legitimacy of decisions, rather than as an evaluative tool that limits the judge's discretionary space.(Gresdahl et al., 2025).

In judicial practice, the reasons used to grant dispensations, such as prevention of social harm, pregnancy, or cultural pressure, are often treated as being in the child's own interests. In fact, this approach is conceptually problematic because it equates short-term social interests with the long-term best interests of children(Nikah et al., 2024)Legal protection then shifted from protecting children's rights to managing social risks, thereby losing its normative power as a protective instrument. International studies on child marriage show that justifications based on social stability tend to ignore the structural impacts on children's education, health, and future bargaining power.(Arda et al., 2025).

The paradox of legal protection is also reflected in the way dispensations are positioned within the marriage legal system. Although normatively intended as a very limited exception, judicial practice shows a tendency to normalize dispensations as a relatively easily accessible legal solution.(Anwar & Wijaya, 2019)When exceptions are used repeatedly without strict substantive parameters, the minimum age for marriage norm loses its preventive function. From a legal theory perspective, this condition indicates normative dilution, namely the weakening of the binding power of norms due to the application of exceptions that are not strictly controlled.(Rahayuningsih et al., 2025).

The child protection framework which should be the main orientation in child marriage dispensation cases has not fully functioned as a substantive parameter in the judge's legal reasoning.(Palacios et al., 2026). Child protection is still understood narrowly as fulfilling formal procedures, not as an evaluative instrument for assessing the legal and social consequences of granting the dispensation itself.(Muchsin, 2023). The interests of children are often reduced to an additional, complementary consideration, rather than the main argument that guides decisions.(Grant, 2026)This pattern shows that the integration of child protection values into judicial practice is still declarative, not transformative.

In line with these findings, the absence of substantive testing of the child's best interests in judges' legal reasoning has implications for the normalization of dispensation as a routine practice. Dispensation is no longer treated as an exception to be strictly limited, but rather as a legal solution deemed legitimate to accommodate certain social realities. This situation reinforces the paradox of

legal protection outlined previously, as mechanisms normatively designed to protect children actually have the potential to legitimize practices that leave children vulnerable in the long term.(Sebriyani, 2023). Therefore, this additional discussion emphasizes that the main problem lies in the failure of the judge's legal reasoning in internalizing child protection as an operational principle, not merely as a textually recognized norm.

Thus, the paradox of legal protection in child marriage dispensation decisions lies not in conflicts between regulations, but rather in the orientation of legal reasoning underlying the practice of dispensation itself. Child protection is recognized normatively, but in practice is relegated to a secondary consideration under pragmatic and social pressures. As long as judges' legal reasoning prioritizes short-term problem-solving over substantive child rights protection, the dispensation mechanism will continue to function as a weak point in the marriage legal system, simultaneously emphasizing the contradiction between the law's purpose and the reality of its application.

Normative Implications of Judges' Legal Reasoning on Child Protection

The normative implications of the judge's legal reasoning in child marriage dispensation cases not only impact the individuals involved in the case, but also on the construction of child protection in the marriage law system as a whole.(Abdelkarim, 2025)When dispensations are granted based on short-term pragmatic and social considerations, the minimum age for marriage norm loses its preventive function as a protective instrument. In this context, the judge's decision no longer serves as an affirmation of the law's objectives, but rather as a mechanism for adapting to social pressures, shifting child protection from a normative orientation to a situational compromise.(Wahyudi, 2017).

The next implication is a shift in the meaning of legal protection from substantive to formal protection. Legal reasoning that affirms child protection declaratively, but is not accompanied by an in-depth analysis of the child's physical, psychological, and social readiness, indicates that legal protection is reduced to procedural fulfillment.(Syifa, 2025)As a result, children remain vulnerable, even though the decision is claimed to be a form of protection. This situation confirms that without a substantive orientation, legal protection has the potential to lose its normative essence.

Reasoning patterns that normalize dispensation have resulted in the creation of problematic judicial precedents. Repeated dispensation decisions with similar argumentation patterns reinforce the perception that dispensation is a reasonable and reliable legal solution.(Insani et al., 2024)In the long term, this has the potential to create a judicial culture that is permissive towards child marriage, even though marriage law has been normatively reformed to prevent this practice.(Reza & Zahara, 2024)This implication shows that the reasoning of judges has a strong constructive power in shaping the direction of legal policy through judicial practice.

The legal system's weakening consistency in understanding children as autonomous legal subjects. When children's interests are substituted for those of the family or community, children lose their central position in the legal decision-making process.(Dale et al., 2026)This kind of legal reasoning not only impacts dispensation decisions, but also reflects a systemic tendency to view children as passive objects of protection, rather than as rights holders who must be considered independently.(Rahim & Zurnetti, 2020). From a child protection perspective, this condition constitutes a serious conceptual setback.

These implications require a reorientation of judges' legal reasoning in child marriage dispensation cases. Legal reasoning needs to be directed toward positioning the dispensation as a truly exceptional mechanism, with strict evaluation parameters and a focus on the child's long-term interests.(Horii, 2020)This reorientation is not merely a technical matter of justice, but rather concerns a paradigm shift in understanding the function of marriage law as an instrument of protection, not merely a means of validating social relations.

Furthermore, there is an urgent need to strengthen judicial guidelines that can proportionally limit judicial discretion. These guidelines are not intended to eliminate judicial independence, but rather to ensure that discretion is exercised within a consistent and measurable child protection framework.(Elisabeth, 2025)Without clear normative guidelines, legal reasoning will continue to be influenced by individual preferences and social pressures, making it difficult to achieve the goals of marriage law reform effectively.(Løvlie, 2025).

The measurable standard of reasoning in granting child marriage dispensations creates room for inconsistency between decisions. Judges tend to rely on different casuistic reasoning

constructs, even when the case contexts are relatively similar.(Basqina & Jaelani, 2023)This situation not only undermines legal certainty but also creates unequal protection for children facing dispensation cases. When child protection parameters are not operationally formulated in legal reasoning, decisions become heavily dependent on the judge's subjective preferences, rather than on universal normative standards.

At this point, the problem of legal reasoning is intertwined with institutional limitations in directing the courts' function as protectors of children's rights. The judiciary, in cases of child marriage dispensations, has not fully implemented its corrective role against social practices that conflict with the goals of child protection.(Wahyudi, 2017). Conversely, courts often act as a legal legitimation mechanism for existing social conditions. The consequence of this pattern is a shift in the judicial function from an instrument of protection to a means of normative adaptation to social pressures, ultimately weakening the transformative power of marriage law.(Fakhria, 2021).

From this perspective, the need for a reorientation of judges' legal reasoning is becoming increasingly urgent, so that child marriage dispensations can be repositioned as a restrictive, child-protection-based exception mechanism. This reorientation is not intended to eliminate judicial discretion, but rather to frame that discretion within an evaluative framework that places the child's best interests as the substantive goal of the decision.(Grant, 2026)By reaffirming the protective function of marriage law, it is hoped that the courts will not only resolve cases formally but also contribute to the establishment of legal practices consistent with the agenda of child protection and intergenerational justice.

Thus, the normative implications of judges' legal reasoning in child marriage dispensation cases confirm that the quality of child protection is largely determined by the argumentative orientation of court decisions. As long as legal reasoning prioritizes pragmatic solutions, child protection will remain in a paradoxical position. Therefore, the transformation of child protection within the marriage legal system can only be achieved through a shift in judicial thinking that places the child's interests as a substantive objective, rather than merely a formal justification, in dispensation decisions.

DISCUSSION

The findings of this study indicate that the paradox of legal protection in cases of child marriage dispensation does not stem solely from normative weaknesses, but primarily from the construction of legal reasoning by judges in operationalizing the norm. Although the minimum age for marriage has been affirmed through regulatory changes and the principle of the child's best interests is explicitly recognized as a basis for consideration, judicial practice shows a tendency to dominate long-term pragmatic and social reasons such as pregnancy, family pressure, and concerns about social stigma, which shift the orientation of child protection from the substantive dimension to the formal-procedural dimension. This study found that judicial discretion in dispensation cases has not been framed by strict and measurable evaluative parameters, so that dispensation tends to be normalized as an administrative solution to social problems, rather than as a restrictive exception mechanism. As a result, the preventive function of the minimum age for marriage norm is weakened, and the child's best interests are not always the primary argumentative standard in decisions. This finding confirms that the main problem lies in the internal inconsistency between the protective objectives of marriage law and the practice of judicial reasoning, which ultimately creates a paradox between the normative recognition of child protection and the realization of such protection in judicial practice.

An article written by Fauziyah, NS, Fawzi, R., & Rojak, EA (2019), this article examines the philosophical review of changes in the marriage age limit. The results of this study reveal several philosophical reasons for changes in the marriage age, namely health aspects, sociological aspects, psychological aspects, educational aspects, and constitutional aspects, as well as providing equal rights for men and women in obtaining legal protection and justice. Research by Ramadhani, DA, & Sakti, M. (2023), examines legal protection for the rights of children who marry underage. The results of this study indicate that many parents still apply for marriage dispensations for children who are not old enough to marry, so action is needed as an effort to provide legal protection to children. First, the government needs to review the Marriage Law, namely the need to add articles that regulate in detail the reasons for applying for marriage dispensations. Second, the public needs to understand the negative consequences that arise from underage marriage based on marriage dispensations.

Another study conducted by Horii, H. (2020), this article identifies court decisions and interviews with judges on the issue of child marriage. The results show that Indonesia's pluralistic legal system is structurally organized to accommodate human rights norms with consideration of religion and customary practices, which therefore provides significant latitude for judges in mediating various types of conflicting laws regarding the issue of child marriage. Furthermore, research by Nasution, M., Syukri, M., Nasution, A. (2021), this article examines the harmonization of child protection and fiqh doctrine in child marriage dispensation decisions. The results of the analysis show that from the perspective of child protection and maqashid sharia, children must be given respect for their opinions. However, this respect is not applied absolutely because the opinions of parents cannot be ignored, especially in cases where there are very urgent reasons. Therefore, harmonization is needed between the protection of children's rights and the fiqh doctrine on the authority of guardians by considering the best interests of the child.

Meanwhile, research conducted by Abiansyah, Y., & Putra, D. (2023), this study aims to determine how the legal protection of minors as applicants for marriage dispensation after the revision of the Marriage Law and the efforts of judges in determining applications for marriage dispensation when the applicant is a minor. The results of the study indicate that the legal protection of minors as applicants for marriage dispensation after the revision of the Marriage Law is not optimal because there is still a legal vacuum, so it is necessary to create written regulations from the government that can guarantee legal certainty. Efforts that can be made by judges to determine cases like this are by making legal discoveries while still prioritizing the best interests of children.

Based on the aforementioned research, the academic position of this article lies in its attempt to shift the focus of the study of child marriage dispensation from a purely normative analysis of changes in the marriage age limit to a critique of the construction of judges' legal reasoning in judicial practice. While most previous studies tended to assess the effectiveness of Law Number 16 of 2019 in improving child protection or mapping the social factors causing the high number of dispensations, this article places the main problem at the epistemic level, namely how judges understand and operationalize the principle of child protection in their decisions. Thus, its academic contribution goes beyond describing the phenomenon of dispensation, but also enters the realm of critical analysis of the structure of judicial argumentation and its implications for the consistency of the marriage law system.

Another conceptual novelty is evident in the formulation of the paradox of legal protection as an analytical framework for interpreting the practice of child marriage dispensation. This article demonstrates that normative recognition of the principle of the child's best interests does not necessarily translate into substantive protection in practice. Through this approach, dispensation is understood not simply as an administrative exception, but as a space for contestation between the law's protective objectives and judicially legitimized social pressures. This position enriches family law discourse by offering a more reflective reading of the relationship between norms, judicial discretion, and the protection of children's rights.

This research's contribution lies in strengthening the conceptual and analytical dimensions of marriage law studies, particularly regarding child marriage dispensations, by placing judges' legal reasoning at the center of normative evaluations of the effectiveness of child protection. Different from previous studies that emphasized the regulatory aspect or social factors causing dispensations, this research offers a "legal protection paradox" framework to explain the tension between the protective objectives of minimum marriage age norms and the permissive judicial practices. Theoretically, this research enriches family law discourse by integrating the principle of the child's best interests as an evaluative parameter in the analysis of decision arguments, rather than merely as a declarative principle. Methodologically, this research demonstrates the importance of a normative-critical approach in interpreting the internal consistency of judges' reasoning with legal objectives. Practically, the research findings provide an academic foundation for the formulation of more measurable, child-protection-based judicial guidelines, thereby encouraging a reorientation of judges' discretion to align with the preventive and protective functions of marriage law.

The limitations of this research lie in the use of a normative legal approach that focuses on the analysis of regulatory texts and the construction of decisions. Therefore, it does not yet address the empirical dimension of the concrete impact of dispensation decisions on the lives of children after marriage. The analysis does not fully integrate interdisciplinary perspectives, such as legal

sociology or gender studies, which could deepen understanding of the structural factors influencing judicial reasoning. Furthermore, the scope of the decisions analyzed is potentially limited to a specific region or period, so generalization of the findings requires caution.

Based on these limitations, further research is recommended to develop a socio-legal approach that combines normative analysis with empirical studies on the implementation of dispensation decisions and their impact on children's rights. Comparative studies across jurisdictions or countries are also important to identify patterns of consistency and institutional variables that influence judges' legal reasoning. Furthermore, exploring a model of judicial guidelines based on the principle of the child's best interests could be a further research agenda to formulate more measurable operational standards in child marriage dispensation cases.

CONCLUSION

The conclusion of this study confirms that the practice of child marriage dispensation in the marriage law system still reproduces the paradox of legal protection, where the normative objectives of child protection affirmed through legal reform have not been fully implemented in judges' legal reasoning. Although the minimum age for marriage norm is intended as a preventive instrument to protect the best interests of children, the dispensation mechanism in judicial practice is often used as a situational solution to short-term social pressures, thus shifting child protection from the substantive dimension to the formal-procedural one. Such legal reasoning not only normalizes exceptions but also obscures the position of children as autonomous legal subjects entitled to long-term protection. Therefore, strengthening child protection in cases of child marriage dispensation cannot be achieved sufficiently through normative reform alone, but also requires a reorientation of judges' legal reasoning to consistently place the best interests of children as the primary objective and evaluative parameter in every decision.

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