Socius: Jurnal Penelitian Ilmu-Ilmu Sosial
Volume 4, Issue 4, November 2026, p 721-737
E-ISSN: 3025-6704
DOI: https://doi.org/10.5281/zenodo.24097878

The Dominance of Moral-Religious Grounds and Divorce Vulnerability after Marriage Dispensation in Religious Courts

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ARTICLE INFO
ARTICLE INFO
Article history:
Received 25 September 2026
Revised 15 October 2026
Accepted 29 October 2026
Available online 11 November 2026

Keywords
marriage dispensation, moral grounds, divorce

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ABSTRACT
Abstract: Marriage dispensation raises a tension between preventing feared moral wrongdoing and protecting children throughout married life. This study examines the dominance of moral-religious grounds in Indonesian Religious Court applications, evaluates what reported divorce among former recipients can establish, and develops a continuous-benefit child-protection framework. It employs normative legal research, an integrative review of journal literature, and secondary analysis of official court publications. Statutory interpretation and thematic comparison connect urgency, consent, marriage readiness, foreseeable harms, and access to support. The analysis finds that avoiding zina is prominent in reported applications, although applicants' explanations must be distinguished from judges' decisive legal reasoning. Published post-dispensation divorce figures identify cases of vulnerability but lack linked marriage cohorts and durations needed to calculate an early-divorce rate or infer causation. Relevant risks involve economic dependence, psychological maturity, education, reproductive health, family pressure, safety, and gender relations. The proposed framework comprises evidence-sensitive classification of urgency, individualized assessment of children's interests, proportional consideration of alternatives, and lawful referral to continuing assistance. Moral concerns cannot substitute for comprehensive child-centered justification; the framework remains conceptual and requires longitudinal empirical testing.

ABSTRAK
Abstrak: Dispensasi kawin menghadirkan ketegangan antara pencegahan pelanggaran moral yang dikhawatirkan dan perlindungan anak sepanjang konsekuensi kehidupan perkawinan. Penelitian ini menganalisis dominasi alasan moral-religius dalam permohonan dispensasi di Pengadilan Agama, menelaah makna serta keterbatasan data perceraian pasangan eks penerima dispensasi, dan merumuskan pendekatan perlindungan berbasis kemaslahatan berkelanjutan. Penelitian menggunakan metode hukum normatif, kajian literatur integratif secara terarah, dan analisis sekunder publikasi resmi peradilan. Interpretasi sistematis, perbandingan tematik, serta matriks analitis berbasis hak anak digunakan untuk menghubungkan urgensi, kesiapan, risiko, dan kebutuhan pendampingan. Hasil penelitian menunjukkan bahwa alasan menghindari zina menonjol dalam permohonan, tetapi alasan pemohon harus dibedakan dari pertimbangan hukum yang menentukan putusan hakim. Publikasi perceraian pascadispensasi menunjukkan adanya persoalan nyata, tetapi tidak menyediakan data kohor pasangan untuk menghitung tingkat perceraian dini atau membuktikan hubungan sebab-akibat. Literatur mengidentifikasi kerentanan ekonomi, psikologis, tekanan keluarga, relasi gender, keberlanjutan pendidikan, dan akses layanan sebagai indikator penting. Penelitian menawarkan empat tahap evaluasi berupa klasifikasi urgensi berdasarkan bukti, penilaian kepentingan anak secara individual, pertimbangan alternatif secara proporsional, serta penguatan akses perlindungan setelah penetapan. Kerangka ini merupakan kontribusi konseptual yang masih memerlukan pengujian empiris melalui dokumen perkara terhubung yang dianonimkan.

INTRODUCTION

Marriage dispensation represents a particularly consequential tension within child-protection law: the institution designed to safeguard a minimum marriage age is also authorized to permit an exception to that threshold. The issue is not merely whether a marriage can be registered or whether a family's religious concerns deserve recognition. It is whether an exceptional judicial decision adequately evaluates what will happen to an adolescent after the ceremony, including the continuation of education, access to health care, economic dependence,

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personal autonomy, and the ability to negotiate domestic conflict. A study of Indonesian child-marriage regulation identifies the relatively accessible dispensation mechanism as a continuing weakness in an otherwise protective legal framework (Aditya & Waddington, 2021). Research on the legal and medical consequences of child marriage likewise cautions against assessing marriage solely by its formal status, because the decision can carry lasting health and social implications (Farrukh et al., 2024). This article therefore treats marriage dispensation not as the endpoint of protection but as a legal decision whose justification must remain intelligible in light of foreseeable family risks.

Indonesia's amended Marriage Law establishes nineteen as the minimum age for both prospective spouses while permitting a court to authorize departure from that requirement upon very urgent reasons supported by sufficient evidence. Such a design creates two obligations that must not be confused: interpreting the exception narrowly enough to preserve the statute's protective purpose, and applying the exception humanely in concrete situations. Empirical work in North Sulawesi shows that applications may arise from premarital pregnancy, social customs, parental preferences, economic circumstances, and the fear that young people will violate religious norms (Mursyid & Yusuf, 2022). A study of the Tenggarong Religious Court further records variations in what petitioners describe as emergencies, including a long romantic relationship, pregnancy, frequent dating, and cohabitation (Yuni, 2021). These categories have different evidentiary characteristics. A documented pregnancy is a present circumstance with immediate health implications; fear of a possible future moral violation is a prediction requiring independent assessment. Treating the two as equivalent would conceal the reasoning needed to justify an exceptional judicial order.

The national picture adds urgency without eliminating the need for evidentiary care. In a November 2025 presentation, Indonesia's Directorate General of Religious Courts reported that avoiding zina accounted for 59 percent of stated dispensation grounds in 2024 and 56 percent in the partial 2025 presentation, with pregnancy representing 31 and 34 percent respectively (Directorate General of Religious Courts, 2025). These figures describe categories reported in applications; they do not establish the reasons that judges considered decisive in every successful petition. Qualitative research in Purwodadi nevertheless indicates that fear of zina, premarital pregnancy, and preservation of family honor can shape the construction of urgency during proceedings (Akbari, 2025). The distinction between an applicant's account and the court's justification is essential. The former explains the social demand for an exception, whereas the latter must demonstrate that an individualized and child-centered legal assessment has occurred. Judicial accountability depends on the reasoning that connects the two rather than on statistical prevalence alone.

Post-dispensation divorce provides a second but analytically different warning. An official article of the Bojonegoro Religious Court reported 82 divorce cases involving former dispensation recipients in 2025, including 68 wife-initiated cases and 14 husband-initiated cases (Bojonegoro Religious Court, 2026a). Another institutional report discussed 59 such cases in January–July 2026, a different observation window that must not be merged into a single annual rate (Bojonegoro Religious Court, 2026b). Neither number provides the denominator of all marriages formed through dispensation in a comparable cohort. Consequently, neither proves that divorce among dispensation recipients is statistically higher than among other marriages. Research in Banyuwangi expressly finds that aggregate changes in dispensation applications do not necessarily track aggregate divorce trends (Nisah et al., 2026). The credible question is thus not whether a sensational numerical relationship can be asserted, but what the appearance of such cases reveals about the kinds of risk that a protective judicial inquiry should consider in advance.

Five strands of recent scholarship clarify the question while leaving a conceptual gap. The study of Wonosari decisions illustrates the competing roles of legal, religious, psychological, and social arguments when courts interpret urgency (Rohman et al., 2023). A more recent examination of Gunung Sugih decisions and interviews reveals the ways social facts are transformed into legal reasons and ranked through judicial discretion (Nasution et al., 2026). Research in Purwodadi highlights how immediate moral concerns may gain priority over long-term child welfare (Akbari, 2025). The concept of pseudo-protection draws attention to judicial

reasoning in which the language of children's interests becomes entwined with family reputation and social stigma (Prihantoro & Sodiqin, 2026). Finally, a study comparing dispensation determinations and later divorce decisions involving the same couples opens a more direct route to examining discrepancies between anticipatory assessment and subsequent marital difficulties (Zaidah et al., 2025). These studies do not establish that moral reasoning causes divorce. Their collective contribution makes it possible to ask a narrower and more defensible question about the adequacy of risk assessment.

Recent scholarship also shows why moral and religious considerations should not be dismissed as extraneous to Indonesian family law. Legal reasoning within Islamic family institutions operates in a plural setting where state law, jurisprudential categories, parental authority, and local norms coexist. Research on Islamic legal arguments identifies the use of Qur'anic reasoning, prophetic traditions, legal maxims, and social circumstances in dispensation determinations (Yazid, 2023). Work on the Indonesian legal system finds tensions among protective statutory substance, institutional procedures, and social practices around early marriage (Lathifah et al., 2022). Yet the same religious sources can support restraint rather than permissiveness. In Sukadana, judicial arguments rejecting applications combined Islamic considerations with the protection of children's rights (Nawawi et al., 2022). The analytical task is therefore to evaluate the balance and evidentiary consequences of particular moral claims, not to equate religion with disregard for children's welfare.

The analytical setting of the study is Indonesia's Religious Courts as institutions that examine dispensations and also adjudicate Muslim divorces. The Bojonegoro figures are used as a publicly available illustration, not as evidence that this study has independently inspected the private case files of those couples. That institutional connection matters because it makes possible a future inquiry tracing a decision made before marriage and difficulties judicially recorded afterward. Scholarship on young women's navigation of divorce from child marriage stresses that divorce can reflect hardship, negotiation of agency, and the search for a safer future rather than simply a failure to uphold a marriage (Pakasi et al., 2024). Moreover, the resilience of a family cannot legitimately be equated with maintaining a relationship at any cost. A child-centered evaluation must make room for the possibility that separation protects rights and well-being when a relationship becomes harmful. This distinction is important for a study that uses divorce as an indicator of vulnerability without making marriage preservation its absolute normative objective.

This article examines two related questions: how moral-religious grounds are constructed and assessed within the exceptional framework of marriage dispensation, and what post-dispensation marital vulnerabilities reveal about the comprehensiveness of anticipatory child protection. Its objective is to formulate a continuous-benefit assessment that links ex ante judicial reasoning to the types of need apparent in ex post marital life. The proposed synthesis combines the best-interests-of-the-child principle, maqasid al-shari'ah, and family-resilience scholarship. Work on Islamic legal pluralism demonstrates the weakness of invoking children's interests without carefully considering education, health, and girls' experiences (Rohmawati, 2025). A review of contemporary child-marriage fiqh scholarship similarly calls for movement from formal doctrinal permissibility toward preventive, substantive protection (Sriharini et al., 2026). This study offers a conceptual framework and does not claim a tested causal model, new interviews, or a verified longitudinal divorce rate.

RESEARCH METHOD

This study employs normative legal research informed by a structured integrative review of socio-legal scholarship and a cautious secondary analysis of published judicial statistics. The choice is justified by the problem's character: the question concerns how existing protective norms ought to be interpreted and how their reasoning can be assessed in light of documented vulnerabilities, rather than the estimation of a causal effect from individual-level data. The primary legal materials consist of the amended Marriage Law, the Child Protection Law, and Supreme Court Regulation Number 5 of 2019 on adjudicating marriage dispensation. Supporting materials include peer-reviewed articles published primarily between 2021 and 2026, official

information released by the Directorate General of Religious Courts, public articles from the Bojonegoro Religious Court, and the United Nations Committee on the Rights of the Child's General Comment No. 14. Articles were selected for direct relevance to urgent reasons, judicial discretion, moral and religious justification, marriage readiness, marital instability, divorce, and child welfare. This is a purposive integrative review rather than a registered systematic review, and no exhaustive database retrieval or PRISMA screening count is claimed. Its logic follows the distinction between integrative conceptual synthesis and systematic evidence mapping developed in methodological writing on literature reviews (Snyder, 2019).

An analytical coding matrix was constructed for four domains: the reason advanced for dispensation, the legal test applied to urgency, the foreseeable risks associated with marriage readiness, and the form of protection potentially available after marriage. The matrix was adapted from the best-interests framework rather than adopted from a validated psychometric instrument; it is a transparent interpretive device, not a questionnaire. Within each domain, the analysis separates propositions made by applicants, findings attributed to judges by empirical researchers, and recommendations offered by commentators. The statutory and conceptual analysis uses systematic interpretation, comparison of competing accounts, and a prospective-versus-retrospective assessment of legal protection. Maqasid reasoning is used to examine possible tensions among protection of faith, life, intellect, lineage, and property; family-resilience literature is used to interpret economic, psychological, relational, and social requirements of marital life. The framework is sensitive to the warning that judicial discretion can mediate rather than merely reproduce social expectations, a finding visible in field studies of religious marriage administration (Hasan et al., 2026). The tables presented below are author-developed syntheses, not summaries of an original dataset assembled from individual case records.

No participants were recruited, interviewed, or observed, and the article does not infer private family histories from published case totals. Ethical safeguards consist of source attribution, distinction between reported facts and analytical inferences, and avoidance of potentially identifying details about people who were minors when their marriage was considered. The principal limitation is the absence of a cohort denominator and linked dates of dispensations, marriages, separations, and divorce judgments; the secondary figures therefore cannot yield divorce incidence, risk ratios, or causal estimates. Differences in administrative categories and research designs similarly restrict generalization between courts. To reduce overstatement, this article consistently identifies who made a particular claim and tests contrary findings, including studies in which aggregate dispensation and divorce statistics did not move in parallel (Nisah et al., 2026). Its recommendations are accordingly conditional: they suggest a transparent judicial risk assessment and ethical longitudinal evaluation rather than present a policy intervention as already proven effective. Subsequent work could test the matrix through lawfully accessible, anonymized linked-case studies and interviews undertaken with appropriate ethical review.

RESULT AND DISCUSSION

Moral-Religious Grounds and the Judicial Construction of Urgency

Rather than a purely technical exception for young prospective spouses who happen to fall below an age threshold, marriage dispensation functions as a site where different ideas of protection compete for legal recognition. The distinction matters because a parent's wish to preserve family reputation, a young person's desire to marry, and the state's obligation to preserve the child's welfare may overlap without being identical. The national reporting on grounds for application places fear of zina at the foreground of family explanations (Directorate General of Religious Courts, 2025). Yet a court order must be justified through the facts and legal standards of the specific case, not merely the social popularity of that explanation. A study of judges in Gunung Sugih shows how facts are selected, classified, and weighted before they acquire legal urgency (Nasution et al., 2026). The legal question is therefore one of justified translation: what becomes of a general social fear when it is tested against the individual child's circumstances?

Fear of zina describes an apprehension about possible future conduct. Pregnancy describes an existing circumstance that can be substantiated through medical information, although its legal implications still require individual assessment. A prolonged romantic relationship, repeated meetings, and living together describe still other circumstances with distinct meanings. Research at the Tenggarong Religious Court lists precisely such different situations among the grounds treated as urgent in practice (Yuni, 2021). Their aggregation under a single notion of moral necessity risks blurring whether a problem is immediate, speculative, preventable through another intervention, or associated with a coercive social environment. A protective inquiry must determine the character of the evidence and the likelihood of harm, not assume that each familiar social narrative is equivalent to a legally compelling reason. The purpose of differentiation is not to deny family concerns, but to prevent an abstract concern from substituting for a concrete assessment of children's interests.

The amended Marriage Law's formulation of very urgent reasons presupposes exceptionality. An interpretation faithful to that function must explain why delaying marriage is impossible or why available alternatives cannot adequately protect the person concerned. In their study of judicial discretion, Az Zubaidi et al. (2026) identify how open-ended substantive criteria can broaden subjective assessments and turn an exceptional device into a response to pressure. This problem involves more than choosing between granting and refusing an application. It also concerns the intensity of the reasons recorded in the order, the evidence examined, and the way the applicant's social position is separated from the child's expressed wishes. The difference between procedural compliance and substantive justification is therefore decisive. A formally complete hearing may still contain a thin explanation of why marriage is preferable to other forms of care, while a refusal may require similarly careful attention to potential unintended consequences.

Religious argument should be examined on its own normative terms rather than treated as a single homogeneous influence. Classical Islamic objectives are often invoked to prevent sexual wrongdoing or protect lineage, but these ends do not exhaust the relevant concept of welfare. An analysis of Indonesian dispensation decisions shows the importance of legal maxims, scriptural references, and social arguments in justifying outcomes (Yazid, 2023). A case-based maqasid examination of premarital pregnancy finds that protection of lineage and the mitigation of stigma can sit uneasily beside longer-term duties to protect the person concerned (Chamim et al., 2026). These studies permit a distinction between the legitimacy of a religious concern and the sufficiency of the conclusion derived from it. A reason may be intelligible within a religious tradition while still demanding further scrutiny of psychological maturity, reproductive health, economic support, and informed consent.

That scrutiny becomes particularly important when social honor is described as child protection. Families may face intense public disapproval if an adolescent pregnancy becomes known or a romantic relationship attracts gossip. The desire to remove stigma can be sincere and immediate, but it can also place the parents' reputation ahead of the child's independent needs. Prihantoro and Sodiqin (2026) name a pattern of pseudo-protection in which judicial references to welfare become entwined with family honor and social morality. This concept should not be transformed into a blanket accusation against individual judges or parents. It is better used as an analytical test: whose interest is being protected, what evidence demonstrates the child benefits, and which future burdens have been given weight? In that sense, the concept encourages explicit comparison of beneficiaries and harms instead of relying on the rhetorical force of the word protection.

An adolescent's agreement to marry also demands careful consideration. A verbal expression of consent may coexist with fear of social exclusion, parental disappointment, financial dependence, or the belief that a pregnancy leaves no alternative. Such pressures need not amount to legally established coercion in every case, and a researcher should not infer coercion from age alone. Nevertheless, the capacity to make an informed choice depends on understanding foreseeable consequences and having a realistic opportunity to express disagreement. Rohmawati (2025) argues that assessment of maturity and readiness can marginalize girls' educational and reproductive-health interests when their distinctive experiences are ignored. A

judicial inquiry must therefore allow young people to speak independently and must distinguish their statements from those made on their behalf. Treating voice and consent as meaningful procedural rights is one way to prevent familial expectations from being confused with the child's own position.

Judicial discretion can support substantive protection as well as weaken it. Research on rejected dispensation applications in Sukadana shows judges using both Islamic reasoning and human-rights considerations to defend children's rights (Nawawi et al., 2022). The finding challenges the overly simple claim that religion necessarily pushes courts toward granting an exception. The more useful distinction is between narrow and comprehensive interpretations of harm. A narrow interpretation may identify only the feared sexual or reputational harm of postponement, whereas a comprehensive interpretation also asks about health, school continuation, violence, dependence, and the potential effects of early parenthood. Under either interpretation the final decision may differ because cases differ. What matters for judicial accountability is whether the record makes the comparison visible and explains why a particular risk is given priority.

Moral justification is also situated within institutional pluralism. A minimum age fixed by statute coexists with social ideas of puberty, readiness, and the propriety of relationships. A socio-legal examination of Indonesia's child-marriage system identifies tensions among legal substance, legal structures, and legal culture, including practices surrounding unregistered marriages (Lathifah et al., 2022). Research among marriage-registration officials likewise identifies an ambivalence between legal age and Islamic concepts of maturity but also records adaptive counseling and child-protective discretion (Hasan et al., 2026). These findings caution against explaining applications merely as ignorance of the statutory age. Family decisions are embedded in relationships of authority and expectations, and judicial institutions encounter those expectations as legally framed petitions. Effective protection requires both principled reasoning within the court and meaningful prevention before the petition reaches the court.

The risk of unregistered marriage represents a genuine counterargument that deserves treatment rather than dismissal. Some judges and families may perceive registered marriage after dispensation as providing more immediate legal certainty than an informal union outside administrative oversight. The existence of that concern does not, however, establish that granting an exception is always the best protective option. It raises an alternative policy problem: how can registration, protection from sexual violence, and access to services be secured without normalizing underage marriage? Research on contested marriage-age reforms shows that community responses to the higher threshold can include strategies that circumvent legal requirements (Supraptiningsih, 2021). Consequently, both rigid refusal without support and permissive approval without genuine assessment may have unintended consequences. The appropriate judicial response is an individualized analysis accompanied, where institutionally possible, by lawful referral to the authorities and services able to address the underlying vulnerability.

Pregnancy illustrates the complexity especially clearly. Its existence may create immediate needs involving prenatal care, health information, protection against violence, and legal arrangements concerning the expected child. It does not automatically mean that the pregnant adolescent desires marriage, that the proposed partner can provide a safe home, or that marriage is the only form of assistance. A Socius study discussing a pregnancy-related dispensation through Islamic jurisprudence demonstrates how doctrinal views can be brought into dialogue with a particular determination (Shova & Mukarrom, 2024). A study of dispensation in Purwodadi reports that pregnancy and social pressure are frequent grounds for approval, while also questioning whether judges' emphasis on short-term urgency adequately reflects children's broader welfare (Akbari, 2025). The task is to address pregnancy's concrete needs without allowing its social stigma to eclipse an assessment of the proposed marriage itself.

Economic motives require similarly differentiated treatment. Parents may see marriage as a response to poverty, a route to financial support, or a means of reducing household responsibility. Yet shifting responsibility to a young partner can leave the child dependent on another person who has limited resources or unstable employment. An empirical study in North

Sulawesi identifies economic concerns among the varied reasons associated with dispensation applications while emphasizing that judicial considerations differed by case (Mursyid & Yusuf, 2022). A legally relevant economic inquiry would ask who currently supports the prospective spouses, whether schooling will continue, how basic needs will be met, and whether an apparent promise of support has realistic foundations. The issue is not a fixed income threshold, which may be inappropriate, but a reasoned appraisal of foreseeable dependence and vulnerability.

A further difficulty is the possible standardization of judicial language. An order may contain passages about the importance of protecting a child, the risks of premature marriage, and the duty to provide advice without showing how those considerations affected the concrete result. Such wording can be useful as a procedural reminder but does not replace the assessment that a particular child requires. The linked-decision study of Zaidah et al. (2025) draws attention to the need to examine the specificity of reasons offered before marriages that later ended in divorce. It does not establish the legal inadequacy of every order followed by divorce; rather, it demonstrates why the individual record matters. A reviewer of judicial reasoning should ask whether the decision identifies the evidence, explains competing harms, records the child's circumstances, and connects the conclusion to the applicable exceptional test.

The best-interests principle provides a procedural as well as substantive response. It should not be understood as a slogan that merely recites children's importance. General Comment No. 14 requires a decision-making process capable of identifying affected rights and giving reasons for the weight assigned to relevant considerations. The conceptual analysis of judicial passivity in child-dispensation proceedings argues for a more active judicial role in safeguarding children's interests (Susanti, 2021). This requires attention to the practical effects of hearing children and assessing evidence without treating the court as a substitute for social welfare services. Procedural seriousness includes knowing when a child may need psychological or medical support and when information supplied by interested adults ought to be independently tested. Such seriousness is especially important in cases involving social pressure that can be disguised by the ordinary form of a family petition.

Judicial reasoning should nevertheless remain sensitive to institutional constraints. A judge may not have comprehensive information about a family's finances, a young person's mental health, or the possibility of future conflict. Nor can an assessment eliminate uncertainty concerning all subsequent events. The applicable standard is not clairvoyance; it is the reasoned evaluation of relevant facts reasonably accessible at the time of decision. The work on judicial discretion and child protection by Az Zubaidi et al. (2026) demonstrates why substantive parameters matter even when every case remains different. Developing transparent indicators does not abolish discretion. It makes discretion more reviewable by clarifying which questions were asked and why the answers mattered. The indicators can be adjusted to the evidence available and do not require courts to invent information that neither party nor an expert can provide.

The scholarly discussion in the journal intended for submission reinforces the distinction between legal permission and broader prevention. A Socius investigation of parental efforts to prevent early marriage emphasizes the family's educational role and the limitations of addressing the issue only after a marriage plan has been formed (Azzahra & Warsono, 2025). That insight cannot be treated as proof that parental intervention alone will prevent dispensation applications in every locality. It does show that the petition is often a late stage in a longer trajectory of choices, concerns, and social interactions. Judicial review should therefore be understood as one part of a wider architecture of child protection. This perspective also prevents the research from burdening judges with responsibilities belonging to families, schools, health services, and public administration.

The first analytical finding is thus a problem of weighting, not the inherent illegitimacy of morality or religion. Preventing zina, preserving lineage, and securing legal status can be relevant considerations, but they cannot stand in for evidence that marriage is necessary, proportionate, and compatible with the child's broader welfare. The literature on maqasid-based judicial reasoning shows that protection of one interest may conflict with protecting another unless a decision explicitly compares the possible harms (Chamim et al., 2026). Scholarship seeking a

preventive orientation in child-marriage fiqh similarly argues that doctrinal legality should be assessed alongside substantive child protection (Sriharini et al., 2026). The resulting analytical task is to identify the protected interest, establish the child's concrete needs, determine alternatives, and explain the final weight assigned to competing considerations. That task becomes especially visible when courts later encounter family difficulties after an exception has been granted.

Table 1. Grounds for dispensation and corresponding protective questions

Ground advanced	Type of claim	Assessment needed
Avoiding zina	Forecast of possible moral violation	Concrete evidence; alternatives; child's wishes and readiness
Premarital pregnancy	Present factual/medical circumstance	Health protection; consent; safety; genuine necessity of marriage
Family honor	Social stigma or reputational concern	Whose interests are protected; pressure; independent participation
Dating/cohabitation	Relationship circumstances	Individual evidence; urgency; whether a less restrictive response exists
Economic pressure	Material hardship or dependency	Financial realism; continuation of education; risk of shifting dependence

Source: Author's conceptual synthesis of Yuni (2021), Rohman et al. (2023), Akbari (2025), and Nasution et al. (2026).

Post-Dispensation Divorce Vulnerability and the Limits of Readiness Assessment

The appearance of divorce cases involving former dispensation recipients reveals vulnerability after marriage, not a self-explanatory causal relationship between an earlier judicial order and a later separation. Official Bojonegoro publications identify 82 divorce cases in 2025 and 59 during the first seven months of 2026 involving couples described as former dispensation recipients (Bojonegoro Religious Court, 2026a). To interpret these figures correctly, one must distinguish case counts, concluded divorces, and rates among a defined marriage cohort. The available material does not indicate how many people obtained dispensations and married during the relevant preceding years, whether all marriages could be followed over time, or how long couples were exposed to the possibility of divorce. An empirical study in Banyuwangi likewise cautions that increased dispensation totals are not invariably accompanied by increased aggregate divorce totals (Nisah et al., 2026). The defensible conclusion is that post-dispensation vulnerability warrants inquiry, while the magnitude and causality of that vulnerability remain unestablished by these totals alone.

Two sources of statistical mismatch are particularly important. First, an application for dispensation is not the same event as the formation of a marriage, and an approved application does not itself prove that a marriage subsequently took place. Second, divorces registered in a particular year can concern marriages formed many years earlier, making the annual divorce count and contemporaneous application count unsuitable as a numerator and denominator. The linked-document strategy developed by Zaidah et al. (2025) is therefore more instructive than comparing unrelated annual tables. By reading a dispensation determination together with a later divorce judgment concerning the same couple, a researcher can investigate whether identifiable risks were recognized in the first case and later appeared in the second. Even then, the interpretation must consider facts emerging only after marriage and procedural differences between the two proceedings.

A further distinction concerns duration. The expression early divorce has no single legally mandated operational meaning for the purposes of this study. Divorce within the first two years

of marriage, divorce within five years, and any eventual divorce among former dispensation recipients would measure different phenomena. Without the marriage and divorce dates of matched couples, a study cannot credibly classify every recorded post-dispensation divorce as early. Research on court practice in Jember finds that marital instability cannot be explained by dispensation alone and points to emotional immaturity and other circumstances (Ashari, 2024). Duration-sensitive analysis is necessary to establish whether such circumstances are associated with particular periods of marital adjustment. In the present document-based synthesis, the expression vulnerability is preferred because it permits examination of foreseeable pressures without mislabeling the official case figures as a verified incidence of early divorce.

Economic instability is one domain where pre-marital readiness and post-marital difficulties may connect. Young spouses can face immediate demands for housing, food, transport, education, and health care while their qualifications and opportunities for stable employment remain limited. A study of divorces in the Mungkid Religious Court identifies economic hardship among several reported factors, together with jealousy, infidelity, violence, and inadequate readiness (Pamungkas et al., 2025). Research into family resilience at the Bener Meriah Sharia Court draws attention to psychological and reproductive readiness as elements relevant to the stability of young marriages (Darmawan et al., 2022). These findings do not mean that every poor couple should be excluded from marriage or that income can predict divorce with certainty. They indicate that evidence of financial expectations and existing dependency belongs in any serious inquiry into whether the proposed marriage is realistically sustainable.

An economic inquiry must go beyond a prospective spouse's declaration that work or parental assistance will be available. Informal employment may provide earnings but little predictability; a promise by extended family may be genuine yet vulnerable to future changes; and marriage may interrupt education that would otherwise expand long-term opportunities. The study in Bener Meriah situates resilience within a set of social and psychological conditions, not a single salary figure (Darmawan et al., 2022). The broader socio-legal study of child-marriage practices during the pandemic emphasizes how legal culture and socioeconomic circumstances can shape marriage decisions (Lathifah et al., 2022). A court cannot accurately project each household's future, but it can ask what support currently exists, whether each adolescent has an independent educational plan, and how future obligations will be addressed. Such questions make economic preparedness a concrete element of a protective assessment rather than a formulaic expression of parental optimism.

Psychological readiness is similarly multidimensional. An adolescent may understand the immediate meaning of a marriage ceremony without anticipating the practical demands of living together, resolving disagreements, sharing responsibilities, and responding to pressure from relatives. The research at Mungkid identifies conflict and inadequate mental readiness among the reported circumstances of divorce cases linked to young marriage (Pamungkas et al., 2025). A Jember study also identifies emotional immaturity and the need for informed counseling as relevant considerations, while cautioning against reducing marital breakdown to dispensation alone (Ashari, 2024). An individualized inquiry should therefore consider communication, problem-solving, the recognition of abusive conduct, and the ability to seek assistance when needed. None of these capacities is measured perfectly by chronological age, but age is also not irrelevant when the law has established a protective threshold.

The distinction between consent and readiness is especially important in this setting. A young person may sincerely wish to marry yet lack reliable information about health, education, economic obligations, and legal remedies. Conversely, an adolescent may understand these matters while experiencing pressure not easily visible in a family-initiated hearing. Research on the best interests of children in Indonesian dispensation proceedings finds that girls' perspectives and reproductive interests can be insufficiently foregrounded (Rohmawati, 2025). The study of women's agency after child-marriage divorce shows that decisions concerning relationships are continually negotiated within social norms and unequal opportunities (Pakasi et al., 2024). These findings support a qualitative interpretation of readiness that does not equate agreement with a comprehensive forecast of marital safety. They also suggest that providing information and an opportunity for independent expression are necessary conditions for meaningful participation.

The pattern of wife-initiated divorce deserves analysis without moral stereotyping. The Bojonegoro report for 2025 distinguishes 68 wife-initiated divorce suits from 14 husband-initiated petitions among the described former-dispensation cases (Bojonegoro Religious Court, 2026a). This indicates which procedural route initiated most recorded cases, not why each marriage failed, who was at fault, or whether divorce itself was contrary to the claimant's welfare. The Indonesian research on women's agency after child-marriage divorce challenges the idea that dissolution necessarily signifies a passive failure to maintain family commitments (Pakasi et al., 2024). In some circumstances, seeking a legal divorce may be an exercise of autonomy or protection against an unsafe relationship. An analysis of the consequences of dispensation must therefore treat divorce as a potentially mixed outcome: a sign of marital difficulty and, at the same time, sometimes a legal response to an already harmful situation.

The question of violence further demonstrates why marriage duration cannot be the only measure of success. A marriage that endures despite coercion or abuse is not a desirable child-protection outcome merely because no divorce judgment has been entered. An inquiry into child marriage from a legal and medical perspective emphasizes that health, autonomy, and the welfare of resulting children require attention alongside legal status (Farrukh et al., 2024). Research in the Mungkid context specifically identifies domestic violence among the circumstances of marital breakdown reported in the cases studied (Pamungkas et al., 2025). Accordingly, the relevant indicators include the safety of the parties, access to support, continuation of school or work, and the ability to make informed decisions. A responsible judicial evaluation should avoid framing divorce as inherently worse than maintaining an unsafe household.

The principle of family resilience needs to be interpreted in the same rights-sensitive way. Resilience refers to the capacity to respond and adapt to pressures using emotional, relational, financial, and social resources; it should not become a demand that one spouse tolerate harmful conditions indefinitely. The Bener Meriah study employs family resilience to examine vulnerabilities associated with underage marriage and the conditions under which marital conflict develops (Darmawan et al., 2022). In the experiences documented by Pakasi et al. (2024), young women also exercise agency while navigating norms and practical constraints during and after divorce. Taken together, these perspectives suggest that resilience includes the ability to seek assistance or leave a damaging relationship when necessary. Judicial anticipation should therefore look to capacities and accessible support, not merely to the stated intention to remain married for life.

A crucial analytical connection is the comparison between risks acknowledged in the first proceeding and problems later documented in the second. Supreme Court Regulation Number 5 of 2019 instructs courts to address risks involving education, reproductive health, economics, psychology, conflict, and potential violence. However, a generic recital that advice was provided tells the reader less than a reasoned explanation of the specific child's situation. The study that pairs dispensation and divorce decisions indicates why individual legal reasoning merits examination when a marriage subsequently dissolves (Zaidah et al., 2025). It is not legitimate to infer negligence from an eventual divorce; the question is whether material foreseeable concerns were appropriately assessed using information available at the earlier date. A retrospective review must therefore be sensitive to hindsight bias and distinguish risks knowable at the first hearing from later changes beyond reasonable prediction.

The comparison is complicated by the fact that a judicial order is not a complete transcript of all exchanges during a hearing. An omission from the published reasoning does not prove a particular question was never asked, while the presence of boilerplate language does not prove a detailed investigation occurred. Scholarship on active judicial responsibility argues that the protection of children requires more than a passive acceptance of the parties' presentation (Susanti, 2021). A rigorous evaluation would use legally accessible supporting records and, where permitted, supplementary information from professionals or participants. The current study cannot perform that verification and therefore limits its claims to what the published research and normative framework support. This transparency matters because alleging a judicial failure requires stronger evidence than noting a later unfavorable family event.

The evidence of divorce from multiple localities also cautions against collapsing all regions into one national pattern. The study in Sidenreng Rappang associates dispensation and subsequent marital outcomes with local social relations and a sadd al-dhari'ah perspective (Maryam et al., 2024). Research in Sengkang places the issue within local marriage customs and judicial practice rather than identifying a single universal pathway to divorce (Takdir et al., 2023). Meanwhile, findings from Banyuwangi show that aggregate trends may not support a simple direct relationship (Nisah et al., 2026). Variation in socioeconomic conditions, access to education, institutional practice, and local norms is therefore not incidental. It is part of what a comparative empirical design would need to explain before broad conclusions about risk could be justified.

Time also changes the relationship between factors initially present and later experienced. A couple may begin marriage with familial assistance and subsequently lose it; employment may become more precarious; schooling may be interrupted by childbirth; or relationships with parents may change. None of these developments can be perfectly forecast. Studies linking marital dispensation and family resilience nevertheless show that limited readiness can make adaptation more difficult when pressures arise (Darmawan et al., 2022). The linked-decision analysis makes it possible to examine whether at least some pressures were foreseeable and discussed before marriage (Zaidah et al., 2025). A prospective assessment should therefore distinguish a known current problem from a general future uncertainty. It should evaluate the quality of available preparation, not promise a future without conflict.

Educational continuity deserves particular attention because it influences more than academic attainment. Continued schooling can sustain social networks, access to information, and future earning opportunities, while early withdrawal can intensify dependence and reduce options if the marriage becomes difficult. A study of child-marriage legal protection argues that the protective purpose of age regulation includes meaningful opportunities for development (Aditya & Waddington, 2021). Research on child-marriage fiqh also calls for treating substantive welfare, rather than mere formal permissibility, as the center of legal evaluation (Sriharini et al., 2026). The judicial inquiry should thus ask about actual schooling plans and practical obstacles to continuing education after marriage. A vague undertaking to support a child's future is less informative than identifying concrete possibilities, resources, and responsibilities.

Health risks should likewise be examined without making ungrounded assumptions about the individual. Early marriage can intersect with reproductive-health needs, access to care, psychosocial well-being, and experiences of violence. A medico-legal review examines why legal and health consequences of child marriage deserve coordinated attention (Farrukh et al., 2024). The court's task is not to make a medical diagnosis but to understand whether relevant health information is available and when specialist advice is appropriate. Professional consultation should also respect confidentiality and informed participation. In the context of premarital pregnancy, health protection may be immediately necessary whether or not an exception to the marriage-age rule is ultimately granted. This distinction prevents a social desire for marriage from displacing the independent right to appropriate health care.

Family involvement can be protective but may also complicate autonomy. Parents often provide housing, advice, financial assistance, and mediation of disputes to young couples. The Socius study of parental roles in preventing early marriage emphasizes the importance of family-level education and support (Azzahra & Warsono, 2025). Yet familial influence can become problematic if it prevents the child from refusing marriage, continuing education, or seeking help. A rights-based inquiry must therefore examine the quality of support rather than treating parental involvement as automatically beneficial. The aim is to differentiate supportive care from coercive direction, while recognizing that extended-family relationships can change during married life.

A stronger post-dispensation evaluation would combine legal case information with measures that do not collapse all outcomes into divorce status. Relevant domains include safety, educational continuity, the ability to access health services, economic agency, shared decision-making, and knowledge of legal remedies. The research on women's agency after child-marriage divorce shows that these dimensions can matter both before and after relationship dissolution

(Pakasi et al., 2024). Judicial gatekeeping research in Kraksaan further points to the value of multidisciplinary assessment and stakeholder coordination for preventing harmful decisions at an earlier stage (Nugroho et al., 2026). Such a framework does not require courts themselves to provide every service. It requires clarity about what they can assess and which external services may be relevant when risk is identified.

For future empirical testing, case linkage must be designed around legitimate access and data protection. An anonymized identifier could, where legally permissible, connect the dispensation date, actual marriage date, divorce filing and disposition, and documented grounds of marital conflict. This would allow meaningful distinctions between couples who did not marry, couples still married at the end of observation, those who divorced, and those whose status is unknown. The study of matching determinations and divorce decisions demonstrates why individual-level linkage is analytically valuable (Zaidah et al., 2025). It would also allow researchers to handle exposure time and censoring instead of mistaking incomplete follow-up for marital stability. The current article proposes such an evaluation but does not claim that the necessary records are public or already integrated.

The second analytical finding is therefore a gap in continuity of protection. Judicial review occurs before marriage, whereas many of the harms that justify concern become visible only when a household is established. The available evidence cannot prove that a particular decision caused the later harm, yet it shows why decision quality should be evaluated against the risks known at the time and the services available thereafter. A study on judicial gatekeeping and interagency governance finds that coordinated prevention can accompany more restrictive handling of dispensation applications in a particular court context (Nugroho et al., 2026). This suggests a practical route from individualized assessment to external support, without presuming that every young marriage will fail. The appropriate response is an integrated model of reasoning, care, and evaluative learning rather than an unsupported numerical claim about high divorce rates.

Table 2. Analytical connection between readiness and subsequent marital challenges

Readiness domain	Relevant ex ante inquiry	Ex post concerns for further research
Psychological	Communication, emotional management, freedom of consent	Conflict, distress, coercion, ability to seek support
Economic	Employment, schooling, dependents, family assistance	Instability of support, debt, dependence, household conflict
Educational	Enrolment and practical plan to continue schooling	Disrupted education, reduced opportunities
Health	Access to medical and reproductive care	Unmet health needs; pregnancy-related concerns
Relational and safety	Power imbalance, violence indicators, conflict response	Disputes, abuse, safe access to legal remedies
Legal protection	Understanding of rights, support and confidentiality	Legal aid, divorce and child-related rights

Source: Author's synthesis of Darmawan et al. (2022), Maryam et al. (2024), Pakasi et al. (2024), and Pamungkas et al. (2025).

Reorienting Child Protection through Continuous-Benefit Assessment

This study proposes a continuous-benefit framework to strengthen child-centered reasoning in marriage dispensation cases in Indonesia. Rather than replacing statutory standards or expanding judicial authority, the framework connects the justification of dispensation with the longer-term protection of children's rights and well-being. This approach responds to the need to move Islamic legal scholarship beyond formal permissibility toward substantive child protection (Sriharini et al., 2026). It also addresses the risk of pseudo-protection, in which immediate moral

or familial objectives are treated as sufficient evidence of the child's best interests (Prihantoro & Sodiqin, 2026).

The framework consists of seven interconnected components. First, evidence-based classification of urgency requires judges to distinguish between applications based on fear of zina, pregnancy, family circumstances, and other reasons. Each claim should be supported by concrete evidence rather than generalized moral assumptions. Differences in the grounds for dispensation identified in Tenggarong and North Sulawesi demonstrate the limitations of applying uniform reasoning to different circumstances (Yuni, 2021; Mursyid & Yusuf, 2022).

Second, independent assessment of the child's best interests requires consideration of the adolescent's wishes, freedom from coercion, education, health, psychological readiness, and future opportunities. The UN Committee on the Rights of the Child (2013) establishes best interests as a substantive, interpretive, and procedural principle. Accordingly, children's participation must be meaningful, particularly where gender expectations and unequal family power may influence their expressed preferences (Rohmawati, 2025).

Third, comprehensive assessment of benefits and potential harms requires judges to consider not only religious and familial objectives but also the implications for physical and mental health, education, economic independence, and personal safety. A maqasid al-shariah approach should balance the protection of religion, life, intellect, lineage, and property rather than prioritize one objective without examining its consequences. Pregnancy-related cases particularly demonstrate the tension between immediate social concerns and long-term child welfare (Chamim et al., 2026; Sriharini et al., 2026).

Fourth, proportional consideration of alternatives requires examination of whether postponement, family counseling, education, health services, or protective interventions could address the asserted urgency. This assessment should also consider the potential consequences of refusing dispensation, including family pressure, exclusion, and the possibility of unregistered marriage. Thus, both approval and refusal must be evaluated in light of foreseeable risks and available protection (Supraptiningsih, 2021; Lathifah et al., 2022; Az Zubaidi et al., 2026).

Fifth, institutional coordination and responsibility recognize that child protection extends beyond judicial decisions. Religious Courts, marriage registration offices, schools, health services, and social protection institutions have different but complementary responsibilities. Research on adaptive discretion and multidisciplinary governance demonstrates the importance of counseling, preventive education, and interagency coordination in addressing child marriage (Hasan et al., 2026; Nugroho et al., 2026). Parental involvement and youth education programs may also strengthen prevention, provided they support adolescents' autonomy rather than reinforce coercion (Azzahra & Warsono, 2025; Syuhada et al., 2025).

Sixth, post-decision access to protection emphasizes continued access to education, health care, counseling, and legal assistance regardless of whether dispensation is granted or refused. This component does not authorize continuous judicial supervision of private family life. Instead, it promotes voluntary, accessible, and rights-based support. Research on young women's experiences following divorce from child marriage highlights the importance of agency, safety, and opportunities beyond marital status (Pakasi et al., 2024).

Seventh, institutional learning through protected data encourages the use of anonymized and legally authorized research to examine outcomes among marriage dispensation recipients. Divorce reports and linked case studies provide initial insights into post-marital vulnerabilities, but descriptive statistics alone cannot establish causal relationships between judicial decisions and marital outcomes (Bojonegoro Religious Court, 2026a; Zaidah et al., 2025). Future research should therefore examine educational, health, economic, and safety outcomes while maintaining confidentiality and appropriate data protection.

Operationally, these seven components can be consolidated into four stages: (1) classifying and verifying the asserted urgency; (2) assessing the child's readiness and potential rights impacts; (3) comparing proportionate responses and documenting judicial reasoning; and (4) identifying appropriate support and institutional learning mechanisms. These stages provide a structured approach rather than a mechanical formula for approving or rejecting applications.

Their purpose is to ensure that exceptional permission remains subject to individualized, evidence-based, and child-centered assessment (Akbari, 2025; Az Zubaidi et al., 2026).

Importantly, the framework does not measure success solely through the continuation of marriage or the absence of divorce. Divorce may represent an exercise of agency or a necessary response to an unsafe relationship. Therefore, protection should be assessed through access to safety, education, health, economic opportunities, and legal remedies rather than marital continuity alone (Darmawan et al., 2022; Pakasi et al., 2024). Differences in local institutional conditions, as reflected in studies from Jember, Mungkid, and Banyuwangi, further indicate the need for contextual application rather than uniform assumptions about the causes and consequences of child marriage (Ashari, 2024; Maryam et al., 2024; Nisah et al., 2026; Pamungkas et al., 2025).

Overall, the continuous-benefit framework shifts judicial reasoning from a single-moment assessment of marital permissibility toward a time-sensitive evaluation of children's rights and welfare. Its central contribution is to connect ex ante judicial justification with ex post access to protection without creating indefinite judicial jurisdiction. Consequently, marriage dispensation should be evaluated not merely by its approval or rejection, but by the quality of judicial reasoning, meaningful child participation, proportionality, and the availability of sustained institutional support. This approach positions the best interests of the child as the substantive standard of protection rather than merely a formal justification for granting exceptional permission.

CONCLUSION

This study examined the dominance of moral-religious grounds in marriage-dispensation applications and assessed post-dispensation divorce vulnerability as a question about the continuity of child protection. Through normative legal interpretation, analysis of published institutional statistics, and dialogue with recent socio-legal and family-law scholarship, it identified three connected findings. First, fear of zina and related social pressures occupy a prominent place in reported application grounds, but the reasons put forward by families must be differentiated from the judicial reasons required to authorize an exception. Second, official reports of divorce among former dispensation recipients demonstrate that problems can emerge after marriage, yet the available figures cannot establish an early-divorce rate or a causal relationship without a matched cohort, marriage dates, and comparable follow-up. Third, an adequate protective inquiry must integrate urgency, free participation, readiness, foreseeable consequences, and available assistance. Most importantly, preventing a perceived immediate moral harm is not synonymous with securing a child's longer-term welfare, and the law's exceptional mechanism should never obscure that distinction.

The article contributes a continuous-benefit assessment that brings together the best interests of the child, maqasid al-shari'ah, and rights-sensitive family resilience. It reframes dispensation not as either automatic protection through legal marriage or automatic institutional failure when divorce later occurs, but as a decision requiring reasoned comparison of competing harms and transparent justification based on accessible facts. The proposed stages can inform the formulation of judicial reasons, counseling and referral practices by authorized institutions, and future evaluation of anonymized case outcomes. Its limitations are substantial: no new interviews were undertaken, no linked individual decisions were accessed for this study, and the proposed framework has not been empirically validated. Further research should match lawfully obtainable dispensation and divorce records, measure marriage duration and competing outcomes, and test whether the proposed indicators improve the specificity of legal reasoning and the accessibility of child-protection services. Such evidence is required before any claim can be made that a particular judicial practice reduces divorce or improves welfare.

RECOMMENDATION

Religious Courts should make the evidentiary nature of alleged urgency and the reasons for weighing different rights impacts explicit within the scope of Supreme Court Regulation Number 5 of 2019. Education, health, legal-aid, and family-support institutions should strengthen

access to voluntary guidance within their existing mandates, while recognizing that children and young spouses must retain agency and privacy. Future scholarship should compare anonymized linked-case cohorts across courts, include women who remain married as well as those who divorce, and report observation periods transparently. Evaluation must assess safety, education, health, economic opportunity, and access to remedies rather than using marital survival as the sole measure of protection.

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