



URGENT REASONS IN MARRIAGE DISPENSATION: JUDGES' CONSIDERATIONS AT BOJONEGORO RELIGIOUS COURT

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Abstract: Early marriage is a significant issue in Indonesia, especially for young women, with efforts such as granting marriage dispensations for couples underage by law. This study examines the application of urgent reasons and how judges consider these factors in marriage dispensation requests at the Bojonegoro Religious Court. Using empirical legal research, data was collected through interviews with judges and analysis of regulations like Supreme Court Regulation No. 5 of 2019 and Law No. 16 of 2019.

The study revealed that common reasons for urgency include pregnancy outside of marriage, existing relationships that are considered legitimate, and having children before marriage. However, reasons based on proximity, although often not meeting legal criteria, still consider the physical and mental readiness of the couple. The study showed that judges' considerations are influenced by various factors, including the reasons presented, the couple's physical and mental readiness, and the local social and cultural conditions.

Keywords: Early Marriage, Marriage Dispensation, Urgent Reasons, Bojonegoro Religious Court

INTRODUCTION

Marriage is a relationship that unites the physical and emotional aspects of a man and a woman to build a family. As one of the most important institutions in society, marriage involves not only a physical bond but also an emotional bond encompassing emotional, spiritual, and psychological dimensions. The primary purpose of marriage is to create a harmonious and lasting family (Rachman, 2020). Article 7 of Law Number 16 of 2019 regulates one of the requirements for marriage in Indonesia, namely a minimum

marriage age of 19 years for both parties.

Early marriage is a marriage involving one or both partners who are under 19 years of age or still in high school (Mubasyaroh, 2016). The increasing number of early marriages is a significant demographic issue due to its negative impact on various aspects of life (Hermambang, 2021). Child marriage is a significant problem that directly impacts the future of children, especially girls.

The compelling reasons in this ruling are particularly relevant when applying for marriage exemptions. Article 7 paragraph (2) of Law

Number 16 of 2019 stipulates that urgent reasons are cases where there is no other option, and the marriage must be carried out in the best interests of the applicant. An example of an urgent reason is an out-of-wedlock pregnancy. However, in practice, the interpretation of these urgent reasons can vary, depending on the judge's considerations when deciding on a marriage exemption request.

In Bojonegoro Regency, the rate of early marriage ranged from 22% to 25% between 2019 and 2022 (Putri, 2022). According to information from *TribunJatim.com*, there were 448 cases of underage marriage in 2023, while the number increased to 527 in 2022. Bojonegoro Regency, located in East Java with its unique social and cultural characteristics, also recorded a relatively high number of marriage exemption requests.

Based on data obtained from the Bojonegoro Religious Court Case Tracking Information System, the number of marriage dispensation cases has increased year by year.

Table 1. Comparative data on Marriage Dispensation Cases

Marriage Dispensation Cases at the Bojonegoro Religious Court and the Lamongan Religious Court in 2022-2024		
Year	Bojonegoro Religious Court	Lamongan Religious Court
2022	532 Cases	462 Cases
2023	448 Cases	307 Cases
2024	394 Cases	239 Cases

Recent data shows a significant decline in the number of marriage dispensation cases filed at the Bojonegoro District Court and the Lamongan Religious Court. Over the past three years, 2022 and 2024, the number of marriage dispensation

cases filed at the Bojonegoro Religious Court has steadily declined, beginning in 2022 and continuing through 2024. In 2023, the number of cases reached its peak, but in 2024, the number of cases dropped to 394, a decrease of 54 cases compared to the previous year.

Meanwhile, the decline in the number of marriage dispensation cases filed at the Lamongan Religious Court was much greater than in Bojonegoro. In 2022, Lamongan recorded 462 marriage dispensation cases. However, in 2023, this number dropped sharply to 307 cases, a decrease of 155 cases compared to the previous year. This decline will continue in 2024, with the number of cases dropping again to 239, down 68 cases compared to the previous year.

The high rate of early marriage is influenced by several factors, including the views of parents and guardians, who may still view early marriage as normal, and the existence of customs and culture that still support early marriage. Furthermore, low levels of education also influence a person's views on marriage, as they may not fully understand the consequences of early marriage. Economic factors also play a role, as early marriage, in some cases, can be seen as a solution to economic problems (Chusnida, 2022).

The impacts of early marriage are complex and affect various aspects of life. From a health perspective, mothers who marry before the age of 20 are at greater risk, primarily due to their immature physical and mental development. Their pelvises are not fully developed, increasing the risks during pregnancy. Furthermore, they

are not yet ready to become mothers (Lathifah, 2021).

The Head of the National Population and Family Planning Agency, Surya Chandra Surapati, explained that women who marry at a very young age and become mothers at an early age face significant risks to their reproductive health. This is due to increased cervical sensitivity, which can increase the risk of cervical cancer later in life, ultimately impacting their health (Mubasyaroh, 2016).

MAIN PROBLEM

1. What form of Urgent Reasons are Submitted in the Application for Marriage Dispensation at the Bojonegoro Religious Court?
2. How do the Bojonegoro Religious Court Judges Consider Accepting or Rejecting Urgent Reasons for Marriage Dispensation Applications?

METHOD OF RESEARCH

This type of research is empirical legal research. Empirical legal research examines law conceptualized as real behavior (Muhaimin, 2020). Data sources in empirical legal research come from field data. Field data is data originating from sources and informants including experts as sources. (Muhaimin, 2020). Data were collected through interviews with Drs. Ainur Rofiq, a juvenile judge at the Bojonegoro Religious Court. The analysis of legal materials in this study is qualitative analysis. Qualitative analysis is a research method that produces descriptive legal materials analysis (Ismoyo, 2019).

RESEARCH RESULT AND DISCUSSION

1. Forms of Urgent Reasons Submitted in Marriage Dispensation Applications at the Bojonegoro Religious Court

In recent years, there has been a notable and continuous rise in the number of marriage dispensation applications filed at the Bojonegoro Religious Court. This growing trend cannot be separated from the intricate and multifaceted social, cultural, and economic challenges that underlie the increasing frequency of such applications. The surge in these request highlights how various factors, including family dynamics, economic pressures, and societal norms, play a significant role in shaping the decisions of applicants. In particular, urgent and compelling reasons serve as the main justification for individuals and families to seek permission from the Religious Court, either to formalize already existing relationships or to mitigate potential negative social consequences that could arise from delaying marriage.

According to the current regulation, as outlined in Article 7, paragraph (1) of Law Number 16 of 2019, which amends Law Number 1 of 1974 concerning Marriage, both men and women are legally required to reach the age of 19 before they are allowed to marry. Despite this legal threshold, data reveals a persistent and significant annual increase in marriage dispensation applications in Bojonegoro. This trend suggests that many parents and guardians continue to submit these requests, often citing various urgent personal, cultural, and social reasons that reflect the local community's unique values, beliefs,

and moral considerations. These factors appear to strongly influence the decision-making process of those seeking marriage dispensation, highlighting the importance of context in understanding the broader social dynamics at play in Bojonegoro.

The judge handling marriage dispensation applications at the Bojonegoro Religious Court, Drs. Ainur Rofiq, M.H., in an interview conducted by the author with the judge handling marriage dispensation applications regarding the types of urgent reasons frequently submitted by marriage dispensation applicants at the Bojonegoro Religious Court, stated: (Rofiq, 2025)

"The basis for applying for marriage dispensation includes parents' concerns about the consequences of promiscuity, which could lead to adultery, having a relationship as if married, being pregnant, and even having children."

Based on the statement of the first judge, there are four reasons cited by marriage dispensation applicants at the Bojonegoro Religious Court:

1. Pregnancy Outside of Wedlock

Pregnancy outside of wedlock is the most common reason cited in marriage dispensation applications at the Bojonegoro Religious Court. This was explained by Bojonegoro Religious Court Judge Drs. Ainur Rofiq, M.H., stated: (Rofiq, 2025)

"Usually, urgent reasons such as pregnancy are often the primary reason for petitions to the Bojonegoro Religious Court."

In Bojonegoro society, which still upholds religious values and social norms, pregnancy outside

of marriage is considered a serious moral and religious violation. Therefore, families, especially the parents of daughters, tend to immediately take legal steps to legalize the relationship through an official marriage.

This reason is also closely related to the issue of the child's lineage. Under Islamic law, a child born outside of marriage is only related to the mother. This was explained by Bojonegoro Religious Court Judge, Drs. Ainur Rofiq, M.H., stated: (Rofiq, 2025)

"One thing that was emphasized was the importance of considering the child's lineage in this decision. If a child is born out of wedlock, their lineage will be linked to the mother, not the father."

In accordance with the judge's statement above, this issue will raise various legal issues, such as the child's legal status, inheritance rights, and legal protection. Therefore, a formal marriage is essential.

2. Having Had Sexual Relations

Another reason frequently cited in marriage dispensation requests at the Bojonegoro Religious Court is that the couple has engaged in physical or sexual relations, as a husband and wife, before marriage. This relationship generally occurs secretly, but in some cases, it is known to the family and surrounding community. Although not always accompanied by pregnancy, sexual relations outside of marriage are considered sufficient reason for parents to immediately

seek legal marriage, especially to protect the family's reputation and the child's honor.

In some areas of Bojonegoro Regency, it is customary that after a proposal/engagement, the couple is considered to have the social status of husband and wife, even though they are not yet legally married according to Islamic law and state law. Some families even allow couples to live together with limited supervision. This was explained by Bojonegoro Religious Court Judge, Drs. Ainur Rofiq, M.H., stated: (Rofiq, 2025)

"There is a custom in some places that couples are allowed to live together after a marriage proposal, which is the main reason for many marriage dispensation requests."

The judge's statement above indicates that social factors blur the line between legitimate and illegitimate relationships, as society tends to prioritize local customs and traditions over state law and Islamic law. The couple has gained recognition in their community even though their relationship has not been legally registered. Therefore, the family feels an urgent need to formalize the relationship through legal channels to avoid the negative perception that might arise if the relationship continues without a formal marriage.

3. Having Had Children Before Marriage

One of the compelling reasons presented in marriage dispensation requests at the Bojonegoro Religious Court is that the couple, who are not yet married, already have children.

This was explained by Bojonegoro Religious Court Judge, Drs. Ainur Rofiq, M.H., who stated: (Rofiq, 2025)

"The existence of children born out of wedlock is a strong basis for the judge in considering granting dispensation."

The existence of children born out of wedlock becomes a serious issue when there is evidence that a child was born to an unmarried couple, because under Islamic law, the child is only related to the mother unless proven through a valid marriage.

This marriage dispensation request is submitted as a form of legal protection for the child. The goal is to ensure the child obtains legal status and can establish a civil relationship with his or her biological father.

4. Closeness Between Couples

Parents' concerns about promiscuity are also a major driving factor in marriage dispensation requests at the Bojonegoro Religious Court. This was explained by Bojonegoro Religious Court Judge, Drs. Ainur Rofiq, M.H., who stated: (Rofiq, 2025)

"Parents' concerns for their children are the basis for the decision to apply for a marriage dispensation, even though the couple is still underage."

The phenomenon of teenage couples openly dating, riding motorcycles together, or engaging in activities outside the home until late at night without parental supervision has raised deep concerns among families. These overly close relationships are

considered risky, leading children to engage in adultery, pregnancy, and even social deviance.

Teenagers' social interactions are often difficult to control, especially with the influence of social media, which facilitates communication between the opposite sex in increasingly open technology. With the existence of social media, teenagers can easily access immoral content via the internet (Dewi, 2023). Many parents are concerned that their children will fall into unhealthy relationships, so they apply for marriage dispensation as a way to prevent the possibility of adultery. In this case, religion is often used as a moral and spiritual reference that strengthens the argument for the petition.

The closeness between the couple, in this context, is distinct from reasons such as pregnancy outside of marriage, having children, or having engaged in sexual intercourse. While those reasons are often viewed as immediate or reactive, the closeness between the couple is more preventative in nature, seeking to avoid potential social or emotional complications before they arise. Law Number 16 of 2019 concerning Marriage stipulates that an application for marriage dispensation must be grounded in urgent, compelling reasons, and must be substantiated by solid, credible evidence. This means that the mere emotional or relational closeness between a couple, without any tangible or pressing justification, should not be considered a sufficient or

legitimate legal basis for granting a marriage dispensation. The law requires a more substantial and verifiable reason, ensuring that the dispensation is not granted arbitrarily or without careful consideration of the broader legal, social, and moral implications.

Closeness between the couple is often also a factor, namely economic hardship. Some parents of prospective brides and grooms, especially those from lower-middle class backgrounds, state that they can no longer afford their children's needs, such as education. Therefore, even though the child is not yet of legal age, the parents consider marrying off their child as a solution to this problem. This was explained by Bojonegoro Religious Court Judge, Drs. Ainur Rofiq, M.H., stated: (Rofiq, 2025)

"Economic factors are often one of the reasons parents encourage underage marriage, such as the difficulty of affording education, which often drives young couples to marry early."

Some parents believe that marrying off their children at a young age can reduce the family's economic burden. However, in practice, economic factors do not have strong legal weight in judges' considerations for granting marriage dispensation requests, as these reasons are considered too subjective and cannot be concretely proven. Furthermore, these economic factors do not meet the urgent requirement stipulated in Law Number 16 of 2019. The primary focus in assessing urgent reasons is on the existence of a physical relationship, pregnancy, or the birth of

a child from an extramarital relationship.

2. Considerations of the Bojonegoro Religious Court Judge in Accepting or Rejecting Urgent Reasons for Marriage Dispensation Applications

Applications for dispensation for underage marriage are a legal and social issue that still requires attention, especially in areas that still strongly uphold cultural/customary values. Article 7 paragraph (2) of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage states that parents of either the male or female who wish to marry their child even though they are under 19 years of age may request a dispensation to marry from the court, provided they are urgently required and accompanied by sufficient supporting evidence.

The Supreme Court introduced Supreme Court Regulation Number 5 of 2019, which provides detailed guidelines for handling marriage dispensation requests. This regulation was designed to reinforce the application of Law Number 16 of 2019, which amends Law Number 1 of 1974 concerning Marriage, by offering clear direction for judges when evaluating and making decisions on dispensation applications. The regulation highlights two critical factors that must be considered in each case: first, the protection of the child's rights involved in the application, and second, the child's best interests. These considerations aim to ensure that the decision is not only legally sound but also promotes the child's overall well-being.

Urgent reasons in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage are only explained in circumstances where there is no other option and a marriage is absolutely necessary. Therefore, the judge's considerations in assessing urgent reasons in marriage dispensation requests are highly dependent on the judgment of the judge handling the case. This was explained by Bojonegoro Religious Court Judge, Drs. Ainur Rofiq, M.H., who stated: (Rofiq, 2025)

"Each judge's consideration in accepting or rejecting a marriage dispensation request depends heavily on their individual perspective. Judges may accept a request on the grounds that it will provide greater benefits for the child and parents, while those who reject it may focus on the legal aspects, ensuring the law is more effective and provides a deterrent effect."

In accordance with the judge's statement above, the judge has full authority to accept or reject a marriage dispensation request. The judge may accept a marriage dispensation request if granting it will provide greater benefits to the parties involved, such as children or parents. Meanwhile, a judge who rejects a marriage dispensation will make the law more effective and provide a deterrent effect. The judge also needs to ensure that marriage dispensations are not granted arbitrarily when not truly necessary.

The judges at the Bojonegoro Religious Court follow the principle that marriage dispensation applications can only be granted if

there are genuinely urgent reasons, as outlined in Article 7 paragraph (2) of Law Number 16 of 2019, which amends Law Number 1 of 1974 concerning Marriage. According to interviews with the judges, several specific reasons are widely acknowledged as valid and urgent enough to justify the approval of marriage dispensation requests. The judges of the Bojonegoro Religious Court have further elaborated on this matter, outlining various reasons that are deemed relevant and meet the legal criteria for acceptance in the judicial process, stated: (Rofiq, 2025)

"There are several categories, such as couples who already have children, are pregnant, are in a relationship like husband and wife, or are already pregnant, which tend to be more easily accepted because they are considered more beneficial for both parties."

In accordance with the judge's opinion, couples who already have children, are in a sexual relationship, and have a pregnancy are more likely to have their applications granted by the judge. The judge's reasoning for this statement is that granting a marriage dispensation request for the aforementioned reasons would be more beneficial for both the parents and the couple.

Judge Ainur Rofiq also explained the consequences of rejecting a marriage dispensation request, stating: (Rofiq, 2025)

"Rejection of underage marriage, on the grounds of pregnancy, will exacerbate the situation if not resolved properly. Parents may choose to conceal this situation by performing a

secret marriage, even though this is illegal under the law."

He stated that rejecting a marriage dispensation request due to pregnancy could further worsen the couple's situation, as parents will likely still marry their child off through a secret marriage, which is not legally recognized under Indonesian law. A secret marriage does not provide clear legal protection for the couple involved.

Judge Ainur Rofiq also explained the closeness between the couple, stating: (Rofiq, 2025)

"When a couple is only in the dating stage, the decision is not as urgent as the previous three reasons, but the closeness or intensity of the couple's relationship remains a concern for me."

According to Judge Ainur Rofiq, the intensity of the couple's relationship does not fall under the criteria of an acceptable urgent reason for a marriage dispensation application. Urgent reasons are readily accepted by the court. However, requests for marriage dispensation based on closeness between the couple can also be granted if necessary.

According to Article 7 paragraph (1) of Law Number 16 of 2019, which amends Law Number 1 of 1974 on Marriage, the legal minimum marriage age for both men and women is set at 19 years. However, a marriage dispensation request may be approved by the judge if certain urgent conditions are present, such as pregnancy, prior marital relationships, or the existence of children born outside of wedlock.

According to Judge Ainur Rofiq, closeness between spouses does not

qualify as an urgent reason, but judges can consider granting a marriage dispensation request based on their closeness. This closeness can be an important consideration for judges, as well as the couple's age and mental readiness for marriage. This was explained by Bojonegoro Religious Court Judge Drs. Ainur Rofiq, M.H., who stated: (Rofiq, 2025)

"Judges must consider the age, physical, and mental condition of the prospective bride and groom to determine whether or not they are eligible to grant a marriage dispensation to the couple."

As stated by the judge, judges must consider various factors, such as the age, physical, and mental condition of the prospective bride and groom, when granting a marriage dispensation. Judges must consider various aspects directly related to the prospective bride and groom's readiness to enter into married life; it cannot be granted arbitrarily.

Judges must consider the closeness of the relationship between the couple, as the prospective bride and groom tend to be more physically and socially prepared for marriage. This was explained by Bojonegoro Religious Court Judge, Drs. Ainur Rofiq, M.H., who stated: (Rofiq, 2025)

"When someone is 17 or 18 years old, the closeness of the relationship will be given greater consideration to determine whether it poses a risk."

As stated, judges will consider the closeness of the relationship if the prospective bride and groom are between 17 and 18 years old. Judges will carefully observe whether the relationship between the couple poses any particular risks. Judges will also consider whether granting a

marriage dispensation will have a positive impact on the prospective bride and groom or even be detrimental to them.

Judge Ainur Rofiq also explained the issue of prospective brides and grooms being far below the minimum marriageable age, stating: (Rofiq, 2025)

"When the couple is very young, such as 13 or 14 years old, the judge will almost certainly reject the marriage, as such a young age is considered unfit for marriage."

The judge at the Bojonegoro Religious Court stated that marriage dispensation requests submitted by children aged 13 to 14 are almost always rejected. This is based on the fact that children aged 13 to 14 are still considered very young and are in an immature stage of physical and psychological development. Physically, the body at this age has not yet reached the level of maturity necessary to cope with pregnancy or childbirth, which can pose health risks to both the mother and the baby. Furthermore, psychologically, children at this age are usually still in the process of discovering their identity and developing emotions that are not yet fully stable.

There is a cultural phenomenon in several villages in Bojonegoro that allows couples to live together after the proposal, even if they are not yet legally married. This custom is socially considered legitimate, even though it conflicts with Islamic and state law. This was explained by Bojonegoro Religious Court Judge, Drs. Ainur Rofiq, M.H., who stated: (Rofiq, 2025)

"Couples who have had marital relations or who have had

marital relations without parental knowledge or after a proposal, which is considered local custom, in my view, make it difficult to refuse such requests because they are already in a state of urgency."

As explained by the judge, these situations make it challenging to reject marriage dispensation requests, as they are viewed as urgent matters. The couple in such cases perceives their circumstances as critical, where marriage is seen as a solution to various problems, including those related to social norms, family concerns, or other urgent issues requiring immediate resolution. The approval of marriage permits is grounded in the fundamental principles of child protection, which are based on Pancasila and the 1945 Constitution of the Republic of Indonesia, as well as the core principles of the Convention on the Rights of the Child, which include: non-discrimination, prioritizing the best interests of the child, ensuring the right to life, survival, and development, and respecting the child's views.

The judge's decision to approve or deny a marriage dispensation request is significantly influenced by several factors, such as the urgency of the situation, the couple's age, and their physical and mental preparedness. According to Drs. Ainur Rofiq, M.H., a judge at the Bojonegoro Religious Court, these elements play a crucial role in determining whether a marriage dispensation should be granted or rejected. While Law Number 16 of 2019 provides guidelines, the final decision ultimately rests on the judge's evaluation of the case.

Interview data shows the granting or rejection of marriage dispensation applications as follows:

Table 2. Data on the number of accepted and rejected marriage dispensation applications

Data on the Number of Accepted and Rejected Marriage Dispensation Applications at the Bojonegoro Religious Court			
Year	Number of Applications	Accepted	Rejected
2023	448	443	5
2024	394	388	6
2025 (up to 7 August)	199	197	2

The Bojonegoro Religious Court has seen a steady decrease in the number of marriage dispensation applications over time, reflecting a decline in the number of submissions year by year. However, the acceptance rate for these applications has remained consistently high. In 2023, 443 out of 448 applications were approved, resulting in an acceptance rate of about 98.8%. In 2024, 388 out of 394 applications were accepted, with an acceptance rate of approximately 98.4%. As of August 7, 2025, 197 out of 199 applications were granted, yielding an acceptance rate of roughly 98.9%. This suggests that although the number of applications has decreased, the court continues to approve the vast majority of them.

The number of rejected applications is relatively small compared to the number of applications accepted. In 2023, only 5 applications were rejected out of 448 submitted. In 2024, only 6 applications were rejected out of 394 submitted, which is significant. In 2025 (up to 7 August), only 2 application was rejected out of 199

submitted. This data indicates that judges tend to accept marriage dispensation applications, with a small number of rejected applications, indicating that the reasons presented by applicants are often deemed to meet the legal requirements.

The decline in the number of applications submitted each year suggests social factors or increased public awareness of the legal minimum age for marriage, but the number of applications accepted remains high. This may indicate that the reasons presented in marriage dispensation applications are generally considered to meet applicable court requirements. Furthermore, the low rejection rate also reflects that courts are more likely to give positive consideration to submitted applications, taking into account the urgent circumstances and the best interests of the child and family involved.

CONCLUSION

The analysis of marriage dispensation applications at the Bojonegoro Religious Court concludes that social, cultural, and economic factors are the primary drivers behind the rise in these requests, even with the legal marriage age set by Law Number 16 of 2019. Key urgent factors, such as pregnancy outside of marriage, premarital sexual activity, children born before marriage, and the emotional closeness between the couple, are central reasons that prompt parents to seek dispensation in order to formalize the relationship. While the number of applications has decreased each year, the high acceptance rate suggests that the court generally approves the

applications when the reasons align with the legal requirements.

The court's decision to grant or deny a dispensation request is based on factors such as the urgency of the situation, the child's best interests, and the physical and mental preparedness of the individuals involved. Even though the number of applications has decreased, the court remains focused on ensuring that its decisions prioritize the well-being of the child and the family as a whole.

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