

Implementing Indonesia's marriage-age reform: Child marriage dispensation and girls' health rights

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Received: October 30, 2025
Revised: December 21, 2025
Accepted: January 20, 2025
Published: January 29, 2025

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Abstract

In Indonesia, marriage age reform has been implemented by raising the minimum age limit to 19 years as an effort to prevent child marriage. However, in practice, this reform faces dispensations that were initially designed as emergency exceptions but have instead become the primary mechanism of implementation, normalising exceptions and shifting the logic of protection to procedural compliance. This article analyses the transformation of these dispensations and their implications for girls' reproductive health rights at the grassroots level. Using a qualitative juridical-empirical approach with a case study in Nyawangan Village, Tulungagung, data were collected through interviews with KUA officers, health workers, and village officials, as well as observations and document reviews. Framed by the Effectiveness of Law theory, the article reveals that dispensations operate as the practical face of reform through routine administrative processes, driven by social, economic, and institutional pressures, with minimal substantive intervention. As a result, considerations of reproductive health and the psychosocial readiness of girls are often overlooked, creating a gap between procedural legality and substantive protection. This article recommends reinstating dispensations as high-threshold exceptions, subject to strict evidentiary standards, standardised health assessments, and cross-institutional coordination focused on delaying marriage. The implication is that marriage-age reform must be firmly embedded at the normative level and supported by governance that truly centres on the best interests of girls.

Keywords: reform of marriage age; marriage dispensation; legal effectiveness; reproductive health rights; child marriage; socio-legal

Introduction

The reform of the marriage age through Law Number 16 of 2019, which equalises the minimum marriage age for women and men at 19 years old, is often viewed as a legal breakthrough that protects children and curbs child marriage practices in Indonesia (Nasrullah et al., 2024). However, the implementation of this reform faces fundamental challenges because it operates alongside the marriage dispensation mechanism, which

To cite this article (APA Style 7th Edition): Syuroya, K., I., I. & Husnayain, N. (2025). Implementing Indonesia's marriage-age reform: Child marriage dispensation and girls' health rights. *Al'Adalah: Journal of Islamic Studies*, 28(2), 187-212. <https://doi.org/10.35719/aladalah.v28i2.635>



empirically has experienced a surge following the regulatory change. After the new law on marriage came into effect, marriage dispensations surged by nearly 160% in 2020, to 64,196 cases, compared with the previous year, when there were 24,864 cases. Although there was a gradual decline to 32,529 cases in 2024, this figure remains 30% higher than before the change in the minimum marriage age limit (Supreme Court of the Republic of Indonesia, 2019, 2020, 2024). This pattern confirms that dispensation has become a substitute mechanism that effectively provides a legal pathway for early marriages, transforming an exception into a structured and widespread practice.

Empirically, there are indications that social reasons such as premarital pregnancy and reputation pressure are the primary factors (Chaturathorn et al., 2025). This situation suggests a gap between the protective reform goals, namely delaying marriage for physical, psychosocial, and educational readiness, and the realisation that the implementation opens the way for early marriage through procedural legality. This gap becomes increasingly problematic as it directly intersects with girls' reproductive health rights, which are vulnerable to the impacts of pregnancy at an immature age.

Recent studies indicate that post-reform marriage dispensation serves as an implementation mechanism that bridges the minimum age norm with social realities, while also opening risks to the protection of young girls. However, these studies are somewhat fragmented and lack integration. On one hand, the study by Zurbaniyah and Iman (2025) confirms a significant increase in dispensation cases driven by factors such as poverty and unplanned pregnancies. In contrast, Rizal and Khoir (2025) critique the elasticity of the concept of urgent reasons, which broadens discretionary space. Shahrullah et al. (2023) highlight a strong administrative orientation focused on pregnancy narratives, and Al'Ghani et al. (2025) even suggest that emergency reasons have become a stable pattern that can be mapped demographically.

On the other hand, Sekarrini et al. (2025) reveal a low level of reproductive health assessments during the dispensation process, while Ariyanti and Putra (2024) describe community preferences for unregistered marriages, which weaken state protection. Amid this complexity, outside-court accompaniment interventions are identified as a potential strategy (Fadhli et al., 2024), but have not yet been extensively studied in an integrated manner. Therefore, a prominent research gap is the lack of analysis explaining how dispensation functions as an institutional mechanism that normalises exceptions, and how this normalisation shifts the marriage age reform from substantive protection to mere procedural compliance, especially regarding the realisation of reproductive health rights for young girls.

This article positions dispensation as a critical node to evaluate whether the marriage age reform functions as a substantive preventive instrument or is reduced to procedural compliance. Analytically, the primary focus is directed at the relationship between the minimum age norm and the local institutional-ecological context that operationalises dispensation as an exception. This article emphasises the law in action, where state norms negotiate with local social, cultural, and economic pressures. This article analyses the implementation of Law Number 16 of 2019 on the reform of the marriage age through a case study in Nyawangan Village, Tulungagung Regency. A socio-legal qualitative-empirical approach is chosen to answer two research questions: How does marriage dispensation operate as the practical face of the marriage age reform at the local level? How does the operationalisation of dispensation impact the protection of young girls' reproductive health rights, particularly concerning medical and psychosocial risk considerations?

This article argues that marriage dispensation has undergone a structural transformation from an exception to an implementation mechanism. The exemption, which should be limited, has evolved into a routine procedure that alleviates tensions between state norms and local social scripts. This transformation is driven by the interaction of social, cultural, and economic factors, institutional dynamics, and administrative logic that normalise the exemption. The main consequence is a gap between procedural legality and substantive protection, where the protective aims of reform risk erosion when reproductive health assessments are not the primary determinant. To sharpen the analysis, this article employs Soerjono Soekanto's Legal Effectiveness Theory as an evaluative lens, mapping the interaction of five factors: legal substance, law enforcement, facilities/resources, society, and culture. This framework helps explain why dispensation becomes a *de facto* implementation tool and emphasises strategic intervention points to ensure that marriage-age reform again provides substantive protection, particularly for girls' reproductive health rights.

Literature Review

The change in the marriage age limit following Law Number 16 of 2019 shifts the logic of licensing to a restriction based on rights through the establishment of a minimum age of 19 years for prospective husbands/wives, while maintaining marriage dispensation as a mechanism that can occur upon the request of parents/guardians to the court (Hayati et al., 2023). Marriage dispensation is a form of exemption/relaxation from legislative prohibitions on court permission for prospective individuals under 19 years of age to marry (Kasim & Daud, 2022). Nevertheless, this law stipulates that applications will be

granted only for very urgent reasons supported by sufficient evidence, thereby limiting dispensation to the exceptional (Ilhami et al., 2023). At the guidance level, Supreme Court Regulation Number 5 of 2019 emphasises the principle of the best interests of the child and a set of other protection principles as the basis for examination, while also allowing judges discretionary space to assess the child's psychological and health conditions and request expert recommendations (Lahilote et al., 2022; Nabilah et al., 2025). Here, Indonesian regulations establish specific age standards as general norms, with dispensation serving as a judicial exception that assesses urgency, evidence, and the best interests of the child in specific cases (Purwanti & Natalis, 2025).

In Indonesia, we can view the implementation of marriage dispensation from two perspectives. First, from a normative-procedural perspective, which includes: (1) the requirement of very urgent reasons and sufficient evidence (including the need for age verification, health conditions, and direct hearing from the child) (Asmuni & Adikara, 2024); (2) examination standards from a child protection perspective that demand psychological-health assessments and recommendations from professionals; and (3) judicial counselling practices (judge's advice) to encourage families to reconsider their marriage plans (Fadhli et al., 2024).

Second, at the institutional-social perspective, it presents: (1) reasons that are often perceived as urgent, such as unwanted pregnancy or sexual relations, which place judges in a dilemma between the aspiration to reduce child marriage and the local social realities (Shahrullah et al., 2023); (2) innovative preventive interventions through the involvement of institutions outside the court to ensure the readiness of the child, deepen fact-finding, and provide education based on the best interests of the child (which in some cases actually encourages delaying marriage) (Fadhli et al., 2024); and (3) strategies to avoid unregistered child marriage within the context of legal pluralism, followed by efforts to legalise/register when there is an administrative need (related to the child), including through applications for dispensation or court approval (Ariyanti & Putra, 2024). These two perspectives position dispensation as a procedure influenced by layered legal standards, institutional capacity, and socio-cultural strategies.

After the change in the minimum marriage age, we can see the implementation as a "law in action" process, whereby the standard age of 19 years and child protection norms are translated into reasoning, procedures, and routines for examining dispensation cases in court (Purwanti & Natalis, 2025). This emphasis is evident in the attitude of judges who not only apply the rules within the legal text but also negotiate the goal of preventing child

marriage by prioritising the best interests of the child under emergency conditions constructed within the application (Fathoni et al., 2024).

In the new regulation, the category of urgent reasons must be treated as a substantive requirement that must be proven. Merely stating urgency is not sufficient as a formal declaration; it must be verified through examination and evidence in court, and may even result in a decision that is not accepted due to formal defects if the urgency is not proven (Ilhami et al., 2023). However, at the implementation level, procedural guidelines sometimes encourage a more comprehensive assessment, such as involving psychologists/health professionals and considering the child's psychological, sociological, and cultural conditions (Apriyanti et al., 2025). In reality, social pressures, such as being married by accident, pregnancy, or community demands, often require a swift process, leading to practical dilemmas regarding time, costs, and the completeness of evidence (Lahilote et al., 2022). As a consequence, the implementation of marriage dispensation becomes a highly discretionary arena where protection standards, institutional capacity, and social pressures interact directly.

From here, a pattern of relatively recurring reasons for dispensation emerges, although the intensity and configuration between regions may vary. The reasons frequently cited for dispensation include premarital pregnancy, low educational background, limited understanding of the risks of early marriage, mutual love, concerns about violating religious norms, having engaged in sexual relations, and social value pressures (Al'Ghani et al., 2025). Nonetheless, the most common reasons remain centred on pregnancy and mutual consent (being in love), which demonstrates how emergencies are often constructed through relational and moral narratives in addition to medical narratives (Sekarrini et al., 2025).

Furthermore, there is a typology of counter-reasoning when dispensations are rejected, primarily when judges assess the absence of urgency or when the child states that they are not ready to marry. Here, the indicator that the urgent standard can be used as a substantive filtering mechanism, rather than a formality (Ilhami et al., 2023). In fact, some dispensations can be supported by broader protective considerations, such as health, education, and the psychological well-being of the child, as a basis for protection that corrects the normalisation of exceptions (Nawawi et al., 2022). From this explanation, the key category emphasised here is not only about the reasons for which the dispensation is applied but also how the emergency condition is weighed (pregnancy vs. moral risk vs. social pressure), and what protective standards are effectively operationalised in the

decision (protective-rejection vs. pragmatic-application), including the variations in the quality of evidence accompanying each category of reason.

Currently, aside from issues related to procedural compliance, marriage dispensation is also often regarded as a knot in public health governance that has direct implications for reproductive health and the well-being of young girls. Sekarrini et al. (2025) emphasise that child marriage practices are a public health problem with serious consequences for reproductive and maternal health. In some contexts, this practice is even legalised through court dispensation, thereby placing young prospective brides, especially girls, at greater risk of pregnancy and reproductive complications (Zachary & Nurhayani, 2025).

At the normative level, Supreme Court Regulation Number 5 of 2019 requires judges to consider the child's psychological condition and health, as well as their readiness to marry. It even allows the request of recommendations from psychologists/doctors as part of the examination (Lahilote et al., 2022). In line with this, sufficient supporting evidence should be presented as a protective measure, and health evidence should assist judges in assessing the prospective bride or groom's health, psychological state, and readiness from a medical perspective, rather than merely completing administrative documents (Ilhami et al., 2023). However, in practice, the demand for comprehensive examinations often faces social urgency pressures (married by accident) and limited service capacity, resulting in the protection of girls' health being reduced to minimal compliance with formal evidence.

From the reproductive health perspective, there are at least three key implementation aspects that are decisive. *First*, the health evidence supports the urgency of dispensation. In this regard, Ilhami et al. (2023) mapped the variety of evidence forms, ranging from pregnancy certificates, health certificates, psychological assessments, obstetric history documents, ultrasound results, to Tetanus Toxoid immunisation evidence, indicating the lack of a standardised format and substantive criteria in the practice of proof. *Second*, the quality of health assessments accompanying the decisions. Here, only a small number of cases include health examinations for both parties; most dispensations are granted without comprehensive health checks and are often only supported by general health certificates, while assessments tend to focus on the prospective bride and neglect the groom (Sekarrini et al., 2025).

Third, an inter-agency intervention architecture to bridge the implementation gap. In addition to recommendations for strengthening collaboration between the courts and health services and for improving reporting formats to be more accessible to judges, practices such as assistance outside the court, resulting in a marriage-readiness

recommendation letter, deepening fact-finding, and even encouraging some applicants to delay marriage (Fadhli et al., 2024). From this, the focus here does not stop at whether there is health evidence, but shifts to the quality of supporting evidence, the distribution of assessments between both parties, and the extent to which cross-agency governance design truly activates the protection of girls' health in dispensation decisions.

Method

This research is based on empirical facts that the practice of underage marriage still frequently occurs in Nyawangan Village, Sendang District, Tulungagung Regency, and intersects with increasing reproductive health issues among women. The unit of analysis focuses on the norm regarding the minimum age of 19 years set by Indonesian Law Number 16 of 2019, and on its implementation in institutional and social practices, including marriage dispensation. This study places the dynamics of implementing marriage age reform as the main material object, in order to examine the extent to which such practices contribute to the protection, or indeed the weakening of girls' reproductive health rights, especially in the stage of risk prevention before marriage. This research employs a qualitative, juridical-empirical design (socio-legal research), which positions law simultaneously as a written norm and as a practice operating within the social space (law in action).

The data in this study are sourced from both primary and secondary data, selected purposively. Primary data were obtained from key officials involved in marriage governance and health, including the Head of Religious Affairs Office (KUA) Sendang District, midwives/health workers at Sendang Health Centre, and village officials of Nyawangan, with informant selection based on their authority, role, and direct involvement in child marriage prevention and reproductive health risk management. To ensure consistency with the focus on dispensation, secondary data include related regulations such as Law Number 16 of 2019 and the Child Protection Act, as well as supporting implementation documents such as service guidelines, educational materials, administrative records, and related documents for dispensation applications/decisions or aggregate data reflecting dispensation practices in the relevant area (as accessible).

Data collection in this study was conducted through observation, semi-structured interviews, and document analysis. *First*, non-participant observation was conducted at service points and relevant interaction spaces related to marriage governance and health, particularly at the KUA office in Sendang District, the Sendang Community Health Centre service environment, and the administrative offices/rooms of Nyawangan Village.

Second, semi-structured interviews were used to explore implementation experiences, cross-agency coordination patterns (KUA, villages, and health services), the dominant social reasons driving early marriage, and the implementers' understanding of reproductive health risks. *Third*, document studies were conducted to map the design of norms, institutional mandates, protection standards, and ongoing administrative practices. Data collection continued until sufficient information (data saturation) was achieved, ensuring validity through cross-source triangulation and the verification of findings across interviews and documents.

The data analysis of this research was conducted through data reduction, thematic coding, categorisation, and conclusion (Ayre & McCaffery, 2022). As the primary analytical tool, this study utilised Soerjono Soekanto's Theory of Legal Effectiveness, which examines five interactive factors: (1) legal substance; (2) law enforcement; (3) facilities/resources; (4) society; and (5) culture. This framework was operationalised to assess the performance of the implementation of Law Number 16 of 2019 within the local context of village government-health personnel (enforcers), the availability of reproductive health services and assessments (facilities), family compliance/strategy patterns (society), and the social-cultural narratives influencing decision-making (culture). The validity of the findings was maintained through source triangulation and consistent exploration of key themes related to the protection of reproductive health rights, while ensuring the confidentiality of informants through data anonymisation.

Results and Discussion

The Dispensation as the Practical Face of Marriage-Age Reform

The data from Nyawangan Village indicates that, following Act Number 16 of 2019, the reform of the marriage age is implemented in practice as an administrative process. Families are more often directed towards the dispensation route rather than being effectively prevented. Interviews with the Head of the Religious Affairs Office (KUA) of Sendang District show that residents generally know the age of 19 years, but their understanding is limited and tends to be procedural; he stated: "their understanding is still limited and tends to be formalistic." In certain situations, when couples arrive with a predetermined wedding date set by traditional authorities, the scope for substantive intervention by KUA becomes very limited. In such cases, the KUA head mentioned: "The KUA can only direct them to apply for a dispensation." Conversely, if the date has not yet been set, KUA tends to advise postponement until the minimum age is met. This pattern indicates a shift from prevention to exception management through available legal mechanisms.

This tendency is evident from the distribution of underage marriage cases between villages in the KUA of Sendang area, where Nyawangan Village is the most dominant compared to other villages. Data shows that Nyawangan Village recorded 9 underage marriages, comprising 8 girls and 1 boy, while several other villages have between 0 and 3 cases. Descriptively, this indicates two things. *First*, Nyawangan Village is a hotspot for early marriage practices. *Second*, the vulnerability is most concentrated among girls. The table below provides initial evidence that the face of practical reform in Nyawangan Village should be read as a phenomenon that is localised but of high intensity.

Table 1.

The distribution of underage marriages in Sendang Religious Affairs Office jurisdiction (2025)

Village	Total Underage Marriages	Male	Female
Sendang	1	0	1
Tugu	1	0	1
Krosok	0	0	0
Picisan	3	0	3
Nglurup	1	0	1
Nyawangan	9	1	8
Geger	3	1	2
Kedoyo	2	0	2
Nglutung	2	0	2
Talang	0	0	0
Dono	1	0	1

Note. The data is a recap of underage marriage cases in the jurisdiction of Sendang District Religious Affairs Office for the 2025 (January-September) period.

Furthermore, internal data shows that marriage dispensation is used routinely and repeatedly. Based on data from KUA Sendang, the period from January to September 2025 recorded around 13 applications for dispensation from Nyawangan Village, with the women aged 16 to 18 years, a critical reproductive age that should be protected from the risks of early pregnancy. The majority of dispensation applications are driven by lower-income families, with reasons related to already close relationships and moral concerns. In addition to indicating the normalisation of dispensation as an administrative solution, this pattern also neglects considerations of young women's reproductive health, which should be at the core of the marriage age reform.

The three layers of data indicate dispensation as the practical face of reform. The standard age of 19 functions as a general norm, but its implementation moves through increasingly normalised exceptions. At this point, the KUA functions as a front office that bridges legal mandates with social realities. Once marriage has been socially established, KUA is no longer a space for protective negotiation but rather an entry point to the following legal procedure: applying for dispensation. In other words, reform does not

always break practices, but often changes their legal modus, from informal/closed underage marriages to underage marriages that gain procedural legitimacy through court rulings.

Dispensations, in judicial practice, often replace restrictive functions because applications are driven by urgent reasons, especially premarital pregnancy (Yuni, 2021). However, the normalisation of dispensations has profound implications for the reproductive health rights of girls (Buller & Schulte, 2018). With dispensations granted without adequate health considerations, girls are exposed to risks of pregnancy complications, preterm labour, and psychosocial burdens that marriage age reforms should prevent (Purwanti & Natalis, 2025). Therefore, the reform risks being only normatively protective but not substantively so. The normalisation of dispensations as a practical face of this reform does not occur in a vacuum but is driven by social, institutional, and cultural factors.

Why Dispensation Becomes Normalised: Drivers and Institutional Handling

The field data from Nyawangan Village indicate that the normalisation of dispensation is triggered by social pressure and moral concerns that dominate family decision-making before they approach the state institution. Village officials describe that families feel the need to marry off their children immediately when the relationship is considered too close, out of fear of gossip and damaging their reputation. For many families, dispensation is seen as a safety mechanism for social decisions already made, rather than a strict emergency exit. This pattern reflects moral panic and the fear of violating norms as the main drivers (Shahrullah et al., 2023). Here, the logic of preventing shame appears stronger than the logic of protecting reproductive health and education, which are the core of the reform.

At the institutional level, the KUA functions more as an administrative body rather than a substantively protective institution. The head of KUA Sendang explained that the main step when encountering underage prospective brides or grooms is to direct the family to apply for a dispensation from the religious court. Interventions of a substantive nature, such as reproductive health counselling or psychosocial readiness assessments, are very limited. The shortage of human resources and weak socialisation efforts further reinforce this normalisation, as educational prevention efforts are unable to shift deeply rooted social norms. As a result, families view the 19-year age limit as an administrative obstacle that can be overcome through dispensation rather than as a safeguard against long-term health risks.

Meanwhile, the narrative of reproductive health risks is actually subordinated in decision-making (Meier et al., 2021). Health workers at Sendang Community Health Centre noted that the community's understanding of early pregnancy risks is still mixed with myths and beliefs that “dispensation will justify everything.” One midwife there stated: “Although we explain the risks of anaemia, childbirth complications, and psychological impacts, families remain more worried about social shame than their daughter's health.” When health risks are not constructed as tangible social costs, the urgency of protection reform diminishes. The dominance of social reasons, such as unplanned pregnancy and reputation pressure, often leads to reproductive health considerations being overlooked (Yetta et al., 2024).

In the judiciary context, the normalisation of dispensations is increasingly reinforced by the elasticity of the concept of “urgency” and by judicial dilemmas in balancing child protection with social realities. Ilhami et al. (2023) demonstrate that the meaning of “very urgent reasons” and the standard of proof can shift depending on the context. Judges often rely on considerations of *maslahah* to avoid social harm, even though Supreme Court Regulation Number 5 of 2019 emphasises the best interests of the child (Lahilote et al., 2022). This flexibility allows dispensations to become a discretionary bridge that accommodates social pressures, especially when pregnancy is used as an emergency reason (Sekarrini et al., 2025).

Marriage dispensation becomes normalised because it provides legal closure, quick and predictable legal certainty, which gives families a sense of security from social and legal sanctions (Sriono et al., 2023). By obtaining a court ruling, families feel protected from stigma and legal consequences, while also gaining legitimacy for their social decisions. The structured emergency reason pattern even makes emergency situations a stable operational category rather than a rare exception (Al’Ghani et al., 2025). However, if the dispensation procedure is considered too complicated, some communities may opt for a non-registration route, thereby neglecting state protection (Ariyanti & Putra, 2024). On the other hand, assistance outside court proceedings has been shown to encourage marriage postponement and reduce dispensation applications, indicating that normalisation is not a matter of fate (Fadhli et al., 2024).

Girls' Health Rights in the Shadow of Exceptions: Reproductive Health Consequences

Not only driven by social and institutional factors, but the normalisation of dispensation also has direct consequences on girls' reproductive health rights (Purwanti & Natalis, 2025). Normatively, this right is derived from a comprehensive human rights

framework. The Convention on the Rights of the Child guarantees children's right to the highest attainable standard of health and access to healthcare services. The Committee on Economic, Social and Cultural Rights emphasises that the right to health includes aspects of availability, accessibility, acceptability, and quality of sexual and reproductive health services. Meanwhile, CEDAW considers access to reproductive health as a fundamental right of women and obliges states to eliminate discriminatory barriers. During adolescence, the Committee on the Rights of the Child also stresses the need for responsive services, including access to information and adequate sexual and reproductive health services. Essentially, protection in reforming the marriage age should be measured by its ability to prevent girls' transition into predicted health risks, rather than merely by fulfilling procedural requirements (Efevbera & Bhabha, 2020).

However, in reality, reproductive health risks are not a central consideration in Nyawangan Village. Midwives at Sendang Community Health Centre described that most underage prospective brides do not understand the reproductive health consequences, even though they are aware of the legal age limit. "They think that once they get dispensation, all risks are permitted. They do not realise that dispensation does not protect them from pregnancy complications or postpartum depression," said one of the midwives. A 17-year-old girl who applied for dispensation due to pregnancy expressed her confusion: "My parents say this is fate. I do not understand the risks of having a child at my age. The important thing is to get married so that the neighbours do not talk about us." Public understanding tends to stop at procedural aspects, so the belief that dispensation legitimises risks actually weakens the preventive power of age norms (Saepullah et al., 2025).

As a consequence, young girls bear layered vulnerabilities that are biological, psychological, and social in nature. Early marriage is correlated with an increased risk of reproductive health issues because their bodies are not yet physically prepared, and their reproductive knowledge is limited (Shukla et al., 2023). Field data shows that some adolescent girls in Nyawangan experience anaemia, pregnancy complications such as pre-eclampsia, and psychological pressure due to the burdens of marriage and early child-rearing. These risks do not stand alone but reinforce each other within a cycle of vulnerability. Early pregnancy increases the risk of preterm labour, which can subsequently impact the child's growth and development and add to the economic burden on the family. In other words, dispensation often becomes a gateway for changes in legal status that simultaneously shift the risk burden onto the bodies and lives of young

girls (embodied risk). Risks that should be prevented through policy are instead individualised and placed on the bodies of young women.

This dynamic reflects a shift in governance paradigm from risk prevention (prevention-oriented) to post-decision risk management. In Nyawangan, efforts to educate and coordinate reproductive health services by community health centres and village governments are often only undertaken after early marriage occurs or after a dispensation request is submitted. This delayed intervention alters the reform logic, from delaying marriage for physical and psychosocial readiness, to managing the risks after the marriage decision has been made. This gap widens further when health considerations in the dispensation process are not standardised.

The implications for substantive protection become evident when considering how reproductive health considerations are subordinated within dispensation rulings. Although Supreme Court Regulation Number 5 of 2019 requires judges to consider the psychological condition and health of the child, in practice, reproductive health parameters rarely serve as the primary determinant. The reasons for granting or denying dispensation more often revolve around short-term interests, such as avoiding social shame, rather than a comprehensive assessment of reproductive and psychosocial readiness (Shahrullah et al., 2023). The ideal standardisation of health assessments, covering pre-marital screening, reproductive counselling, and psychological evaluation by professionals, is often not realised. In Nyawangan, health assessments submitted to the court are often limited to a general health certificate, without tests such as haemoglobin levels, reproductive health history, or counselling on pregnancy spacing. Gender inequality is also apparent in these assessments, as the focus almost always falls on the prospective bride. At the same time, the groom is rarely examined for readiness or knowledge about reproductive health.

This vulnerability becomes increasingly complex when viewed from an intersectional perspective. Girls from lower economic families in rural areas such as Nyawangan face layered vulnerabilities: economic pressures push them towards marriage as a survival strategy, access to information and healthcare services is limited, and gender norms position women as the guardians of family honour. In this context, dispensation is no longer merely a legal exemption. However, it becomes a mechanism that legitimises structural inequalities, whereby girls from vulnerable groups bear the brunt of long-term health consequences (Schaaf & Khosla, 2021).

Therefore, measuring the success of marriage age reform should not only be based on the reduction in underage marriages, but also on the extent to which dispensations, as an implementation mechanism, can prevent predictable risk transfers to the bodies of young girls. Substantive protection will only be realised when reproductive health rights are no longer shrouded in exclusion, but become central to every consideration and decision regarding dispensations.

Rethinking Marriage Dispensation: When Exceptions Become the Implementation Mechanism

The empirical findings in Nyawangan Village confirm that the reform of the minimum marriage age is more often perceived as an administrative formality rather than a substantive preventive mechanism. The local community is aware of the 19-year age limit. However, understanding of the rationale for protection, such as physical-psychosocial readiness and prevention of reproductive health risks, remains limited. As a result, the reform does not function as an age-gating measure to delay marriage, but rather as a procedural checkpoint, a bureaucratic point that merely verifies administrative completeness without assessing the substance of protection. This checkpoint is located at the Office of Religious Affairs, which directs families to the court for dispensation. At the same time, considerations related to reproductive health are rarely part of the initial examination. In this context, the community perceives dispensation as a standard solution once early marriage plans have been socially agreed upon, rather than as a strict exception.

From a socio-legal perspective, this pattern reflects a structural transformation from exception to implementation mechanism. Marriage dispensation no longer functions as a last-resort solution for extraordinary cases but as a routine procedure to ease tensions between state norms and local social realities (Dimyati, 2025). Religious courts become arenas for negotiating age norms, where judges act as street-level bureaucrats, balancing the mandate of Supreme Court Regulation Number 5 of 2019 with the social pressures faced by applicants. A concrete example from Nyawangan shows that this procedure operates swiftly: dispensation requests are submitted with standard reasons such as pregnancy, accompanied by a general health certificate, and then processed in a brief hearing without in-depth assessment of reproductive readiness or long-term health risks. These negotiations are often won by social emergency narratives, meaning the reform's protective power heavily depends on how strictly exceptions are operationalised in institutional practice.

This transformation resonates with national trends, where the surge in post-reform dispensation cases indicates that reform is progressing through the courts as a *de facto* implementation (Saepullah et al., 2025). Although the legal text maintains the age limit of 19 years, the sociological reality of its implementation is actually determined by dispensation practices; how families apply for dispensation, what social reasons are considered urgent, and to what extent the courts prioritise the best interests of the child, particularly their reproductive health rights as a primary parameter (Nurcholis et al., 2025). In other words, policies designed as preventive measures have shifted in function, becoming licensing policies that legalise early marriage through routine procedures.

The inevitable conceptual implication is the gap between procedural legality and substantive protection, especially in the context of young girls' reproductive health (Ferguson et al., 2024). The system appears legal because the dispensation procedures have been met. However, the protective aims of reform, such as preventing complications from early pregnancy, anaemia, and psychosocial disturbances, remain at risk of being undermined when medical and psychosocial considerations are not the primary determinants in the process and decisions (Schaaf & Khosla, 2021). In fact, regulatory changes were intended as efforts to prevent predictable health risks. However, the intensification of dispensation actually provides procedural legitimacy for early marriage, particularly when reproductive health assessments are not standardised and social reasons dominate (Zurbaniyah & Iman, 2025).

Nevertheless, it is important to anticipate that this argument does not intend to state that all dispensations always disregard health. A small number of rulings may still consider health factors, and refusals of dispensations also occur, mainly when judges consistently apply the best interests of the child principle (Purwanti & Natalis, 2025). However, the dominant trend in Nyawangan and nationally indicates that the normalisation of dispensations has shifted the function of exceptions into a mechanism of implementation that actually weakens substantive protection. Therefore, this cycle can only be broken if dispensations are returned to high-threshold exceptions through strict evidentiary standards and cross-agency interventions genuinely oriented towards delay (not merely permission), including strengthening support mechanisms outside court proceedings (Ilhami et al., 2023). Only in this way can the reform of the marriage age once again serve as a protective and substantive instrument for young girls.

Marriage Dispensation Through Legal Effectiveness Theory

Analysis of the normalisation of dispensations will become more in-depth when viewed through the lens of Soerjono Soekanto's Theory of Legal Effectiveness. This theory is relevant because it not only questions "does the norm already exist?", but also "does the norm truly work to achieve its purpose through the interaction of legal factors, institutions, and society?" (Munauwarah & Bachri, 2025). In reforming the early marriage age context, effectiveness is measured by how successfully Law Number 16 of 2019 has become a substantive protection instrument for girls' reproductive health rights at the grassroots level (Kholid et al., 2025). In the Nyawangan case, public legal awareness has increased, yet early marriages persist due to social, economic, and cultural pressures, indicating a fundamental gap between legal norms and social reality.

From a legal substantive perspective, issues of effectiveness arise when the normative design of age restrictions contains loopholes in exemptions that weaken the objectives of the protection (Nuruddin et al., 2023). The existence of dispensations within the same law setting the age limit at 19 creates internal tension between prevention intentions and exemption mechanisms (Nabilah et al., 2025). This gap widens further with the plurality of normative bases, between positive law and religious law, which creates broad interpretative space regarding when a child is considered an adult (Ariyanti & Putra, 2024). In practice, this results in procedural legal certainty, that is, normative rules exist. However, exemptions conflicting with those norms also exist, thus not automatically producing substantive justice that is protective, especially for adolescent girls' reproductive health.

Regarding law enforcement, effectiveness depends on how discretion and institutional routines shape implementation pathways. Although Supreme Court Regulation Number 5 of 2019 affirms the principles of the best interests of the child and gender equality (Lahilote et al., 2022), in practice, law enforcers, including KUA and judges, often face complex social problems, such as unplanned pregnancies and pressure on family reputations. Here, negotiations occur between legal norms and social realities. For example, judges at the Tulungagung Religious Court admitted in interviews that they often face dilemmas; rejecting dispensations risks triggering clandestine marriages, while granting them without adequate health assessments risks neglecting the reproductive vulnerabilities of the prospective bride. These negotiations often end with administrative resolution logic prevailing over long-term health protection logic.

The availability of facilities and infrastructure becomes a critical point when substantive protection requires adequate medical-psychosocial evidence. However,

primary healthcare services, such as the community health centre of Sendang, face limitations in human resources, logistics, and budgets to provide comprehensive pre-marriage screening and standardised reproductive counselling (Sekarrini et al., 2025). Consequently, health evidence submitted in dispensation requests in Nyawangan often consists only of a general health certificate, without haemoglobin tests, reproductive health history, or psychological readiness assessments. These infrastructural limitations cause the protective norms to lack operational instruments to work effectively.

Meanwhile, societal and cultural factors explain why compliance does not automatically follow changes in legal norms. Family preferences, poverty, low levels of education, cultural norms around honour, and unplanned pregnancies are strong drivers that continue to reproduce dispensation requests (Zurbaniyah & Iman, 2025). A concrete example in Nyawangan shows that families are more concerned about social shame than long-term health risks, leading them to see dispensations as a legitimate way to secure social decisions. These cultural factors interact with economic factors, creating layered vulnerabilities for girls from low-income families in rural areas (Schaaf & Khosla, 2021).

The interaction of these five factors reinforces the transformation of dispensations from exceptions into implementation mechanisms. The substantive law containing exemption loopholes, law enforcement negotiated by social realities, limited facilities, and intense societal and cultural pressures all interact in a cycle that normalises dispensations and weakens substantive protection. While Soekanto's theory does not explicitly capture power and gender dynamics, its framework remains relevant for understanding the complexities of law enforcement at the grassroots level (Musmuliadin et al., 2024).

In conclusion, analysis of the effectiveness of law theory indicates that reforming the marriage age tends to be procedurally effective (rules are known and dispensations are active) but not yet substantively protective. Cultural and economic factors still outweigh evidence-based health enforcement factors. The immediate implication is the need to improve the coherence of norms, strengthen the standards for reproductive health evidence, and design genuine collaboration among the KUA, villages, and health services. By adopting an approach that addresses the interaction of these five factors, dispensations can be reinstated as truly urgent exceptions, rather than merely administrative solutions that legalise early marriage and overlook girls' health rights.

Making Marriage-Age Reform Protective in Substance

If marriage age reform is truly to become an instrument of substantive protection, policy orientation must shift from procedural compliance towards risk prevention that

can be predicted, particularly reproductive health risks and psychosocial vulnerabilities of girls. Findings in Nyawangan Village indicate that the norm of 19 years is understood formally but is often overridden by social urgency, so dispensations serve as the practical face of implementation. Therefore, every exception granted through dispensation must include at least real protective measures, including verification of physical and psychological readiness, referral to reproductive health services, and prevention of coercion, thereby genuinely demonstrating the actual emergency condition. This goal aligns with the state's obligation to protect children's rights to health and ensure non-discriminatory access to reproductive health services for girls, as mandated in the National Strategy for Child Marriage Prevention (Stranas PPA) and the National Medium-Term Development Plan (RPJMN) in the health sector.

First, dispensations must be reinstated as high-threshold exceptions by adopting stricter, more consistent examination and proof standards. Although Supreme Court Regulation Number 5 of 2019 has mandated protection principles, the concept of urgent reasons is comprehensive, and examination practices remain flexible, easily dominated by social reasons (Zulkarnain et al., 2025). Standardised minimum protective content could include: (1) a reproductive health certificate from a doctor/midwife covering haemoglobin levels, nutritional status, and health history; (2) psychological assessment by a trained psychologist or counsellor; and (3) a written statement from the prospective bride about her understanding of health risks and her willingness without coercion. The strategy is not to eliminate judicial discretion but to discipline it with clear operational thresholds, such as the obligation to refuse dispensation if indications of severe anaemia, psychological disorders, or signs of coercion are found. This approach aligns with efforts to improve substantive legal factors within the framework of legal effectiveness theory.

Second, proactive and integrated cross-agency interventions are needed before and during the dispensation process. Since social decisions often occur before state institutions intervene, referral and accompaniment mechanisms must be established. At the local level, coordination between the KUA, village government, community health centres, and the Women and Children Protection Unit (UPPA) can be operationalised as an early warning system. For example, when KUA receives information about underage marriage plans, they are obliged to refer families to the community health centre for reproductive health screening and to UPPA for child protection counselling. Similar accompaniment models have been successfully implemented in some regions, such as the Vulnerable Student Assistance programme in Central Java, which involves teachers, parents, and health workers and has reduced dispensation requests by up to 40% (Fadhli

et al., 2024). These interventions directly strengthen facilities and law enforcement by providing higher-quality evidence and support.

Third, public understanding must shift from merely knowing the age of 19 to internalising the protection logic. Education should emphasise the tangible impacts of early marriage from health, social, and economic perspectives, and offer feasible alternatives (Parsons et al., 2015). Gender-based campaigns are important to target parents and adolescent boys, considering power imbalances in decision-making often leave girls without control over their own bodies. For example, the “Child-Friendly School” programme by the Ministry of Women’s Empowerment and Child Protection can be integrated with health services to deliver information about the medical risks of teenage pregnancy (Nadlifuddin, 2024). Additionally, social-economic alternatives such as scholarships, skills training, and access to adolescent counselling should be provided so families do not see marriage as the only solution (Burgess et al., 2023). This approach addresses societal and cultural factors by changing norms and preferences.

Nevertheless, implementing these recommendations must anticipate resource limitations and resistance. Budget, human resources, and health infrastructure constraints in rural areas such as Nyawangan require phased, prioritised approaches. As an initial step, select villages could serve as pilot locations with specific funding support from Village Funds or central programmes. Resistance from communities that view dispensation as a right must also be addressed through cultural approaches involving religious and customary leaders as dialogue partners (Suhardi, 2025).

Finally, success indicators for reform should shift from merely reducing underage marriage figures to improving the quality of protection in dispensation practices. Indicators include: (1) the percentage of dispensations accompanied by comprehensive reproductive health assessments; (2) involvement of cross-sector institutions in accompaniment processes; (3) the number of marriage delays recommended by judges or support teams; and (4) girls’ satisfaction with the decision-making process. This approach bridges international human rights demands with the national legal effectiveness agenda, where protection measures risks are successfully prevented rather than achieved solely through procedural completion (McGregor & Setiawan, 2019).

With a high threshold package, cross-agency collaboration, and substance-based indicators, dispensations can be reinstated as minimal exceptions. Therefore, marriage age reform is not merely a change in legal figures, but truly functions as a substantive

protective instrument that safeguards the health rights, future, and dignity of Indonesian girls.

Conclusion

The reform of the marriage age under Law Number 16 of 2019 has a protective dysfunction. Marriage dispensation, initially designed as a strict and emergency exception, has become a primary implementation mechanism, normalised and regarded as a routine administrative solution. The good regulatory changes at the normative level do not automatically translate into substantive protection at the ground level, especially when exemption mechanisms become lax and are caught in procedural logic. The gap between procedural legality and substantive protection is most evident in the neglect of girls' reproductive health rights, which should be at the core of the rationale for reforming the marriage age.

The scholarly contribution of this article lies in three aspects. First, this research enriches socio-legal studies by explicitly linking the dynamics of family law implementation to issues of reproductive health and adolescent rights. Second, methodologically, the use of a qualitative juridical-empirical approach within the framework of Soekanto's Law Effectiveness Theory enables a holistic, contextual analysis that captures the complex interactions among legal substance, actors, means, society, and culture. Third, conceptually, this article proposes a transformative shift from dispensations as exceptions to dispensations as implementation mechanisms and introduces the minimum protective content as a solution to restore dispensations' protective function.

However, this research has several limitations that open opportunities for further studies. Geographically, the findings from a single case study in Nyawangan Village, although in-depth, may not represent the diversity of Indonesia's socio-cultural contexts. In terms of focus, this study deliberately centres on girls, so the experiences and vulnerabilities of underage prospective male spouses have not been explored. Additionally, the qualitative method used, while rich in narrative, was not designed to produce statistical generalisations. Therefore, further research is needed with a broader design, such as through quantitative surveys to map patterns and determinants of dispensation nationally, or multi-site comparative studies to understand variations in implementation. Longitudinal studies are also required to track the long-term impacts of dispensation on women's health, education, and economic well-being. Exploring male perspectives and conducting cost-benefit analyses of proposed cross-institutional

interventions will also enrich the evidence base for more targeted and evidence-based policy formulation.

Author Contribution Statement

Author contributions to this article: Khofifah Indah Imas Syuroya contributed as the initiator and drafter of the article, as well as the data analyst and interpreter. Nilna Husnayain contributed as a data validator and analysis reviewer, collected the data, and critically revised the article. All authors agree to be accountable for all aspects of this work.

Statement of Interest

All authors declare that they have no conflicts of interest.

Funding

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

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