

Dispensation of Pre-Marital Pregnancy Marriage in Parigi Religious Court

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ABSTRACT

This study discusses the form and factors of implementing the dispensation of premarital pregnancy at the Parigi Religious Court according to Law Number 16 of 2019 and a review of the *maqashid shari'ah*. The type of research used in this study is qualitative research (field) with a case study approach. The data used in the study are primary and secondary data. Data collection techniques are observation, interviews, and documentation. The results of this study indicate that the form and factors of the implementation of the dispensation of premarital pregnancy at the Parigi Religious Court according to Law Number 16 of 2019 are that every year, the Parigi Religious Court decides and resolves cases of marriage dispensation applications with an average percentage of 93% of prospective brides who are already pregnant outside of marriage have been granted by the judge. The factors for the judge to grant the dispensation of premarital pregnancy at the Parigi Religious Court are formal legal considerations, Supreme Court Regulations Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation, as well as material legal considerations, marriage law, ushul fiqh principles, *maslahah mursalah*, and social justice. The review of maqasid sharia on the form and factors of implementing the dispensation of premarital pregnancy according to Law Number 16 of 2019 is that it does not conflict with Islamic law; in fact, the policy is in line with the objectives of Islamic law (*maqasid shari'ah*). For now, the author agrees with the consideration of granting the dispensation of premarital pregnancy. Still, the role of maqasid shari'ah only contributes a little, namely considerations related to protecting offspring (*hifz al nasal*).

ARTICLE INFORMATION

Keywords:

Dispensation, marriage, premarital pregnancy, law no. 16.

1. Introduction

The State and Government set a minimum age limit for someone to get married because they have an interest and obligation to guard and direct marriage as a social institution that protects and upholds the honor and dignity of women in Indonesia, to provide protection and ensure that marriage can run well, be healthy and maintained eternity.

Marriage in Indonesia is legally legal as long as it is carried out according to the provisions of the religion or belief held and does not conflict with applicable laws and regulations. The Republic of Indonesia regulates marriage law in Indonesian Law Number 1 of 1974 concerning marriage, which has been amended by Republic of Indonesia Law Number 16 of 2019. Marriage law is also regulated by the compilation of Islamic law for Muslims.

e-ISSN: 2715-4580
p-ISSN: 2715-8268

The enactment of Law of the Republic of Indonesia Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning marriage (from now on referred to as the Marriage Law) has provided a new direction for marriage law in Indonesia.

The Marriage Law is subject to the principle that prospective husbands and wives must be mentally prepared and mature in body and soul to marry and achieve the goal of marriage, namely, becoming a happy family and having quality children. Among the marriage requirements according to the Marriage Law are those relating to the age of marriage. The prospective male and female bride and groom are only permitted to marry as long as they have reached the age of 19 (nineteen) years old.

Article 7, paragraph (1) of the Marriage Law, which regulates the age limit for a person to marry, is not "rigid," meaning that under certain conditions, the provisions of this norm can deviate as far as a dispensation from the Court is concerned as stated in the provisions in Article 7 paragraph (2) of the Marriage Law, which says

"In the event of a deviation from the age provisions as intended in paragraph (1), the man's parents and the woman's parents can request a dispensation from the Court for urgent reasons accompanied by sufficient supporting evidence."

In Article 7, paragraph (2) of the Marriage Law, two legal rules intersect and form one unit that is interrelated with the application for marriage dispensation: the first phrase, "deviation," and the second phrase, "dispensation."

The phrase "deviation" is a form of exception to generally applicable legal provisions, permitted by law only as an "emergency exit," meaning it is used when there are compelling issues related to marital problems. The phrase "dispensation" is a form of exemption from generally applicable rules to meet a special situation (emergency).

This exception can mean exemption from not carrying out an obligation or exemption from implementing a prohibition, which in state administrative law is interpreted as a legal dispensation, namely as an action by the government or an authorized party to declare that a statutory regulation that should apply does not apply to a particular specific matter. Even

though the Marriage Law has set an age limit for marriage, it does not rule out the possibility that someone who has yet to reach the stipulated age can marry, provided they obtain permission from their guardian and the Court by applying for marriage dispensation (Hafen, 1983).

To avoid disparities in handling marriage dispensation application cases, the Supreme Court issued Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications, which is expected to become a guideline for Court judges at the forefront in handling marriage dispensation cases. The Supreme Court Regulations contain the principles that judges must apply in adjudicating cases regarding applications for marriage dispensation. These principles are:

1. The best interests of the child
2. Children's rights to life growth and development
3. Respect for children's opinions
4. Respect for human dignity
5. Non-discrimination
6. Gender equality
7. Equality before the law
8. Justice
9. Expediency
10. Legal certainty

Law Number 16 of 2019 in Article 7 confirms that if there is a deviation from the marriage age requirements, the marriage can only occur after receiving dispensation from the Court. Based on the author's observations, at the Parigi Religious Court, parents of prospective male and female brides often submit requests for dispensation so that their children who have yet to reach marriageable age can be given dispensation to marry due to various urgent considerations.

Among the reasons that are often found in applications for marriage dispensation submitted to the Parigi Religious Court are that the relationship between the prospective groom and the prospective bride is already very close, so it is no longer possible to postpone the marriage or even that the two of them have already had

sexual intercourse, resulting in the prospective bride being pregnant (F Nisa, 2018).

The Parigi Religious Court is one of the judicial agencies and institutions with the authority to grant marriage dispensation permits. Based on the author's research results, in the last two years, starting from 2021 and 2022, 91 applications for marriage dispensation have been received. The Parigi Religious Court received 53 cases of requests for marriage dispensation in 2021, with 48 cases of requests for dispensation filed because of pregnancy and 5 cases filed for the reason of avoiding adultery. One year later, in 2022, the Parigi Religious Court received 38 marriage dispensation requests, with 37 cases filed on the grounds of pregnancy and 1 filed to avoid adultery. Facts in society show that most parties apply/are submitted by their parents to request marriage dispensation. They are still high school students, and some are still junior high school students; the reason for applying for marriage dispensation is because the students commit prohibited acts that even result in pregnancy.

It is undeniable that the current phenomenon of premarital pregnancy is caused by social shifts and society's increasingly open dating habits. Teenagers consider dating important, not just to get to know their partner's personality; teenagers tend to use dating as a trial or just for fun. The result of promiscuity often results in pregnancy before marriage. (Sohari Sahrani, 2010). The government provides a solution, such as marriage dispensation in the above cases, so that things that will cause broader harm do not happen.

In granting requests for dispensation for premarital pregnancy, judges at the Parigi Religious Court often consider the pressing reasons mentioned above to fulfill the *maslahah* element in each dispensation decision and fulfill what the Shari'a desires. The rules of jurisprudence explained in the *maslahah murrasa* theory establish legal provisions that have not been described in detail in the Qur'an and Hadith because of considerations of goodness and preventing damage to people's lives, regardless of efforts to prevent harm. (M. Rifai, 1995). *Maslahah* is one of the most popular terms in the study of Islamic law because *maslahah* is the goal of *syara'* (*maqasid shari'ah*).

Seeing that the number of applications for dispensation for premarital pregnancy at the Parigi Religious Court is quite large, this is the importance of this research on how the dispensation for premarital pregnancy at the Parigi Religious Court is according to the Marriage Law in view of *maqasid shari'ah*, so that the assumption does not arise that teenagers free to commit adultery because it is very easy to obtain a marriage dispensation if pregnancy occurs. The basis of the judge's consideration is essential, so it is necessary to analyze further the judge's best attitude in making the basis and considerations for decisions when examining and deciding on requests for marriage dispensation, especially those based on cases of premarital pregnancy.

2. Literature Review

2.1. Maqashid Syari'ah

Maqashid al-syariah consists of two words, namely maqashid and Syariah. The word maqashid is the plural form of maqashad, which means aim and purpose. In contrast, Syariah means God's laws, which are established for humans to be guided by to achieve happiness and prosperity in this world and the afterlife. Thus, maqashid al-syariah means the value content that is the aim of legal regulations (Rahmadhani, Attamimi, & Hanafi, 2023). So, maqashid al-syariah is the goal to be achieved through a legal enactment. Maqashid syariah can also mean the goals of Allah and His Messenger in formulating Islamic laws. The purpose of Islamic law can be traced in the verses of the Qur'an and the Sunnah of the Prophet Muhammad as a logical reason for formulating a law that is oriented towards the benefit of all humankind (Ermawati & Nurdin, 2023).

2.2. Constitution

The definition of law according to Article 1 point 3 of Law Number 12 of 2011 concerning the Formation of Legislative Regulations (from now on referred to as Law 12/2011) is Legislative Regulations formed by the House of Representatives with the joint approval of the President. According to Article 1 number 2 of Law 12/2011, the definition of Legislative Regulations is written regulations containing

generally binding legal norms formed or stipulated by state institutions or authorized officials through procedures specified in Legislative Regulations. Legislation is a part or subsystem of the legal system. Therefore, discussing the politics of legislation is inseparable from discussing the politics of law (Pei & Zheng, 2015).

2.3. Religious Courts

The Religious Court is one of the judicial institutions at the first level; it is a religious judicial institution. Religious Courts is the official term for one of the judicial bodies in Indonesia. Judiciary in the Big Indonesian Dictionary means "everything regarding court cases," while the word court is defined as "a council or panel that adjudicates cases," or "court," "judicial process," "judge's decision," "trial of judges when adjudicating cases," "house (building) where cases are heard." More specifically, the Big Indonesian Dictionary defines a religious court as "a special judicial body for Muslim people who examines and decides certain civil cases in accordance with applicable laws and regulations." (Munir, 2008).

2.4. Marriage

The word marriage means "joining" and "sexual relations" and also implies contract, gathering, and sexual intercourse (coitus). According to M. Quraish Shihab in his book *Tafsir al-Misbah*, marriage is called *zawaj*, which means partnership, besides being called *nikah*, which means the union of spiritual and physical, by him, the husband is called *zauj* and the wife too. *Nikah* or *Zawaj* is an agreement that provides the legal benefit of creating a husband-and-wife family between a man and a woman helping each other, limiting the rights of the owners, and fulfilling each other's obligations because *nikah* includes the implementation of religious teachings. Hence, it contains a goal or the intention of hoping for Allah's blessing. (Leavitt, Allsop, Clarke, Marks, & Dollahite, 2021).

2.5. Marriage Dispensation

A dispensation is a state decision that is independent of official rules or applicable law. Marriage dispensation is a deviation from marriage law, part of the family law system. Marriage dispensation means easing certain restrictions in carrying out a bond between a man and a woman as husband and wife. Marriage dispensation also represents an opportunity to get married for prospective married couples who are young enough, as given by the Court.

3. Methodology

This research uses qualitative methods. In qualitative research, the theory is only a guide, so the research focus follows the facts in the field (Nurdin & Pettalongi, 2022; Nurdin, Stockdale, & Scheepers, 2016). Data was collected through direct observation, in-depth interviews, and written document analysis at the research location (Rusli, Hasyim, & Nurdin, 2021; Rusli & Nurdin, 2022). The object of this research is cases of premarital pregnancy in married couples in Parigi Regency. Interviews were conducted with semi-structured with participants. Apart from that, interviews were also analyzed written material. The results of the interviews were recorded and transcribed. The transcript results were consulted with participants to obtain approval (Latepo, Suharto, & Nurdin, 2021; Muslih, Nurdin, & Marzuki, 2020). The data analysis technique in this research uses deductive thinking techniques, which can be interpreted as research procedures that produce deductive data from interviews and field notes. Data analysis was carried out using thematic analysis from Strauss and Corbin (1998). Analysis begins with open coding, axial coding, and selective coding. The final result of data analysis is the themes found in the data.

4. Results and Discussion

4.1 Factors in Providing Marriage Dispensation for Premarital Pregnancy

There are quite a few cases requesting marriage dispensations registered at the Parigi Religious Court. This is due to several factors, either geographical conditions or the very wide

jurisdiction of the Parigi Religious Court. In fact, the Parigi Religious Court received 53 cases requesting marriage dispensation in 2021, and in 2022, the number of cases decreased to 38. The data obtained by the author shows that almost all requests for marriage dispensation at the Parigi Religious Court are because the bride-to-be is already pregnant.

The case regarding the application for marriage dispensation was registered because the bride was already pregnant. In 2021, there were 53 (fifty-three) cases registered at the Parigi Religious Court, a total of 48 (forty-eight) cases of requests for marriage dispensation submitted because the prospective bride is already pregnant, while the remaining 5 (five) cases of requests for dispensation is the marriage was proposed for the reason of avoiding adultery because the two prospective brides and grooms for whom marriage dispensation was requested already liked each other and could not be separated. Likewise, in 2022, there will be 38 (thirty-eight) cases registered at the Parigi Religious Court, with 37 (thirty-seven) cases of marriage dispensation for premarital pregnancy and the remaining 1 (one) case registered for the reason of avoiding adultery. So it can be concluded that in the last two years, every year, the Parigi Religious Court decides and resolves cases of requests for marriage dispensation with an average percentage of 93% (ninety-three percent) of prospective brides whose requests for marriage dispensation have been granted by the examining judge.

The high number of applications for marriage dispensation in the jurisdiction of the Parigi Religious Court indicates that the community's legal compliance with the law regarding the age limit for marriage is still relatively low. Providing a minimum age limit for marriage is not without purpose. The age restriction contains the intention that marriage is indeed carried out by the prospective bride and groom, both men and women, who are mature in body and soul and maintain the health of the husband and wife and their offspring.

Judges must explore the legal values and sense of justice in society. For most people, marriage is often considered an alternative solution to solving social problems that occur in society, such as marrying off children who have become pregnant out of wedlock.

This is done to cover the disgrace or shame of the family. Pregnant women without a husband will be humiliated and ostracized by society. So, women who have premarital pregnancies must have their existence and soul protected because it also has the potential for the health of the unborn baby they are carrying and considering that granting a marriage dispensation to the bride and groom is in the best interests of both of them and to protect the child. After all, marriage is a *gharizah insaniyah* (human instinct) that must be fulfilled legally to avoid seeking the wrong path that leads to the wrongdoing of adultery.

After the enactment of Law Number 16 of 2019, judges, in making marriage dispensation determinations, must consider the primary legal considerations as regulated in the Regulation of the Supreme Court of the Republic of Indonesia Number 5 of 2019, namely:

The judge's consideration factors in granting dispensation for premarital pregnancy at the Parigi Religious Court, the examining judge has legal reasoning, namely using considerations:

A. Formal Legal Considerations

Formal legal considerations are legal considerations that determine the form and cause of legal regulations and rules, also known as procedural law. They determine whether the procedural law carried out by the examining judge has been fulfilled in the trial. They start with reading the application letter, evidence, conclusions, and finally, the decision.

The judge examining the dispensation for premarital pregnancy at the Parigi Religious Court is guided by Supreme Court Regulation 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation. The judge will also dig further into the applicant who filed the case. In this case, the judge will examine whether the person who filed the case for a request for dispensation is the person who has the right to submit it or not (legal standing). The judge will ask why the applicant's child is immediately requested for dispensation and whether the reasons for the applicant's child and the applicant are similar or not.

B. Material Legal Considerations

The meaning of material legal considerations here is that they determine the content of a case, regulations or legal rules that

bind everyone, and become norms for deciding a case. This material legal consideration is critical because it is necessary to make decisions so that the resulting decision contains justice, expediency, and legal certainty.

The material legal sources for the Religious Courts use Islamic Law, which originates from the Qur'an and Hadith, the Marriage Law, the Compilation of Islamic Law, Jurisprudence, Fiqh Books, and positive law relating to the duties and authority of the Religious Courts. In marriage dispensation cases, examining judges often refer to fiqh books, especially *maqasid shari'ah*, regarding prioritizing avoiding damage rather than bringing benefit. The final consideration, which is no less critical and is usually used by the judges of the Parigi Religious Court, is the consideration of social justice; marriage is often seen as an alternative solution for resolving social problems that will occur, namely marrying off pregnant children first to cover up shame.

4.2 Maqasid shari'ah perspective of premarital pregnancy marriage.

Dispensation from marriage due to pregnancy is given or granted based on considering the benefit if there is a purpose that can indeed be expected to convey the purpose of the marriage. The benefit of *murlah* is goodness that is not touched upon by the *syara'* in doing it or abandoning it. In this case, doing it will bring benefits, and the goal is to avoid bad things. Giving or granting marriage dispensations to create benefits and avoid more significant harm is based on *maslahah* and *sadz adz-Azariah* methods. (Ahmad Hanafi, tt).

The purpose of establishing law, or what is often known as *Maqashid al-shari'ah*, is an important concept in studying Islamic law. Because of the importance of *Maqashid al-shari'ah*, legal theorists have made *Maqashid al-shari'ah* something that must be understood by *mujtahids* who carry out *ijtihad*. *Maqasid shari'ah* is also contained in the judge's decision in the case of a request for dispensation for premarital pregnancy, namely with various considerations as follows:

1. Basic considerations for protecting religion (*hifz al-din*)

The judge who examines and decides on cases of requests for dispensation for premarital pregnancy uses considerations of protection of religion (*hifz al-din*), which aims at several principles, namely the protection of the Shari'ah prohibiting adultery, where in the Islamic Shari'ah, adultery is one of the acts that cause great disgrace that must be shunned and avoided. In determining the request for dispensation from marriage due to premarital pregnancy, the judge used the consideration that the actions of the Petitioners' children, who had frequently had husband and wife relations, constituted an act of adultery that would cause great harm. Second, there are no shari'ah prohibitions for the prospective bride and groom when they want to get married, such as the prohibition that the prospective bride and groom have a mahram relationship and other things that could prevent the prospective bride and groom from getting married.

Based on the preceding, it can be seen that the judge examining the marriage dispensation application believes that the age limit in the marriage law is not commensurate with the harm to the requirements for puberty, according to Shari'ah. This means that even though granting a dispensation for underage marriage can be seen as "contrary" to the law, the harm that is expected to occur is not comparable to the harm if there is a violation of the Shari'ah. From these facts, it can be interpreted that in this case, the judge positioned the position of shari'ah as higher than the law, so it can be said that the judge's efforts were a form of defense against shari'ah and were part of the judge's efforts to protect and maintain religion.

Based on the legal considerations above, the author concludes that the goal of *maslahah* that the judge wants to obtain is the protection/maintenance of religion, maintaining it so that society does not ignore Islamic religious law and can become a deeply rooted custom in every decision-making effort made by the public.

2. Basic considerations for the protection of the soul (*hifz al-nafs*)

Early marriage in various literature shows that it has the potential to be bad for life safety, especially for the mother and the child she is carrying. Law number 23 of 2002 concerning Child Protection explains that children should be

protected from things that harm their development, both physical and psychological, and this law even contains criminal threats for those who violate it. The judge, in this case, realized that the child protection law was very much in line with one of the aims of enforcing age provisions as contained in article 7 of the Marriage Law, namely to safeguard the health and safety of husbands, wives, and children from the consequences that might arise because of the person concerned is not physically or psychologically mature.

The judge's legal arguments to justify his decision were based on the facts of the trial, in which it was found that the applicant was physically and mentally mature enough to be considered to have her rights and obligations as a wife/housewife.

The judge's efforts in granting marriage dispensation to the prospective bride and groom can be seen as an effort to give status to the child who will be born in the future. This status is undoubtedly crucial because it will relate to the rights of children born, starting from lineage, guardianship rights, inheritance rights, protection and education rights, support obligations, etc. This means that the validity of the marriage and children born in the above marriage will have positive implications in fulfilling the duties of parents towards their children, the rights of children over their parents, and their future rights as citizens.

3. Basics of Progeny Protection (*hifz al-nasl*)

Maqāsid Syari'ah Protection of Islamic Descendants directs excellent attention to strengthening the rules, cleansing the family from weak defects, and protecting it with improvement and calm that guarantees its life. Islam does not leave any side but is based on wise regulations and eliminates the sloppy and corrupt methods used by previous Shari'ah. When the lineage is the foundation of kinship in the family and the proper support, namely the beliefs, morals, and Shari'ah between its members, Islam pays great attention to protecting the lineages from everything that causes mixing or insults the glory of those lineages. Nasab, which has become Indonesian and has been included in the extensive

Indonesian dictionary, is defined as descent or family ties. (Syatibi., 1341H).

To protect the lineage, Islam prohibits all forms of adultery and prostitution and strongly recommends marriage to continue human descendants so that they do not become extinct and have legal and transparent kinship relationships. From the description above, the final aim of the enshrinement of Islamic religious teachings is to preserve and protect descendants or lineage. Fiqh scholars say that lineage is one of the solid foundations in building a household life that can bind individuals based on the unity of blood. In the context of protecting one's lineage, Islamic teachings prescribe marriage as a way that is considered valid to safeguard and maintain the purity of one's lineage.

Responding to the fact that the child for whom dispensation is requested is pregnant out of wedlock, the judge will be faced with a complicated problem. The judge's decision to grant marriage permission to the prospective bride and groom can be seen as an effort to provide status to the child who will be born in the future. The decision to grant a marriage dispensation request undoubtedly has implications for the legal standing of the child who will be born concerning lineage, inheritance rights, guardianship rights, protection rights, education, and so on. The validity of the marriage and children born in the above marriage will have a positive impact in fulfilling the obligations of parents towards their children, the rights of children over their parents, and other civil rights in the future as citizens.

4. Basics of Honor Protection (*hifz al-ird*)

Islam guarantees human dignity by paying great attention, which can be used to give specialization to their human rights. This protection is visible in the heavy sanctions imposed in cases of adultery, destroying another person's honor, and matters of *qadzaf*. Islam also protects the prohibition of backbiting, pitting one against another, cursing, criticizing, and using bad calls, as well as other protections that touch upon human honor and glory.

Legal arguments by judges based on the use of maqasid shari'ah in the form of protection of honor (*hifz al-ird*) are contained in legal considerations, almost entirely in a copy of the

decision. The judge considered concerns that there would be a violation of the survival of the pregnant bride and groom and a threat to the dignity of the person, family, and surrounding community. In cases like this, the judge considers that such behavior can cause slander, unrest in society, and other bad consequences related to social life. If this continues, it is feared that it will have implications for the destruction of buildings of honor, both the individuals of the prospective bride and groom, their families, society, and, of course, religion.

Among the forms of protection provided is by humiliating and threatening sinners with excruciating punishment on the Day of Judgment. In the maqashid of shari'ah at the doruriyah level, several ushul scholars stated that *irod* or honor is one of the goals of Islamic law. So it is unsurprising that some ushul experts include *al'ardh* (self-respect) and *al-'adl* (justice). (Syatibi, 1341H)

This problem implies that many people need to understand that age is not an obstacle to marriage because if this happens, they can apply for a marriage dispensation at the Religious Court, and the request for dispensation is generally granted. The author does not find considerations contributing to a legal culture, which becomes a mobilizer for driving a legal system that fulfills society's sense of justice sociologically, philosophically, and juridically. Several theories can be used as a reference for judges in determining dispensations, including the theory of justice, judge's freedom, legal sociology, and the theory of expediency (*maslahah*).

Regarding requests for dispensation for premarital pregnancy, judges have considerable authority to function the law as a tool of social engineering, namely by creating a deterrent effect for the wider community, namely for potential adulterers in the future in the surrounding environment. Judges can make *ijtihad* and combine elements to create a deterrent effect for adultery perpetrators following Islamic criminal sanctions, namely *hudud* and aspects of legal protection for children (fetuses in the womb), as well as elements of education for the surrounding community in the future, creating fear or reluctance to imitate the practice of marriage in a pregnant condition as was done by the perpetrators. With the theory of a judge's

freedom, of course, the judge has broad authority in making decisions in determining the application submitted by the applicant to the Religious Court so that the marriage dispensation decision handed down by the judge is "richer" with legal considerations that are progressive and transformative.

The government's determination of the marriage age through Law Number 16 of 2019 does not conflict with Islamic law. This policy is in line with the objectives of Islamic law (*maqasid syari'ah*) in maintaining religious safety (*hifdzu din*), the safety of children's lives (*hifdzu nafs*), protecting offspring (*hifdzu nasl*), and maintaining honor (*hifdzu ird*). For now, the author agrees with granting dispensation for premarital pregnancy, considering several aspects, starting from the child's best interests and concerns of *maslahah murrasa* or *maqasid shari'ah*. However, the role of *maqasid shari'ah* in granting requests for dispensation for premarital pregnancy is only a small contribution. Namely, protection of offspring (*hifz al nasl*), maintaining lineages for a long life span so that it is clear which parents were born to them because they relate to administrative matters such as the child's birth certificate, family cards, which are needed for survival and the best interests of the child.

5. Conclusion

The form and factors of implementing the dispensation for premarital pregnancy at the Parigi Religious Court, according to Law Number 16 of 2019, is that every year, The Parigi Religious Court decides and resolves cases requesting marriage dispensations with an average percentage of 93% of prospective brides who are pregnant out of wedlock being granted by the judge. The consideration factor for the judge in granting the request for dispensation for premarital pregnancy at the Parigi Religious Court is using formal legal considerations, namely Supreme Court Regulations Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications as well as material legal considerations, namely marriage

law, *ushul fiqh* rules, *masalah murlah*, and public justice.

The *maqasid shari'ah* review of the forms and factors in implementing the dispensation for premarital pregnancy according to Law Number 16 of 2019 is that it does not conflict with Islamic law. In fact, the policy aligns with Islamic law's objectives (*maqasid syari'ah*). For now, the author agrees with granting dispensation for premarital pregnancy. Still, the role of *maqasid shari'ah* only contributes little, namely only considerations related to protecting offspring (*hifz al nasl*).

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