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Research Article

Mafsadah, Maslahah, and Variations in Judicial Reasoning in Determinations of Marriage Dispensation Post-2019 in Indonesia

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ABSTRACT

This study examines marriage dispensation practices in Indonesia following the 2019 increase in the minimum age of marriage to 19. It analyzes how judges on Religious Courts assess social conditions of mafsadah (loss) and maslahah (benefit). Using a qualitative approach to jurisprudence, 26 marriage dispensation judgments issued by 16 different Religious Courts between 2020 and 2024, of which 19 were granted and 7 were rejected, were analyzed. The applications gave several reasons including pregnancy, premarital sex, fear of the prospective groom committing adultery, and the prospective bride's consent and support of the marriage. Legal authorities of Islam also provide normative framework for assessing evidence and balancing benefits and risks of various alternatives.The study concludes that although the post-2019 legal framework has provided a more structured basis for the examination of marriage dispensation, it has not yet established a uniform standard for considering competing considerations. Exigent circumstances do not necessarily justify marriage because the perspective of maslahah may suggest that postponement actually protects the interests of the child more. Therefore, judges need to formulate transparent and comprehensive considerations by outlining the risks, protection benefits, and alternatives to marriage available.

Keywords: Judicial Reasoning; Marriage Dispensation; Mafsadah; Maslahah; Religious Court

A. INTRODUCTION

Marriage is a legal and social institution with religious and humanitarian aspects as well. According to the Indonesian legal system, marriage has several aspects including creating legal bonds, rights and obligations between families and determining child's legal status (Purwanti & Natalis, 2026). Therefore, in regulating the marriage law, particular attention should be paid to avoid that child marriages occur. Based on the above, the regulation of the minimum age for marriage is an important legal instrument to guarantee that marriages are conducted in consideration of the physical, psychological, social and economic maturity of the persons entering into marriage.

The amendment to the minimum marriage age under Law Number 16 of 2019, in conjunction with Law Number 1 of 1974 concerning Marriage, constitutes a legal measure aimed at strengthening child protection. It provides that marriage is permitted only when both parties the man and the woman are at least 19 years old. The policy also removes the former distinction

between the minimum marriage ages for males and females. This reform seeks to prevent child marriage and enable children to exercise their rights, particularly to education, health, and optimal growth and development (Jaedin et al., 2026).

Nevertheless, the legislator still provides for exceptions through the dispensation of marriage mechanism as regulated in Article 7 paragraph (2) of Law Number 16 of 2019. This provision states that in cases of deviation from the age limit set out in paragraph (1), the parents of the male and/or female parties may request a dispensation from the court for very urgent reasons accompanied by sufficient supporting evidence. This demonstrates that marriage dispensation is a legally permissible exception mechanism, but its application must be based on justifiable grounds. Dispensation should not be understood as an administrative procedure to legalize underage marriage, but rather as a judicial authority that demands careful consideration of the child's specific circumstances (Mursyid & Yusuf, 2022).

Moreover, procedures for adjudicating marriage dispensation applications are governed by Supreme Court Regulation Number 5 of 2019, which sets out guidelines for handling such applications. Under this regulation, judges deciding marriage dispensation cases must look beyond formal requirements and assess the child's best interests, rights to growth and development, views, and protection from forced marriage (Wibowo et al., 2023).

This situation illustrates the dilemma of judicial reasoning of judges in weighing mafsadah and maslahah in marriage dispensation cases (Azinar et al., 2024), where dispensation is often considered as a way to prevent harm such as adultery, out-of-wedlock pregnancies, social pressure, or relationship uncertainty. This situation illustrates the dilemma of judicial reasoning of judges in weighing mafsadah and maslahah in marriage dispensation cases (Jaedin et al., 2026) where dispensation is often considered as a way to prevent harm such as adultery, out-of-wedlock pregnancies, social pressure, or relationship uncertainty. On the other hand, marriage at a young age also has the potential to cause harm in the form of disrupted education, reproductive health risks, psychological unpreparedness, economic dependence, and limited opportunities for the child's development. Therefore, the issue of marriage dispensation is not only related to the determination of whether or not there are urgent reasons, but also involves an assessment of the possible harms and benefits that might arise from granting or denying the dispensation (Adawiyah & Pudjirahayu, 2021).

In Islamic law, these are similar to the concepts of maslahah and mafsadah. Maslahah means the benefit to be achieved by a law. Mafsadah means the injury to be avoided. Both concepts play an important role in Islamic legal reasoning, as legal determinations involve not only conformity with normative provisions, but

also taking into account the effects on human life (Le Duc, 2026). The fiqh maxims dar'u al-mafāsid muqaddamun 'alā jalb al-maṣāliḥ and akhaffu al-ḍararain provide a foundation for prioritizing the prevention of harm and choosing the lesser of two harms. However, applying these maxims to marriage dispensation cases requires contextual assessment, as each legal choice may bear different consequences for the child (Nurcholis et al., 2025).

Difficulties emerge when maslahah and mafsadah inform judicial reasoning in the absence of a consistent adjudicative approach. In some instances, a judge may grant a dispensation to prevent greater harm. In others, rejecting the application may be preferable if marriage could create greater risks for the child's future. These examples demonstrate that maslahah and mafsadah do not invariably yield a single legal conclusion. Applying either concept requires interpretation, factual assessment, and argument to establish which harm or benefit matters, the degree of risk involved, and whose interests warrant priority (Zuhdi & Nasir, 2024).

Several earlier studies have examined the connection between maslahah, mafsadah, and judicial considerations in marriage dispensation cases. (Azni et al., 2025) analyzes marriage dispensation through the perspective of maqāṣid al-syarī'ah, and considerations of welfare and harm; (Setiawan et al., 2024) discusses the implementation of maslahah in judicial reasoning on determinations of marriage dispensation following revisions to the Marriage Law. Meanwhile, (Rohman et al., 2023) examines judges' interpretations of urgent reasons in marriage dispensation cases at the Wonosari Religious Court. Other studies by (Iswantoro & Tobroni, 2022) highlight the rationalization of Islamic legal considerations in the rejection of marriage dispensation, while (Nawawi et al., 2022) review the harmonization of Islamic law and human rights in judicial arguments for rejecting dispensation applications.

These studies make important contributions in explaining the use of benefit-based reasoning, interpretation of urgent reasons, and the protection of children's rights in marriage dispensation cases. Nevertheless, there remains scope for research to comparatively explain how judges construct legal reasoning when faced with conflict between maslahah and mafsadah. The issue is not simply whether judges apply fiqh maxims or refer to the best interests of the child in their reasoning, but how concrete facts are translated into legal grounds, how each risk is assessed, and how judges determine the weight between the harm of child marriage and the harm feared if marriage does not proceed. Studies that look only at one court or decision miss the variety of reasoning found in different judicial rulings.

Variations in judicial reasoning are important because judges assess specific facts of each case and apply legal principles to draw conclusions. Studies concentrating on a single court or decision tend not to illuminate the range

of reasoning in judicial decisions. However, in exercising this discretion, judges must uphold children's rights and provide legal certainty. Differences in reasoning do not necessarily indicate an error in a decision, since each case may have different characteristics. Nevertheless, these variations need to be analyzed to determine whether differences in rulings are truly based on differences in facts and risk levels, or instead reflect different ways judges understand and apply the concepts of maslahah and mafsadah (Purnomo et al., 2023).

The originality of this study lies in its comparative analysis of 26 court decisions post-2019 by integrating the concepts of maslahah, mafsadah, and variations in judicial reasoning. Unlike previous studies, which tended to examine judicial considerations or the application of maslahah separately, this study analyzes how judges identify, interpret, and weigh maslahah and mafsadah in constructing legal arguments. This research not only examines differences in the orders of the decisions, but also reveals patterns, consistency, and factors influencing variations in judicial reasoning in the determination of marriage dispensation in Indonesia.

Based on the above description, this research titled "Mafsadah, Maslahah, and Variations in Judicial Reasoning in Determinations of Marriage Dispensation Post-2019 in Indonesia" is important to explain how judges construct legal reasoning when facing the conflict between benefit (maslahah) and harm (mafsadah) in marriage dispensation cases. This study is expected not only to make a theoretical contribution to the development of Islamic legal reasoning, but also to provide practical input for strengthening the quality of judicial considerations in realizing the protection of the rights and interests of children.

B. RESEARCH METHODS

This research is normative juridical legal research using qualitative methods and a descriptive-analytical nature. The aim is to examine the regulation of marriage dispensation as well as judicial considerations in granting applications for marriage dispensation, particularly regarding the concepts of maslahah, mafsadah, and variations in judicial reasoning. The approaches used include statute approach, conceptual approach, case approach, and comparative approach.

Primary legal materials consist of 26 court decisions made by 16 Religious Courts from 2020 to 2024, statutory regulations, and Islamic legal sources on marriage dispensation. This study uses secondary legal materials which include books, journal articles and previous studies on the subject. These materials were located through an extensive literature search.

Qualitative analysis of legal materials was conducted to examine factual details of the cases including evidence, legal reasoning, maslahah and mafsadah, and the final judgment. Results of

the analysis are shown in Tables 1 to 6. Table 1 includes 26 determinations and summarizes the factual background and legal reasoning for each case. The remaining Tables, 2 to 6, include judicial considerations for requests to grant and refuse marriage dispensations. Each determination is analyzed by considering the particular facts of the case, the evidence, the legal reasoning, evaluation of maslahah and mafsadah and the final decision of the court. Each determination is then compared with others to determine whether the court reached a similar or different outcome based on the evaluation of the facts and legal reasoning. During this process, variations in judicial reasoning are also analyzed to determine what conditions can result in relatively similar facts being evaluated by courts in different ways. The 26 determinations form the basis of this study to assess the role of maslahah and mafsadah in judicial reasoning with respect to granting or refusing marriage dispensations in Indonesia.

C. RESULTS AND DISCUSSION

1. Recurring Reasons and Variations in Judicial Considerations

Post-2019 marriage dispensation determinations show diverse factual circumstances forming the basis for applications and judicial considerations. Although the applications fall within the same legal framework, differences in the background of the cases lead judges to face different issues in assessing whether the reasons are genuinely urgent. Concerns like zina, pregnancy outside marriage, premarital sexual relations, the readiness of prospective spouses, and the family's social and economic conditions often come up in marriage dispensation cases (Syufa'at, 2022). Despite these reasons, the judges do not always arrive at the same decisions. Understandable differences in judicial reasoning can be seen in the assessment of the need for urgency of marriage, risks to the child and the benefits and risks of each of the legal alternatives (Nasution et al., 2026).

These variations are the main focus of this research which compares 26 court rulings, both approvals and rejections of applications. For this comparison, the relationship between the reasons stated in the application, the facts thus established, the legal bases relied on and the judicial arguments have been examined. Table 1 shows the reasons for the 26 applications and the decisions taken thereon. Concern for the occurrence of zina is one of the reasons most frequently cited in cases of granting marriage dispensation. Meanwhile, pregnancy outside marriage is found more often in rulings that grant applications, although there are decisions that reject such requests. These data illustrate the characteristics of the cases within the study corpus. Further, differences in judicial reasoning for each circumstance are analyzed through deeper comparison of the decisions, as follows:

Table 1. Key Conditions and Outcomes

Main conditions	Total	Given	Rejected
Pregnancy or manifested reproductive consequences	9	8	1
Previous sexual intercourse without a predetermined pregnancy	3	2	1
Anticipated adultery and related relationships, family, or social problems	13	8	5
Other time-sensitive family situations	1	1	0
Total	26	19	7

Source: Compiled by the authors of the 26 decisions identified in Tables 2–6.
Note: These categories describe the main circumstances; a decision may contain additional facts considered in legal reasoning.

The legal significance of the circumstances summarized in Table 1 is more evident through a comparison based on the determination. Tables 2–6 identify all 26 decisions and summarize the judge's key considerations in granting or rejecting the application. In the follow-up analysis, the anticipated categories of adultery and concerns related to relationships, family, and social conditions in Table 1 are outlined into two aspects, namely anticipated religious or social harm (Table 4) and relationship continuity, readiness, and sufficiency of evidence (Table 5). The discussion begins with the pregnancy and the reproductive consequences that have occurred because these circumstances provide a more concrete factual basis for the judge to assess the urgency of the marriage and the risks faced by the child.

The legal significance of the circumstances summarized in Table 1 becomes clearer when compared based on the outcomes. Tables 2–6 identify all 26 rulings and summarize the main judicial considerations in granting or rejecting applications. In subsequent analysis, the anticipated zina category and concerns related to relationships, families, and social conditions in Table 1 are broken down into two aspects: anticipated religious or social harm (Table 4) as well as relationship continuity, readiness, and sufficiency of evidence (Table 5). The discussion begins with pregnancy and reproductive consequences that have occurred, as these circumstances provide more concrete factual grounds for judges to assess the urgency of marriage and risks faced by the child.

Table 2. Pregnancy and actual reproductive consequences

Results	Decision number	Key judicial considerations
given (n = 8)	62/Pdt.P/2020/PA. Prw; 98/Pdt.P/2022/PA. SMG; 134/Pdt.P/2022/PA. Kds; 148/Pdt.P/2022/PA. Mj; 200/Pdt.P/2022/PA. Mj; 96/Pdt.P/2023/PA. PNJ; 207/Pdt.P/2023/PA. Sr; 44/Pdt.P/2024/PA.Btg.	Pregnancy or reproductive consequences that have occurred are factual circumstances that encourage the urgency of applying for a marriage dispensation. The judge's consideration in granting the application is based on several reasons, including the protection of the mother and child, anticipation of social impacts, and efforts to prevent mafsadah. Article 53 of the Compilation of Islamic Law (KHI) is also used as a legal basis that allows the marriage of a pregnant woman with the man who impregnates her. In some determinations, the urgency is strengthened by the results of professional assessments, economic ability, and other evidence that shows the readiness of the prospective bride. However, the existence of pregnancy does not always lead to an abortion, because the judge still assesses the facts and other considerations in each case.
rejected (n = 1)	351/Pdt.P/2023/PA.Btg.	Pregnancy has been proven in the case, but the judge considers the psychological unpreparedness of the bride-to-be and the inadequacy of their ability to carry out household responsibilities. This condition is considered to have a greater risk so that the reason for pregnancy is not enough to justify granting a marriage dispensation.

Source: Compiled by the authors from the determinations analyzed.

These various determinations show that pregnancy is one of the important factual circumstances in judicial consideration, but it does not always determine the outcome of the application (Kasim & Daud, 2022). Considerations regarding health conditions have also not been applied evenly, so assessment of evidence and the progress of pregnancy must be paid attention to in each case (Fan & Koski, 2022). Similar patterns of reasoning are found in cases involving premarital sexual relations without pregnancy. In such circumstances, judges cannot rely solely on the existence of a sexual relationship, but also need to assess its relevance to the urgency of marriage, the preparedness of the prospective spouses, and potential consequences. The comparative analysis of these considerations is presented in Table 3, as follows:

Table 3. Previous Sexual Relations without a Formed Pregnancy

Result	Decision number	Key judicial considerations
given (n = 2)	258/Pdt.P/2023/PA. Po; 259/Pdt.P/2023/PA. Po.	Sexual relations that are carried out repeatedly are one of the judges' considerations, especially when accompanied by the willingness of the two brides-to-be to get married and an assessment that shows their readiness. Although in one of the cases the postponement of marriage was considered, the judge ultimately considered that the sexual behavior carried out consciously and the readiness that had been assessed was sufficient to support the granting of the marriage dispensation.
rejected (n = 1)	301/Pdt.P/2023/PA.Bjn.	The occurrence of sexual relations is not necessarily a basis for concluding that the bride-to-be is ready to marry. The judge still assesses their physical and mental readiness as well as their ability to carry out responsibilities in the household. This consideration shows that sexual behavior before marriage cannot be equated with readiness to form family life.

Source: Compiled by the authors from the determinations analyzed.

The difference in these considerations lies in how judges relate the circumstances that have occurred to the proposed resolution. The history of sexual relations may be used to support the reasons for granting a dispensation, while findings regarding the prospective spouses' lack of readiness may serve as grounds for postponing the marriage. Considerations become more complex when the grounds for the petition are based on risks that have not yet materialized. In the decisions grouped in Table 4, judges assess whether concerns about the occurrence of zina and the possible religious and social impacts can constitute reasons to grant marriage before the prospective spouses reach the statutory minimum age, as follows:

Table 4. Anticipated Adultery and Related Religious or Social Dangers

Result	Decision number	Key judicial considerations
given (n = 6)	0034/Pdt.P/2020/PA. Kr; 266/Pdt.P/2020/PA. Pwr; 17/Pdt.P/2023/PA. Mna; 101/Pdt.P/2023/PA. Pwr; 203/Pdt.P/2023/PA. SJJ; 154/Pdt.P/2024/PA.Prob.	Concerns about the occurrence of adultery, violations of religious norms, and social impacts are part of the judge's assessment of the relationship condition of the prospective bride. In some determinations, these considerations are strengthened by family support, willingness of the bride-to-be, economic ability, and readiness to live a married life. The use of the principle of prevention of mafsadah is also a normative basis for judges to consider marriage as an effort to avoid harm. However, these considerations still need to be associated with the concrete conditions and readiness of the prospective bride.
rejected (n = 2)	0078/Pdt.P/2021/PA. Kr; 499/Pdt.P/2022/PA.Lbt.	Concern about the occurrence of adultery or the parents' desire to immediately marry a child does not necessarily prove that marriage is the most appropriate choice to avoid harm. The judge also considers the risk to the development of the child, the limited ability of the prospective bride, the existence of alternatives to marriage, and the child's desire to continue education. In these conditions, the assessment of the capacity of the prospective bride and groom and the comparison of the risks of each option can be the basis for rejecting the application for marriage dispensation. This reasoning is in line with the considerations of Islamic law that prioritize the prevention of harm based on concrete conditions.

Source: Compiled by the authors from the determinations analyzed.

Differences in case outcomes indicate variation in judicial interpretation of the “very urgent reason” criterion as discussed by (Nasution et al., 2026). This finding is also in line with the view of (Ilhami et al., 2023) that concern about a risk still requires judicial assessment and interpretation. The strength of such reasons depends on the extent to which the anticipated risks can be proven and how the judge weighs them against the risks that may arise from marriage at a young age. The discussion then shifts to the continuity of relationships, the readiness of the prospective spouses, and the adequacy of the evidence used to support the granting of marriage dispensation, as summarized in Table 5, as follows:

Table 5. Continuity of Relationships, Readiness, and Sufficiency of Evidence

Result	Decision number	Key judicial considerations
given (n = 2)	683/Pdt.P/2022/PA. Lbt; 512/Pdt.P/2023/PA.Bjn.	The judge's assessment of the readiness and maturity of the prospective bride and groom is one of the bases for granting marriage dispensation. The sustainability of the relationship, the willingness to marry, and the consideration that the delay has the potential to cause greater losses also strengthen the reason for granting the application.
rejected (n = 3)	234/Pdt.P/2023/PA. Po; 240/Pdt.P/2023/PA. Po; 385/Pdt.P/2024/PA.Gs.	Willingness to marry, length of relationship, and age close to the minimum marriage threshold do not necessarily prove the existence of urgency or readiness of the bride-to-be. Rejection of the application is based on various considerations, such as insufficient evidence of urgency, unfinished education, unclear household responsibilities, and counseling results that indicate limited knowledge about reproductive health, family planning, and problem-solving.

Source: Compiled by the authors from the determinations analyzed.

These various rulings demonstrate that the desire to marry must be distinguished from readiness, which must be supported by evidence. Readiness assessment can strengthen the argument for granting dispensation but can also serve as grounds for rejection if certain deficiencies are found. Next, Table 6 examines urgent family circumstances, particularly serious illnesses experienced by family members, considered alongside the continuity of the relationship and professional assessments of the prospective spouses' readiness, as follows:

Table 6. Time-Sensitive Family Circumstances

Result	Decision number	Key judicial considerations
given (n = 1)	380/Pdt.P/2024/PA.Gs.	The critical health condition of the father-to-be husband is one of the factors that encourage the application for a marriage dispensation. This situation is assessed together with the relationship of the prospective groom that has been established and the results of counseling that show physical and mental readiness. The granting of the application is based on the relationship between the urgent family condition and the readiness of the prospective bride to undergo marriage.
rejected (n = 0)	None in the corpus were analyzed.	There are no rejections available for comparison in this group.

Source: Compiled by the authors from the determinations analyzed.

Note for Tables 2–6: Each judicial decision is presented only once. The summary outlines the key considerations identified in each category and does not imply that all decisions depend on each of the reasons listed. Factors such as individual readiness, economic capacity, family support, and comparative assessment of losses may also appear in different categories.

Overall, comparison of 26 decisions shows that judicial considerations determine how each factual circumstance is evaluated in granting marriage dispensation. From the perspective of mafsadah–maslahah, pregnancy, sexual relations, relationship continuity, and family conditions can produce different assessments of the risks and benefits of marriage. The granting of dispensation is based not only on the circumstances underlying the petition but also on the readiness and capability of the prospective spouses to carry out married life. Conversely, refusal may be based on risks to education, child development, and other interests. These differences highlight the importance of analyzing how the post-2019 legal framework is applied by judges and how each fact and consideration is weighted in determining the outcome (Martinelli et al., 2023).

2. Post-2019 Framework: Visibility without Defined Weight

The enactment of Law Number 16 of 2019 sets the minimum marriage age for both males and females at 19 years. Marriage dispensation is positioned as an exception to this age limit, not as an alternative route for conducting underage marriages. Article 7 paragraph (2) requires the existence of a very urgent reason accompanied by sufficient supporting evidence. Furthermore, PERMA Number 5 of 2019 provides judges with guidance for examining petitions, taking into account the voluntariness of the prospective spouses, the possibility of coercion, education, health, psychological, social, and economic conditions, parental responsibility, as well as the risk of domestic violence. This regulation expands the aspects that must be examined by judges and places child protection as an important part of the determination process. This is consistent with (Nabilah et al., 2025) and (Fadhli et al., 2024) who emphasize the importance of the child's best interests in marriage dispensation proceedings.

Although these aspects have become part of the examination, the regulations have yet to stipulate the weight of each factor in determining the outcome of the petition. Analysis of 26 decisions shows that the age of the prospective spouses does not always directly determine the result. Prospective spouses approaching 19 may still be deemed unready for marriage, while younger prospective spouses may be granted a dispensation if the judge finds the urgent reason and their readiness supported by evidence. Similarly, evidence serves distinct functions in forming judicial considerations. Pregnancy test results prove reproductive status, counseling provides an overview of the knowledge and preparedness of prospective spouses, while witness testimony can describe the history of the relationship and voluntariness. All this evidence is used not only to ascertain factual circumstances but also to assess the urgency of the marriage, the capacity of the prospective spouses, and the risks that might arise if the marriage is conducted or postponed.

Since 2019, the legal framework has broadened what judges can consider, but it still

does not clearly explain how to weigh each factor (Kohno et al., 2020). (Nasution et al., 2026) point out that there are still ambiguities in how very urgent reasons are interpreted. Meanwhile, (Hadiati & Ramadhan, 2022) note that judges now play a bigger role in interpreting the law after the marriage age limits changed. Findings from 26 decisions show that judges examine a relatively similar set of aspects but assign different legal valuations and weight to revealed facts. These differences demonstrate that judicial discretion is fundamental in determining the relationship among facts, evidence, urgent reasons, and child protection. Therefore, the main issue in the post-2019 framework lies not in the absence of aspects to be examined, but in the lack of more measurable guidelines for evaluating and weighting these aspects in legal considerations. This underscores the need for the strengthening of structured judicial reasoning while maintaining judicial authority in deciding marriage dispensation petitions. This is the basis for the need to strengthen structured judicial reasoning while maintaining the authority of judges in deciding marriage dispensation applications.

3. "Very urgent reasons": urgency does not always mean urgent marriage

Pregnancy changes the nature of the issue because reproductive consequences have already occurred, raising questions related to health, parenting, family recognition, and social response. In a number of decisions approving the petition, judges assessed that delaying the marriage could lead to further harm. However, pregnancy is not always a sufficient reason to grant dispensation. The Batang Religious Court Decision Number 351/Pdt.P/2023/PA.Btg shows that judges still considered whether the prospective bride and groom were ready.

Therefore, the risks of pregnancy should be considered alongside the potential harm that could result if the couple is not ready for marriage. The same kind of thinking applies to cases involving premarital sexual relations. In a decision by the Ponorogo Religious Court, repeated sexual activity and the likelihood of the relationship continuing were grounds for granting dispensation. However, Decision Number 301/Pdt.P/2023/PA.Bjn of the Bojonegoro Religious Court shows that prior sexual behaviour does not necessarily indicate readiness for marriage. Judges continue to distinguish between past actions and a couple's ability to take on family responsibilities. Therefore, sexual and moral concerns do not automatically justify immediate marriage. The situation becomes more complicated when the petition is based on fear of possible zina. In Probolinggo Religious Court Decision Number 154/Pdt.P/2024/PA.Prob, for example, the court approved the petition despite there being no sexual activity or pregnancy.

The judges took into account the couple's long relationship, their engagement, the support of their families, their jobs, and concerns about zina and shame. However, the Krui Religious Court Decision Number 0078/Pdt.P/2021/PA.Kr and the Limboto Decision Number 499/Pdt.P/2022/PA.Lbt show that these concerns

do not necessarily justify the approval of the petition. Dispensation may be refused if the child is very young, is involved in positive activities, wants to continue studying, or is not ready for domestic life. These rejections suggest that delaying marriage can help to protect children. It is important to consider opportunities for education, personal growth, and preparing for family life.

From a maṣlaḥah–mafsadah perspective, delaying marriage can protect a child's development, whereas early marriage can be harmful if the couple is not ready. These findings should be considered alongside earlier studies investigating the impact of child marriage on education, livelihood and family welfare. Hossain et al. (2026) identified a correlation between child marriage and intimate partner violence across 34 countries, though the extent of this impact varies depending on the context. Ludfi (2024) also highlights that health research on this topic may be subject to bias and other limitations.

These findings underscore the need to assess the risks of child marriage carefully, rather than presuming that population-level statistics apply to every individual case. Variations in decision-making align with the findings of (Arpandi & Rifan, 2026) regarding marriage's social significance as a response to adolescent sexuality. Likewise, (Nawawi et al., 2022) found that Islamic legal arguments may support refusing a dispensation. The central issue is not merely whether circumstances are urgent, but whether marriage constitutes an appropriate solution.

From the mafsadah–maslahah perspective, facing a single risk does not justify marriage, particularly when it could cause further harm. The Gresik Religious Court Decision Number 380/Pdt.P/2024/PA.Gs also considered urgency. In this instance, although the prospective groom's father was ill, the judge also considered the couple's relationship and counselling outcomes to determine their readiness. Family situations are not the only reason for granting dispensation; the readiness of the couple matters too. Across 26 decisions, emergencies do not always mean that marriage should happen immediately. Granting dispensation requires careful consideration of the couple's readiness, the evidence, and a comparison of the risks and benefits of marriage versus waiting.

4. Islamic legal authorities: Evidence, Permissibility, Capacity, Purpose, and Disadvantages

Islamic law plays a variety of doctrinal roles in judicial decisions. Referring to Quranic verses, hadith, fiqh or Islamic legal norms does not necessarily indicate that the court supports granting a marriage dispensation, even if these sources are cited in decisions that approve a petition. For instance, Penajam Religious Court Decision Number 96/Pdt.P/2023/PA.Pnj saw the judge refer to various legal sources, such as hCG urine test results, psychological evidence, statutory law, the Compilation of Islamic Law (KHI), Quranic verses, hadith, fiqh and Islamic legal principles.

It is important to separate whether marriage is allowed from whether it needs to happen right away. Islamic family law may provide the foundation for permitting marriage, but granting dispensation requires further consideration of the appropriateness of marriage at a child's age (Irfan et al., 2026). criticizes the use of conservative Islamic arguments that risk legitimizing marriage dispensation. Meanwhile, (Aslati et al., 2024) warn of pseudo-maslahah, namely, using the prevention of zina as justification without adequate examination of the child's psychological, biological, and economic conditions. Findings from 26 decisions show that the authority of Islamic law is used not only to justify marriage but also to assess readiness and limit dispensation.

The capacity of the bride-to-be shows the difference in this function, where the hadith al-bā'ah and QS. al-Nur verses 32–33 relate the encouragement to get married with the readiness to take responsibility and advocate self-control if they are not able to. In practice, the application of this Islamic legal authority depends on the judge's assessment of the facts of the case: PA Limboto (No. 499/Pdt.P/2022/PA. Lbt) rejected the application due to the limited capacity of the prospective bride, while PA Bojonegoro (No. 512/Pdt.P/2023/PA. Bjn) granted it to prevent harm after assessing that they were ready.

When evaluating a request for dispensation, purpose of marriage is taken into account. Verse 21 of Surah al-Rum, along with related rules of family maintenance, household duties and welfare, help decide on the likelihood of achieving purpose of marriage. Registering a marriage however, does not guarantee a stable and genuine marital relationship. Realization of these goals is contingent upon the couple's performance of their rights and duties in marital and family life.

All these functions relate to assessment of mafsadah and maslahah. Rule of maslahah does not, however, dictate approval or rejection of a petition. Judges must evaluate and assess the outcome of each. Risks of ongoing sexual relations, pregnancy, and family conflict may be considerations supporting marriage. Conversely, disruption of education, risks to reproductive health, psychological unpreparedness, economic vulnerability, and household conflict may be reasons to postpone marriage.

The findings in this study show that Islamic legal authorities not only function to legitimize marriage, but also serve as the basis for evidence assessment, capacity testing, and restrictions on dispensation. The analysis is also in line with the framework of maqāṣid al-syarī'ah which emphasizes the protection of fundamental human interests (Taufiqurohman & Fauziah, 2023) Therefore, the application of Islamic law in the case of marriage dispensation must consider the balance between the purpose of protection, the expected benefits, and the risks that may arise for the child (Febrianty et al., 2020).

5. Readiness as a Judicial Construction and Evidence

Readiness encompasses both the personal desire to marry and the evidence to support the realization of maslahah. More often than not, both the prospective spouse and the applicant express a wish to marry, and an understanding of the implications and responsibilities of marriage (Rahman et al., 2026). Expressing this desire, however, does not indicate readiness. In Gresik Religious Court Case No. 385/Pdt.P/2024/PA.Gs, though the applicant had expressed his desire to marry, and the prospective husband had expressed his readiness to marry, results of a structured counseling session revealed limited understanding of reproductive health and family planning, and inability to adequately address common marital problems. Hence the court rejected the petition.

These findings are consistent with the results of psychological research (Irfan et al., 2026), which indicates that people's perceptions of their readiness to marry can differ from the outcomes of objective evaluations. Julianto et al. (2025) also found a significant positive correlation between emotional maturity and readiness to marry among applicants for a marriage dispensation. From a legal perspective, however, these findings do not mean that the outcome of proceedings should be determined automatically by psychological assessments. However, a prospective spouse's willingness to marry and their proximity to the minimum marriageable age cannot replace a substantive examination of their developmental capacity and emotional maturity.

Readiness assessments examine various aspects of an individual's education, employment and income, as well as their plans for starting a family. What each of these indicators mean may vary based on the situation of the two spouses to be. Employment doesn't always mean a prospective spouse will be capable of providing for the family's needs in the long term. Professional assessment can also be used to gauge different aspects of readiness. (Zahro, 2026) describes how Religious Courts and health institutions work together, such as by using letters from health service institutions to help judges make decisions.In the analyzed decisions, psychological reports and counseling results function to test statements of readiness by applicants, not merely to reinforce those claims. The decisions of the Penajam Religious Court Number 96/Pdt.P/2023/PA.Pnj and Sragen Religious Court Number 207/Pdt.P/2023/PA.Sr show the use of professional assessment as a complement to evidence of reproductive health and family conditions in the granting of dispensations. Conversely, the Gresik Religious Court Decision Number 385/Pdt.P/2024/PA.Gs shows that the results of professional assessments can reveal inconsistencies between statements of readiness and the actual capacity of the prospective spouses.

Therefore readiness must be determined by the assessment of a judge with respect to several types of evidence and not by a single

factor. This is also one of the assessments to determine the expected maslahah of a marriage. The beneficial effect of a marriage is primarily based on the potential of the prospective spouses to discharge the roles and responsibilities of a household caregiver and protector. If a couple's combined potential to fulfill these roles is not sufficiently proven, the marriage could potentially cause increased mafsadah (Khumairoh et al., 2026). Judicial variation is seen when cases with similar factual circumstances yield different decisions. At the Batang Religious Court, for example, Decision Number 44/Pdt.P/2024/PA.Btg granted the marriage dispensation petition due to pregnancy accompanied by the readiness of the prospective spouses and family support. Conversely, Decision Number 351/Pdt.P/2023/PA.Btg rejected the petition because the applicant was very young and psychological readiness and ability to run a household were not adequate. This difference shows that pregnancy by itself does not guarantee approval. It should be considered together with the situation and abilities of the people who want to get married.

A similar pattern was found in cases involving premarital sexual relations. The Decisions of the Ponorogo Religious Court Numbers 258/Pdt.P/2023/PA.Po and Decision 259/Pdt.P/2023/PA.Po approved a petition because of repeated sexual relations. In contrast, the Bojonegoro Religious Court (301/Pdt.P/2023/PA.Bjn) and cases from Krui and Limboto show that a child's lack of physical and psychological readiness, the availability of safer options, or simply fear of zina and long relationships can be reasons for denial. This is consistent with (Jaedin et al., 2026), who states that urgent reasons must be supported by facts proven in court, not just the applicant's statements.

6. Comparable Circumstances, Different Decisions

Judicial divergence arises when cases presenting similar facts receive different rulings. For example, in the Batang Religious Court, Decision Number 44/Pdt.P/2024/PA. Btg granted a marriage dispensation because the pregnancy was accompanied by the bride's readiness and family support, whereas Decision Number 351/Pdt.P/2023/PA. Btg denied the request on the grounds that she was too young and psychologically and domestically unprepared. This demonstrates that pregnancy does not automatically warrant a dispensation; the prospective bride's circumstances and capacity must also be considered.

A similar pattern was found in cases of sexual relations before marriage. Decisions of the Ponorogo Religious Court Number 258/Pdt.P/2023/PA. Po and. 259/Pdt.P/2023/PA. Po granted the application by considering repeated sexual relations. In contrast, the Bojonegoro Religious Court Decision Number 301/Pdt.P/2023/PA. Bjn rejected the application due to the physical and psychological unpreparedness of the child. Similarly, the cases in the Krui and Limboto Religious Courts show

that concerns about adultery and the length of the relationship do not automatically prove the urgency of the marriage. The child's readiness and the availability of more protective alternatives can form the basis for rejection. This is in line with (Fadhli et al., 2024) that the urgent reason must be proven through the facts of the trial, not only based on the applicant's claims

Variations are also seen in two decisions of the Gresik Religious Court that used professional assessments, but produced different decisions. Decision Number 380/Pdt.P/2024/PA. Gs approved the application because of an urgent family crisis and counseling results that showed the applicant was psychologically ready. On the other hand, Decision Number 385/Pdt.P/2024/PA. Gs rejected the application because the assessment found the unpreparedness of the bride and groom and there was no sufficiently proven emergency. Thus, the use of similar assessment procedures does not always result in the same legal conclusions.

The comparison shows that the variation in the verdict is formed through the judge's assessment of the facts, evidence, legal basis, level of emergency, readiness of the bride-to-be, the risk of marriage and its delay, and the available protection alternatives. The legal framework determines the aspects that must be examined, while the judge assesses the weight and relevance of each aspect based on the concrete conditions of the case. Therefore, differences in decisions can be justified as long as the considerations in the ratio decidendi are prepared in a rational, transparent, and accountable manner by prioritizing child protection (Sulaiman et al., 2026).

7. How Judges Shape the Legal Meaning of the Marital Age Exception

This study offers a framework to understand differences in marriage dispensation judgments through the relationship between case facts, proof, and judges' legal reasoning. Based on analysis of 26 decisions, readiness of the prospective spouses cannot be assessed solely from statements of willingness to marry, but must be tested through evidence of their capacity to run family life. At the same time, the mafsadah–maslahah perspective helps judges compare the risks of immediate marriage with those of postponement. The interplay of these aspects shapes the concept of structured judicial discretion, that is, the exercise of judicial authority based on fact examination, assessment of evidence, and rational normative consideration.

This framework is relevant to the pluralistic legal character of Indonesia. (Suhaili, 2025) and (Barkah et al., 2025) show that legal practice occurs through interaction between state law, religious norms, and social values. (Dewi et al., 2024), through their study on family law reform in Morocco, also demonstrate that different normative orientations may exist within a single legal framework. The studies of (Jaedin et al., 2026) further show that the application of family law is inseparable from the relationship between norms, social practice, and protection objectives. This study complements those by placing judicial

reasoning in marriage dispensation cases as its central analysis (Ni'ami et al., 2025).

In the post-2019 context, judges face two groups of risks that must be weighed. On one hand, postponing marriage may be associated with concerns about zina, pregnancy, and family issues. On the other, child marriage can carry risks to education, reproductive health, psychological wellbeing, and economic sustainability. Both options may also entail claims of maslahah that must be examined according to case facts. Therefore, determining the outcome cannot be based solely on a single circumstance or normative reason, but requires assessment of all consequences. These findings affirm that the post-2019 legal framework has broadened the aspects to be examined, but has yet to provide a standard measure for the weight of each consideration (Hayati et al., 2023).

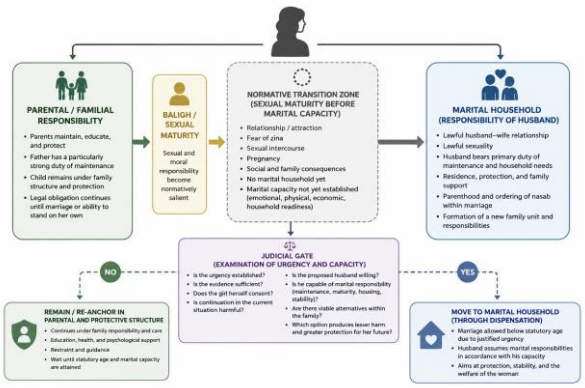
8. Indonesian Legal and Normative Architecture

Challenges in the examination of marriage dispensation requests arise due to differences between the concept of maturity in Islamic law, the age limit for children according to statutory regulations, the minimum marriage age of 19 years, and the judge's assessment of readiness to marry (Muhyidin & Setyawan, 2025). Each of these is based on different foundations and serves different purposes. Sexual maturity does not automatically indicate emotional, physical, or economic readiness, nor the ability to manage household life.

Marriage has a wide range of legal and social functions ranging from family formation, maintenance, to legal protection. Therefore, out-of-wedlock pregnancy raises complex issues related to reproductive halth, parenting, family status, and child protection as regulated in the Marriage Law, the Compilation of Islamic Law (President of the Republic of Indonesia, 1991), the Child Protection Law, and the Constitutional Court Decision Number 46/PUU-VIII/2010.

As shown in Figure 1, the judge's examination is a decisive stage that is not enough to consider sexual maturity or social pressure, but also to test the urgency, sufficiency of evidence, readiness of the bride-to-be, other alternatives, and risk comparisons to ensure that early marriage is the best option for child protection.

Figure 1. Family Responsibilities, Transition Risks, and Judicial Review in Marriage Dispensation



Source: Compiled by the authors based on analyzed decisions and legal frameworks

The mafsadah–maslahah perspective demands comparison between the risks and benefits of protection provided by immediate marriage versus postponement. Dispensation can be justified if the prospective bride and groom are prepared to establish a household and fulfill

marital responsibilities. Conversely, postponement may offer better protection for the child if educational continuity, capacity development, health, and family protection are prioritized. Prevention of mafsadah and realization of maslahah are two interrelated considerations, but each serves a different evaluative function. Denial of the request can also constitute affirmative protection for the child. In this study, postponement is understood as non-performance of the marriage through denial of the dispensation request currently under review. The analysis is based on the written considerations in decisions and is not intended to conclude whether these protective benefits are actually realized after the decision is rendered.

9. Comparative Reflection: Different Legal Systems Bundle Problems Differently

Variations in marriage regulations in different countries illustrate differences in setting minimum age limits, permitting exceptions to child marriages and offering legal protection to children. In Sabah, Article 8 of the 2004 Islamic Family Law sets 18 and 16 as the minimum ages for men and women respectively, to get married. Marriage below these ages is still possible through written permission from a Syar'ie Judge (State of Sabah, 2004). Meanwhile, Articles 79–81 and 84 of the 1995 Syariah Criminal Offences Act regulate out-of-wedlock pregnancy or birth, illicit sexual relations, acts leading to zina, and khalwat (State of Sabah, 1995). These provisions show that marriage authorization and sexual conduct regulation are placed within a single framework of state Islamic law (Arthamahendra et al., 2026).

The Philippines has taken a firm approach through Republic Act No. 11596, which states that child marriage is void ab initio, criminalizes those who facilitate such marriages (Articles 4 & 6), and regulates alimony, property, and custody after annulment (Republic of the Philippines, 2021). Strengthened by Republic Act No. 11648 regarding protection from sexual exploitation and abuse (Republic of the Philippines, 2022), this legal framework affirms that sexual or family issues are not grounds for legitimizing child marriage (Utami & Hidayah, 2024).

A comparison of regulations in Sabah and the Philippines shows the existence of two different legal constructions. Sabah provides an age exception through judicial review by Shar'ie judges, while the Philippines implements an absolute ban accompanied by criminal sanctions. These findings suggest that Indonesia needs to evaluate the possibility of integrating a strict judicial review mechanism, as in Sabah, with the Philippine principle that background factors cannot be used as an automatic justification for child marriage.

Assessments of pregnancy, premarital relationships, or family problems in Indonesia should not automatically be the basis for the urgency of marriage. The main considerations should be focused on the readiness of the bride-to-be, comparative risk analysis, and the availability of alternative protections. Using the mafsadah–maslahah approach, the legal

reconstruction of marriage dispensation needs to clarify the standards of assessment and proof, so that dispensation can only be granted if it is proven to be the most accountable step for child protection.

10. Implications of Reformasi: Making Mafsadah and Maslahah Provable

Legal issues related to marriage dispensation related to factual conditions can be a reason to approve or reject an application, while still prioritizing child protection. PERMA Number 5 of 2019 stipulates that judges must provide advice on marital risks (Article 12), examine consent, readiness, and the possibility of coercion (Article 14), and consider the best interests of the child, recommendations from professionals, and the commitment of parents in carrying out their responsibilities (Article 16). However, research shows that there is a need to strengthen the relationship between these aspects in written legal considerations, including evaluation of existing protection alternatives (Supreme Court of the Republic of Indonesia, 2019).

First, a comparison of the Batang PA decision shows the need to distinguish the urgent situation from the need to get married immediately: Decision Number 44/Pdt.P/2024/PA. Btg granted the application because the pregnancy was accompanied by the readiness of the bride-to-be, while Decision Number 351/Pdt.P/2023/PA. Btg rejected it due to their unpreparedness. Therefore, the judge is obliged to identify the urgent loss along with its evidence, compare the risk of the marriage and its delay, and explain the affected parties and the reasons for choosing the best course for child protection.

Second, a comparison of decisions from the Gresik Religious Court illustrates the importance of correlating claimed marriage benefits with evidence of the prospective spouses' readiness. Decision Number 380/Pdt.P/2024/PA. Gs granted the application by considering the results of counseling that showed psychological maturity and the existence of urgent family circumstances. On the other hand, Decision Number 385/Pdt.P/2024/PA. Gs rejected the application because the results of the counseling indicated the unpreparedness of the bride-to-be and an adequate emergency was not found. Second, the judge needs to elaborate on the findings of experts that support or weaken the claim of readiness and its impact on the results of the examination. This affirmation clarifies the application of Article 14 and Article 16 of PERMA Number 5 of 2019 and answers the criticism of Azni et al. (2025) regarding maslahah claims that are not supported by adequate assessment.

Third, rulings from the Krui and Limboto Religious Courts show that alternatives to marriage and continuing education may be considered protective measures. Ruling Number 0078/Pdt.P/2021/PA.Kru considered self-control and positive activities, while Ruling Number 499/Pdt.P/2022/PA.Lbt emphasized the importance of further education and the prospective spouses' unpreparedness to fulfill household responsibilities. Therefore, judges need to take into account the available

alternatives, assess the feasibility of those alternatives, and explain the role those alternatives might play in protecting the child. Alternative service delivery mechanisms should be established to facilitate children and their families in locating education, health, psychosocial, and other types of support services within the community. This document outlines a proposal for institutional strengthening, based on research, rather than a critique of existing services.

Several studies on child protection provide a basis for reinforcing such support. According to Safira et al., legal, social, and educational protections for children experiencing sexual violence are discussed (Safira et al., 2021), while El Amin et al. identify oversight and reporting obstacles in religious educational institutions (El Amin et al., 2023). Ramadhani et al., highlight recovery and community participation in handling children in conflict with the law (Nawawi et al., 2022). Meanwhile, (Hale et al., 2026) The importance of collaboration between child protection agencies, violence handling services, and legal institutions in building integrated protection responses.. Although these studies discuss different legal contexts, their findings are relevant for underscoring the importance of the availability of support services and interinstitutional coordination for child protection.

Continuation of education requires family and institutional support so that the child's right to education is not confined to normative recognition. Nurdin et al. examine the role of Islamic educational institutions, particularly pesantren and madrasah, in preventing child marriage through teaching fiqh munakahat, socializing the principles of maqāṣid al-syarī'ah, and strengthening the role of teachers and kyai as agents of change. These results show that Islamic educational institutions can aid in raising awareness on risks of child marriage and strengthen initiatives to end child marriage (Nurdin et al., 2025). Concerning postponing marriage, educational institutions can assist young people to postpone marriage by providing them with adequate knowledge and information. This approach enables children to continue their studies and ensures they receive adequate protection.

Overall, strengthening judicial reasoning must be directed toward linking proven facts, the degree of emergency, prospective spouses' readiness, mafsadah–maslahah comparison, and available protection alternatives. Discretion is always left to judges to assess the weight to give to each consideration in light of the particular facts of the case. There must, however, be adequate legal reasoning to justify denials and grants of petitions so that reasons may be readily understood. This change thus reinforces judicial discretion, and facilitates the development of more structured and transparent legal reasoning with a view to enhancing child protection.

D. CONCLUSION

Analysis of 26 marriage dispensation rulings indicates that social conditions attain legal significance through judicial assessment of evidence, urgency, the readiness and capacity of prospective spouses, alternatives, and the child protection interest. Pregnancy, premarital sexual relations, concerns about zina, the willingness of prospective spouses, and family support do not automatically determine petition outcomes. The legal consequences depend on how judges connect these facts with the necessity to proceed with marriage. The post-2019 legal framework stipulates the aspects to be examined, but the weight assigned to each consideration is still determined by judicial assessment of the specific circumstances.

The conceptual contribution of this study is to demonstrate structured judicial discretion with respect to evaluation of readiness and comparison of mafsadah and maslahah. Evaluating readiness to marry is determined by evidence as to the potential spouses' ability to maintain a marital relationship. Regarding determining capacity and the purpose of marriage and justifying comparison of possible alternative mafsadah and maslahah, traditional methods of legal interpretation in the scholarly tradition are applicable. Postponement of marriage is justified from the perspective of maslahah if it serves the best interests of the child to continue education and fulfill health needs and develop family and child protection. Therefore, evidence still warrants further examination to establish that immediate marriage is in the best interests of the child.

The improvement suggested is to clarify the relationship between facts, evidence and basis of considerations in judicial decisions. When making such decisions, judges have to identify evidence that demonstrates urgency and readiness of the intended spouses to marry, assess the risks and benefits of getting married versus not getting married, and examine the potential child protective alternatives. Interinstitutional referral and collaboration will facilitate the utilization of protective alternatives of psychological and health care, as well as education. The conclusions of the study are based on an analysis of 26 purposely selected judgements. Therefore, it does not assess whether the protection granted by the court to the spouses was actually implemented after the judgement was issued.

REFERENCES

JOURNALS

Adawiyah, R., & Pudjirahayu, E. W. (2021). Policy of Limitation of Marriage Minimum Age on Marriage Law Revision Based on Sociological and Anthropological Approaches. *Diponegoro Law Review*, *6*(1),123–138. https://doi.org/10.14710/dilrev.6.1.2021.123-138

Arpandi, M., & Rifan, M. (2026). Implementasi Perlindungan Hukum Hak Anak dalam Pemenuhan Hak Pendidikan di Indonesia:

Analisis Yuridis Normatif. *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum*, *10*(1), 75–89.https://doi.org/10.52266/sangaji.v10i1.6946

Arthamahendra, I. G. A. D., Adnyani, N. K. S., & Dantes, K. F. (2026). Dispensasi Kawin Anak di Indonesia dan Kebenaran Berkahwin Bawah Umur di Malaysia: Studi Perbandingan Dasar Hukum, Syarat, dan Prosedur. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*,*4*(4),2193–2210. https://doi.org/10.61104/alz.v4i3.8939

Aslati, A., Agustar, A., Silawati, A., Arisman, A., & Arafah, S. (2024). Utilizing Science and Maqāṣid al-Sharī'ah in Resolving Contemporary Issues of Islamic Family Law. *Al-Manahij: Jurnal Kajian Hukum Islam*,17–36. https://doi.org/10.24090/mnh.v18i1.10571

Azinar, M., Shaluhiyah, Z., Jati, S. P., & Purnami, C. T. (2024). The Phenomenon of Intergenerational Child Marriage Practice and Its Causes. *Kemas*, *20*(2), 280–287. https://doi.org/10.15294/kemas.v20i2.48667

Azni, A., Hafis, M., Zakariah, A. A., Harmanto, A., Miftahuddin, M., & Ihsan, M. (2025). Pseudo-Maṣlaḥah and Epistemological Failure in Marriage Dispensation at Indonesian Religious Courts. *Jurnal Ilmiah Peuradeun*,*13*(2),1399–1420. https://doi.org/10.26811/peuradeun.v13i2.2047

Barkah, Q., Sintang, S., & Morin, L. (2025). Negotiating Islamic Law and State Norms in Child Marriage Practices in Coastal Indonesia. *Antmind Review: Journal of Sharia and Legal Ethics*, *2*(1), 43–55. https://doi.org/10.63077/fer5kf08

Dewi, D. R. C., Fikriyah, D., Utsman, M. D. H., Ningsih, M. A., & Nasution, A. (2024). Contemporary Islamic Family Law Studies: An Analysis of the Inconsistency of Marriage Age Limits Between Law and Social Reality at the Mojokerto Religious Court. *Legitima : Jurnal Hukum Keluarga Islam*,*7*(1),58–77. https://doi.org/10.33367/legitima.v7i1.6439

El Amin, F., Rahmawati, T., Fauzi, A., Susylawati, E., Yaqin, A., & Saputri, V. D. (2023). Peningkatan pemahaman batas usia perkawinan dalam UU 16/2019 dan persiapan mental pra nikah santri Daarul Lughoh Palengaan Pamekasan. *PERDIKAN (Journal of Community Engagement)*, *5*(2), 112–123. https://doi.org/10.19105/pjce.v5i2.10122

Fadhli, A., Asasriwarni, A., Elfia, E., & Islami, M. H. (2024). Out-of-Court Assistance Based on the Principle of the Best Interests of the Child: Study on Examination Process of Marriage Dispensation Cases. *JURIS (Jurnal Ilmiah Syariah)*, *23*(1), 67–80. https://doi.org/10.31958/juris.v23i1.10281

Fan, S., & Koski, A. (2022). The health consequences of child marriage: a systematic review of the evidence. *BMC*

Public Health, *22*(1), 309. https://doi.org/10.1186/s12889-022-12707-x

Febrianty, Y., Samekto, F. X. A., & Sukirno, S. (2020). Legal protection of indigenous rights and traditional values of bajapuik marriage traditions in west sumatra. *Systematic Reviews in Pharmacy*, *11*(12), 1210–1213. https://doi.org/10.31838/srp.2020.12.177

Hadiati, M., & Ramadhan, F. (2022). Observing The Differences in Constitutional Court Decision About the Legal Age of Marriage. *Jurnal Konstitusi*, *19*(3), 643–672. https://doi.org/10.31078/jk1937

Hale, H., Bracewell, K., Bellussi, L., Jenkins, R., Alexander, J., Devaney, J., & Callaghan, J. E. M. (2026). The Child Protection Response to Domestic Violence and Abuse: a Scoping Review of Interagency Interventions, Models and Collaboration. *Journal of Family Violence*, *41*(4), 653–673. https://doi.org/10.1007/s10896-024-00681-4

Hayati, A., Hudafi, H., Mardiana, J., & Limbong, A. K. (2023). The Impact of The Minimum Age Limit Regulation for Continuing Child Marriage After the Birth of Law Number 16 Of 2019 on The Child's Future. *El-Usrah: Jurnal Hukum Keluarga*, *6*(1), 174. https://doi.org/10.22373/ujhk.v6i1.16837

Hossain, J., Md. Ripon Rouf, A. S., Tareq, M., Rokunuzzaman, M., & Sharma, S. K. D. (2026). Assessing the impact of early marriage and socioeconomic determinants on under-five morbidity: a cross-country analysis in South Asia. *BMC Pediatrics*, *26*(1), 220. https://doi.org/10.1186/s12887-026-06596-x

Ilhami, H., Nugraheni, D. B., & Wijayanta, T. (2023). Child Protection Post the New Marriage Law: How Indonesian Religious Court Interpreting the Urgency in Child-age Marriage. *Jurnal IUS Kajian Hukum Dan Keadilan*,*11*(1),75–95. https://doi.org/10.29303/ius.v11i1.1054

Irfan, M. N., Rosyid, M., & Imron, A. (2026). Child Marriage and the Quest for Legal Protection: Integrating Islamic Family Law and Islamic Criminal Law. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, *19*(1), 33–52. https://doi.org/10.14421/ahwal.2025.19102

Iswantoro, I., & Tobroni, F. (2022). Rationalization of Islamic Legal Considerations in Marriage Dispensation: A Lesson from Katingan, Central Kalimantan. *Al-Manahij: Jurnal Kajian Hukum Islam*, *16*(2), 301–314. https://doi.org/10.24090/mnh.v16i2.7074

Jaedin, J., Rahayu, R., Silviana, A., Solehuddin, S., & Bone, S. (2026). Reconstructing Marriage Dispensations in Indonesia: Child Protection through Human Rights and Maqāṣid al-Sharīʻa. *Al-Ahkam*, *36*(2), 337–366.https://doi.org/10.21580/ahkam.2026.36.2.32533

Julianto, V., Shofa, R. L., Kamsi, Haq, A., & Liem, A. (2025). Judges' perspectives on

changes in the legal minimum age at marriage in Indonesia. *Journal of Family Studies*,*31*(1),94–117. https://doi.org/10.1080/13229400.2024.2419870

Kasim, N. M., & Daud, I. S. (2022). Application of The Concept of Maslahah by Judges to Issuance of Marriage Dispensation Due to Pregnancy in Religious Courts. *Jambura Law Review*, *4*(1), 122–138. https://doi.org/10.33756/jlr.v4i1.10999

Khumairoh, I., Rachman, A., & Rahayuwati, R. (2026). The Matrimonial Pause: Waithood and Shifting Marriage Norms as a Vital Conjuncture in Indonesia. *The International Journal of Interdisciplinary Cultural Studies*, *21*(2),275–295. https://doi.org/10.18848/2327-008X/CGP/A211

Kohno, A., Techasrivichien, T., Suguimoto, S. P., Dahlui, M., Nik Farid, N. D., & Nakayama, T. (2020). Investigation of the key factors that influence the girls to enter into child marriage: A meta-synthesis of qualitative evidence. *PLOS ONE*, *15*(7). https://doi.org/10.1371/journal.pone.0235959

Le Duc, A. (2026). Maṣlaḥah Mursalah and Environmental Sustainability: An Islamic Jurisprudential Perspective. *Problemy Ekorozwoju*, *21*(2), 248–257. https://doi.org/10.35784/preko.8995

Ludfi, L. (2024). Dispensasi Nikah dan Paradoks Kawin Anak di Madura: Studi Tentang Dampak Regulasi Terhadap Praktik Perkawinan Anak. *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhsiyyah*, *7*(2),738–768. https://doi.org/10.58824/mediasas.v7i2.270

Martinelli, I., Priyono, F. X. J., & Yunanto, Y. (2023). The Concept of Legal Subject Competence In The Authority to Act on Marriage Law In Indonesia. *Indonesia Law Review*,*13*(3). https://doi.org/10.15742/ilrev.v13n3.3

Nurcholis, M., Nur, I., Holik, A., & Anshor, A. M. (2025). Best Interest of the Child (Ḥifẓ al-Awlād) Principle in Adjudicating Marriage Dispensation for Under-Age Couples. *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, *20*(2), 531–558. https://doi.org/10.19105/al-lhkam.v20i2. 15927

Muhyidin, M., & Setyawan, B. (2025). Legal Unification And Pluralism In Customary Marriage Registration: Lessons From The Baduy Indigenous Community. *Masalah-Masalah Hukum*, *54*(3), 462–485. https://doi.org/10.14710/mmh.54.3.2025.462-485

Mursyid, S., & Yusuf, N. (2022). Changes in Marriage Age Limits and Marriage Dispensations: A Study of Causes and Impacts on the Religious Courts in North Sulawesi. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, *6*(2), 975–996. https://doi.org/10.22373/sjhk.v6i2.12439

Nabilah, W., Putra, R., Afroo, F. A., Nurjanah, N., & Wahyuni, E. (2025). Between Protection and Permissiveness: A Fiqh Siyasah Reexamination of Marriage Dispensation in Indonesia. *JURIS (Jurnal Ilmiah Syariah)*, *24*(1),137–151. https://doi.org/10.31958/juris.v24i1.11882

Nasution, K., Sidiq, M. S., Maliki, I. A., Jumamurodovna, C. M., & Muhammad Viegri. (2026). The Judicial Interpretation of "Very Urgent Reasons": Child Protection, Family Morality, and Marriage Dispensation in Indonesia. *Journal of Islamic Law*, *7*(2), 329–360. https://doi.org/10.24260/jil.v7i2.4295

Nawawi, M. A., Sulastri, S., Edi, R. N., & Setiawan, A. (2022). Harmonization of Islam and human rights: judges' legal arguments in rejecting child marriage dispensation in Sukadana, Indonesia. *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan*,*22*(1),117–134. https://doi.org/10.18326/ijtihad.v22i1.117-134

Ni'ami, M. F., Saifullah, S., & Fakhruddin, F. (2025). Authority, Discretion, and Inclusion: A Socio-Legal Analysis of Marriage Registrars and Sensory Disabilities in Indonesia. *Masalah-Masalah Hukum*, *54*(2),156–178. https://doi.org/10.14710/mmh.54.2.2025.156-178

Nurdin, N., Anshari, M., Astutik, T. P., Syamsuni, S., & Rahmawati, H. (2025). Peran Lembaga Pendidikan Islam Dalam Pencegahan Pernikahan Anak: Kajian Hukum Islam Dan UU Perkawinan. *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory,3*(2),1516–1538. https://doi.org/10.62976/ijijel.v3i2.1140

Purnomo, A., Salam, N., Zamzami, M., & Bakar, A. (2023). Dimensions of Maqāṣid Al-Sharī'ah and Human Rights in the Constitutional Court's Decision on Marriage Age Difference in Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, *7*(3),1397. https://doi.org/10.22373/sjhk.v7i3.13283

Purwanti, A., & Natalis, A. (2026). Law as Text, Culture as Context: The Semiotics of Marriage Dispensation and Judicial Considerations in Indonesia. *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique*, *39*(2),729–760. https://doi.org/10.1007/s11196-025-10370-0

Rahman, F., Hidayatullah, S., & Mahmudah, H. (2026). Ratio Decidendi Hakim Dalam Mengabulkan Permohonan Dispensasi Kawin Di Pengadilan Agama Bima. *SEIKAT: Jurnal Ilmu Sosial, Politik Dan Hukum*, *5*(4), 1324–1325. https://doi.org/10.55681/seikat.v5i4.3137

Rohman, T., Mahsus, M., Abduh, M., & Arnone, G. (2023). Preventing Violations of Religious and Social Norms: Judicial

Interpretation of "Urgent Reasons" in Marriage Dispensation at the Wonosari Religious Court, Indonesia. *Journal of Islamic Law, 4*(2), 218-236. https://doi.org/10.24260/jil.v4i2.1535

Safira, L., Judiasih, S. D., & Yuanitasari, D. (2021). Perlindungan Hukum Terhadap Anak Yang Melakukan Perkawinan Bawah Umur Tanpa Dispensasi Kawin Dari Pengadilan. *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan Dan Ke-PPAT-An*, *4*(2). https://doi.org/10.23920/acta.v4i2.521

Setiawan, I., Arifin, T., Saepullah, U., & Safei, A. (2024). Reforming Marriage Law in Indonesia: A Critical Examination of Islamic Law on the Ban of Interfaith Marriages. *Al-Manahij: Jurnal Kajian Hukum Islam*, *18*(2), 179–198. https://doi.org/10.24090/mnh.v18i2.11134

Suhaili, A. (2025). Integrasi maqāṣid al-syarī 'ah dalam praktik peradilan agama di Indonesia: Studi alternatif penyelesaian sengketa keluarga. *Mabahits: Jurnal Hukum Keluarga Islam*, *6*(01), 29–42. https://doi.org/10.62097/mabahits.v6i01.2236

Sulaiman, S., Firmanto, T., & Hajairin. H. (2026). The Construction Of The Decidendi Ratio And The Significance Of Dissenting Opinion In The Indonesian Constitutional Judicial System. *Awang Long Law Review*, *8*(3),756-762. https://doi.org/10.56301/awl.v8i3.2053

Syufa'at, S. (2022). Marriage Dispensation in Underage Marriage: A Case Study at the Purwokerto Religious Court. *Al-Manahij: Jurnal Kajian Hukum Islam*, *16*(1), 91–102. https://doi.org/10.24090/mnh.v16i1.4229

Taufiqurohman, T., & Fauziah, N. (2023). The Evaluation of Maqāṣid Asy-Syarī'ah on Discourses of the Islamic Family Law. *El-Usrah: Jurnal Hukum Keluarga*, *6*(1), 81. https://doi.org/10.22373/ujhk.v6i1.13035

Utami, D., & Hidayah, A. N. (2024). Perbandingan Kebijakan Hukum Terhadap Perkawinan Anak dari Perspektif Hukum Perkawinan di Indonesia dan Malaysia. *Jurnal Hukum In Concreto*,*3*(1),1–14. https://doi.org/10.35960/inconcreto.v3i1.1292

Wibowo, R. H., Busro, A., & Purwanti, A. (2023). Reassessing Restorative Justice: Addressing Sexual Violence Cases in Indonesia. *Indonesia Law Review*, *13*(3). https://doi.org/10.15742/ilrev.v13n3.8

Zahro, S. (2026). Assessment P2TP2A sebagai Mekanisme Advokasi dan Perlindungan Hukum Preventif terhadap Anak dalam Perkara Dispensasi Kawin di Pengadilan Agama Mojokerto. *Punggawa Law Review*, *1*(3),133–141. http://punggawajournal.com/plr/article/view/60

Zuhdi, M. H., & Nasir, M. A. (2024). Al-Mashlahah and Reinterpretation of Islamic Law in Contemporary Context. *Samarah: Jurnal*

Hukum Keluarga Dan Hukum Islam, *8*(3),1818-1839. https://doi.org/10.22373/sjhk.v8i3.24918

LEGISLATION AND REGULATIONS

Republic of Indonesia. (1974). Law Number 1 of 1974 concerning Marriage.

Republic of Indonesia. (2019). Law Number 16 of 2019 concerning the Amendment to Law Number 1 of 1974 concerning Marriage.

Supreme Court of the Republic of Indonesia. (2019). Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Applications for Marriage Dispensation.

President of the Republic of Indonesia. (1991). Presidential Instruction Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law.

Republic of Indonesia. (2014). Law Number 35 of 2014 concerning the Amendment to Law Number 23 of 2002 concerning Child Protection.

Constitutional Court of the Republic of Indonesia. (2012). Constitutional Court Decision No. 46/PUU-VIII/2010.

State of Sabah. (2004). Islamic Family Law Enactment 2004.

State of Sabah. (1995). Syariah Criminal Offences Enactment 1995.

Republic of the Philippines. (2021). Republic Act No. 11596, Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof.

Republic of the Philippines. (2022). Republic Act No. 11648, Promoting for Stronger Protection against Rape and Sexual Exploitation and Abuse.