



Judicial Discretion in Marriage Dispensation: Comparative Analysis of Granted and Rejected Cases through Maslahah Mursalah

Muhammad Alwi Husaini¹, Husain Fadhil Arrasyid², Wan Rafiqul A'ala binti Mohd Rashid³

^{1,2}Universitas Ma'arif Lampung, Indonesia

³ Universitas Sains Islam Malaysia, Malaysia

 arraysidfadhil05@gmail.com

Abstract

This study examines judicial considerations in granting and rejecting marriage dispensation applications from the perspective of *maslahah mursalah* at the Metro Religious Court. The research employs a qualitative socio-legal approach by combining normative legal analysis with empirical data obtained through semi-structured interviews with judges, court decisions, and related legal documents. This study analyzes two cases: Case Number 58/Pdt.P/2023/PA.Mt., in which the court granted the dispensation, and Case Number 50/Pdt.P/2023/PA.Mt., in which the court rejected the application. The findings show that judges granted the dispensation in Case Number 58/Pdt.P/2023/PA.Mt. to achieve *maslahah* by protecting lineage (*hifz al-nasl*), safeguarding the legal status of the unborn child, and preventing greater social harm caused by pregnancy outside marriage. The judges also considered the prevention of social stigma and family disgrace as part of efforts to maintain social welfare. In contrast, the judges rejected the application in Case Number 50/Pdt.P/2023/PA.Mt. to prevent *mufsadah*, particularly psychological harm, educational discontinuity, economic vulnerability, and the risk of unstable household conditions due to the child's immaturity. The rejection reflects the application of *sadd adz-dzari'ah* to prevent future harm and protect the child's welfare. The novelty of this study lies in its comparative analysis of granted and rejected marriage dispensation cases through the framework of *maslahah mursalah*. The study demonstrates that judges at the Metro Religious Court apply contextual and dynamic legal reasoning by balancing *jalb al-masalih* (attaining benefits) and *dar'u al-mafasid* (preventing harms) in order to achieve the objectives of Islamic law and child protection principles.

ARTICLE INFO

Article history:

Received

Apr 23, 2026

Revised

Mei 13, 2026

Accepted

Mei 22, 2026

Keywords: Marriage Dispensation, *Maslahah Mursalah*, Judicial Consideration, Islamic Family Law, *Maqāṣid Al-Syarī'Ah*

Published by

Website

This is an open access article under the CC BY SA license

CV. Creative Tugu Pena

<https://attractivejournal.com/index.php/bil>

<https://creativecommons.org/licenses/by-sa/4.0/>

@ 2026 by Authors



INTRODUCTION

Marriage dispensation has become one of the most debated issues in Indonesian Islamic family law following the enactment of Law Number 16 of 2019, which amended Law Number 1 of 1974 concerning Marriage. The amendment equalized the minimum marriage age for men and women at 19 years as part of the state's effort to reduce child marriage and strengthen child protection. Nevertheless, Article 7 paragraph (2) of the law still provides legal space for underage marriage through the mechanism of marriage dispensation under urgent circumstances and

with court approval (Nawawi & Sa'diyah, 2025). In practice, this provision places judges in a strategic position because they must balance legal certainty, social realities, and the protection of children's welfare (Wati et al., 2025).

The increasing number of marriage dispensation applications in Religious Courts demonstrates that child marriage remains a significant legal and social issue in Indonesia. Marriage dispensation applications are generally motivated by premarital pregnancy, family pressure, economic conditions, and social concerns regarding relationships between adolescents. These conditions place judges in a complex situation because decisions to grant or reject applications may produce both benefits (*maslahah*) and harms (*mufسادah*) for the parties involved (Muhtarom, 2025). Consequently, judicial considerations in marriage dispensation cases cannot rely solely on textual legal provisions but must also consider broader social impacts and the objectives of Islamic law (*maqāṣid al-syarī'ah*) (Kashvi, 2024).

The concept of *maslahah mursalah* becomes relevant in analyzing judicial reasoning within marriage dispensation cases because it emphasizes public welfare and harm prevention in situations not explicitly regulated in Islamic legal texts (Arrasyid & Pradikta, 2025). In Islamic legal theory, *maslahah mursalah* functions as an instrument for determining legal rulings oriented toward achieving welfare and preventing harm in society (Amri et al., 2025). Within the context of family law, judges often face dilemmas between protecting children from the risks of early marriage and resolving urgent social problems such as pregnancy outside marriage. Therefore, judicial decisions in marriage dispensation cases reflect not only the application of statutory law but also contextual legal reasoning oriented toward achieving social welfare and preventing greater harm.

Marriage in Islamic law is not merely a personal relationship but also an institution aimed at protecting honor, lineage, and social order. The regulation of marriage in Indonesia combines religious principles with positive legal norms to ensure social protection, especially for children (Darajat et al., 2025). The establishment of the minimum marriage age through Law Number 16 of 2019 reflects the state's commitment to minimizing the negative impacts of child marriage, including psychological vulnerability, educational discontinuity, and economic instability. However, the existence of marriage dispensation as an exception mechanism continues to generate debate in judicial practice because judges must determine whether granting dispensation truly creates greater benefit or instead produces long-term harm.

Empirical conditions at the Class IA Religious Court of Metro City indicate that marriage dispensation cases continued to emerge throughout 2023 with varying judicial outcomes. Several applications were granted, while others were rejected depending on the urgency of the case and the judges' assessment of the child's readiness and welfare. Among these cases, Decision Number 58/Pdt.P/2023/PA.Mt. and Decision Number 50/Pdt.P/2023/PA.Mt. demonstrate

contrasting judicial approaches. In Case Number 58/Pdt.P/2023/PA.Mt., the judges granted the dispensation because the prospective bride was pregnant outside marriage, and the court considered the protection of lineage, the child's legal status, and the prevention of social stigma as urgent forms of *maslahah*. In contrast, in Case Number 50/Pdt.P/2023/PA.Mt., the judges rejected the application because the child was considered psychologically immature, economically unprepared, and still in need of educational continuity. The rejection reflected judicial efforts to prevent greater harm (*dar'u al-mafasid*) in the future.

Previous studies have examined marriage dispensation from various perspectives. Prabawati and Rusdiana emphasized that the regulation of marriage dispensation lacks clear parameters regarding urgent circumstances and does not fully reflect child protection principles, particularly concerning the best interests of the child (Prabawati & Rusdiana, 2019). Rahmawati and Nuraeni argued that marriage dispensation contributes to the increase in early marriage rates and therefore requires stricter supervision and public awareness (Rahmawati & Nuraeni, 2021). Meanwhile, Suryanti and Rudy highlighted the dysfunction of marriage dispensation practices due to the tendency of judges to prioritize legal utility over the long-term impacts of child marriage (Suryanti & Rudy, 2021). Other studies also emphasize that judicial considerations in family law increasingly involve balancing legal certainty with social welfare and child protection principles (Mohamad & Ismail, 2025).

However, previous studies predominantly focused on granted dispensations, especially those caused by premarital pregnancy, while limited research comparatively examines both granted and rejected applications through the perspective of *maslahah mursalah*. Existing studies generally discuss normative regulations, social impacts, or the increasing trend of early marriage without specifically analyzing how judges construct legal reasoning when deciding to grant or reject marriage dispensation applications. This study therefore fills the gap by comparatively analyzing judicial considerations in Case Number 58/Pdt.P/2023/PA.Mt. and Case Number 50/Pdt.P/2023/PA.Mt. through the framework of *maslahah mursalah*. This comparison is important because it reveals how judges at the Metro Religious Court contextualize the principles of *jalb al-masalih wa dar'u al-mafasid* in determining whether marriage dispensation should be granted or rejected.

This study aims to analyze judicial considerations in granting and rejecting marriage dispensation applications from the perspective of *maslahah mursalah*. The study is expected to contribute theoretically to the development of Islamic family law studies, particularly regarding the application of *maqāṣid al-syarī'ah* in judicial practice, and practically to the formulation of more measurable standards for determining "urgent circumstances" in marriage dispensation cases.

RESEARCH METHOD

This study employs an empirical-juridical research type with a qualitative approach using a socio-legal method. The socio-legal approach is used to analyze the interaction between legal norms and social realities within judicial practice, particularly regarding judges' considerations in deciding marriage dispensation cases at the Religious Court of Metro. This approach enables the researcher to examine not only the application of positive legal provisions but also the social, psychological, and religious considerations underlying judicial decisions. Qualitative research is oriented toward understanding legal phenomena contextually through in-depth interpretation of empirical findings and legal documents (Darmalaksana, 2020).

The primary data in this study were obtained through semi-structured interviews with judges at the Class IA Religious Court of Metro who handled marriage dispensation cases. In addition, the study analyzed two court determinations as the main research objects, namely Decision Number 58/Pdt.P/2023/PA.Mt., in which the marriage dispensation was granted, and Decision Number 50/Pdt.P/2023/PA.Mt., in which the application was rejected. These two decisions were selected because they represent contrasting judicial considerations in assessing urgent circumstances and public welfare within marriage dispensation cases. Secondary data were obtained from legal materials and supporting literature, including Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Supreme Court Regulation (*Peraturan Mahkamah Agung*) Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications, books, journal articles, and other relevant academic references related to *maslahah mursalah*, *maqāṣid al-syarī'ah*, and Islamic family law (Chatra et al., 2023).

The data collection techniques used in this study consisted of semi-structured interviews and document studies. Semi-structured interviews were conducted directly with judges to obtain in-depth information regarding their legal reasoning, perspectives, and considerations in granting or rejecting marriage dispensation applications. This interview model allowed the researcher to explore legal arguments more flexibly while maintaining focus on the research objectives. Document studies were conducted by examining court determinations, legal regulations, and supporting literature related to marriage dispensation and the concept of *maslahah mursalah*. These techniques enabled the researcher to compare normative legal provisions with their implementation in judicial practice (Fadila et al., 2025).

The validity of the data was tested using source triangulation techniques by comparing information obtained from interviews, court decisions, and legal documents to ensure data credibility and consistency (Miles et al., 2014). Data analysis in this study employed the interactive analysis model of Miles and Huberman, which consists of data reduction, data display, and conclusion drawing.

In the data reduction stage, the researcher selected and categorized relevant information related to judicial considerations in marriage dispensation cases. The data display stage involved systematically presenting findings from interviews and court decisions to facilitate interpretation. Finally, conclusions were drawn by analyzing the findings through the perspective of *maslahah mursalah*, particularly concerning the principles of *jalb al-masalih wa dar'u al-mafasid*, *hifz al-nafs*, *hifz al-nasl*, and child protection within Islamic family law.

RESULT AND DISCUSSION

General Trends of Marriage Dispensation Cases at the Religious Court of Metro in 2023

Marriage dispensation cases at the Class IA Religious Court of Metro throughout 2023 reflected the continuing dynamics of child marriage practices within society after the enactment of Law Number 16 of 2019 concerning the minimum marriage age. The increase in judicial control over underage marriage through court mechanisms demonstrates the state's effort to strengthen child protection while still providing legal space for exceptional circumstances. In practice, applications for marriage dispensation submitted to the Religious Court of Metro showed varying backgrounds and legal considerations depending on the social conditions faced by the applicants.

Based on the findings of this study, the majority of marriage dispensation applications in 2023 were motivated by premarital pregnancy, close relationships between adolescents, family pressure, and concerns regarding social stigma within the community. Premarital pregnancy became the most dominant factor underlying applications for dispensation because families generally sought immediate legal solutions to protect family honor and the legal status of the unborn child. In addition, several applications were submitted due to the concern of parents that prolonged relationships between adolescents could potentially lead to acts considered contrary to religious and social norms. These conditions indicate that marriage dispensation cases are not merely juridical issues but are also closely connected to social, cultural, and religious realities in society.

The characteristics of petitioners in marriage dispensation cases at the Religious Court of Metro generally involved parents or guardians acting on behalf of underage children who intended to marry before reaching the minimum legal age of 19 years. Most applicants came from families with relatively limited economic and educational backgrounds, which influenced their perspectives regarding early marriage as a practical solution to social problems. In several cases, the prospective brides were still continuing their education, while the prospective grooms often had unstable employment conditions or had not yet achieved economic independence. These conditions became important considerations for judges in assessing the readiness of the prospective spouses to establish a household.

The judicial practice at the Religious Court of Metro also demonstrated that not all marriage dispensation applications were granted. Judges carefully examined each case by considering psychological readiness, educational continuity, economic capability, and the urgency of the circumstances presented by the applicants. This can be observed from the contrast between Decision Number 58/Pdt.P/2023/PA.Mt., in which the application was granted due to pregnancy outside marriage, and Decision Number 50/Pdt.P/2023/PA.Mt., in which the application was rejected because the child was considered not psychologically and socially prepared for marriage. These differing outcomes illustrate that judges applied contextual legal reasoning rather than automatically approving all applications for dispensation.

The trend of marriage dispensation cases in 2023 further indicates that judges at the Religious Court of Metro increasingly emphasized child protection principles alongside legal utility. Although urgent social conditions such as premarital pregnancy often encouraged judges to grant dispensations, considerations regarding educational rights, psychological maturity, and long-term welfare remained essential factors in judicial decision-making. This condition reflects the implementation of a balanced legal approach between the protection of social order and the prevention of potential harms arising from early marriage.

Judicial Considerations in Granting Marriage Dispensation

Judicial considerations in granting applications for marriage dispensation at the Religious Court of Metro demonstrate a dominant orientation toward legal utility and the prevention of greater harm. This is clearly reflected in Decision Number 58/Pdt.P/2023/PA.Mt., in which the panel of judges granted the application after considering the urgent social and legal circumstances faced by the applicants. The legal facts presented during the trial showed that the prospective bride was already pregnant outside marriage, while both parties maintained a close relationship and strongly intended to continue the marriage. This condition became the primary basis for judicial consideration because delaying or rejecting the application was considered capable of creating broader social and legal consequences.

Based on an interview with Mr. Joni, a judge at the Religious Court of Metro, it was stated:

“The factor that led us to grant the marriage dispensation in that case was that the woman was already pregnant. It would not be possible for us to reject the application; we feel sympathy for the woman, especially for her family, and moreover, the applicants earnestly requested that the marriage be approved.”

This statement indicates that the judges did not merely apply statutory provisions rigidly but also considered the factual and social realities experienced by the parties. Pregnancy outside marriage was interpreted as an urgent condition requiring immediate legal protection. The judges viewed the granting of marriage

dispensation as a preventive effort to avoid greater social harm, including family disgrace, social stigma, and uncertainty regarding the legal status of the child to be born. In this context, judicial reasoning reflects the application of the principle of *jalb al-masalih wa dar'u al-mafasid*, namely attaining benefit while preventing harm (Bangun et al., 2025).

Another important legal fact revealed during the trial was the concern that the continued relationship between the prospective spouses without legal marriage could potentially lead to prolonged immoral conduct and social disorder. From the perspective of Islamic law, judges considered that granting the dispensation served as a means of preventing acts prohibited by religion, particularly adultery (*zina*) (Kamarusdiana & Farohah, 2022). Therefore, the decision to grant the application was viewed as a form of protection toward moral and social order within society. This reasoning is closely related to the principle of *sadd adz-dzari'ah*, which aims to close avenues leading to greater harm (Zuhdi, 2025).

Judicial considerations also emphasized the protection of lineage (*hifz al-nasl*) as one of the essential objectives of Islamic law (*maqāṣid al-syarī'ah*). Based on the interview findings, the judge explained:

“Granting marriage dispensation on the grounds of pregnancy is solely intended to protect the status and lineage of the child so that when the child is born, they will have a clear legal origin. Although, from a fiqh perspective, the child may not be legally attributed to the father, under statutory law, a child born within a lawful marriage is still considered legitimate, even if conceived prior to marriage.”

This consideration demonstrates that the judges prioritized the legal protection and civil rights of the unborn child. Through the granting of marriage dispensation, the child would obtain legal certainty regarding lineage, identity, and administrative status under positive law. The judges therefore interpreted *maslahah* not only in the context of resolving immediate social problems but also in safeguarding the long-term welfare of the child. This reflects the implementation of *hifz al-nasl* as a central principle in judicial reasoning (Darajat et al., 2025).

In addition to protecting lineage, the judges also considered the importance of maintaining social harmony and avoiding public stigma. In the interview, the judge stated:

“The granting of marriage dispensation due to pregnancy outside marriage aims to prevent greater harm and social damage within the community. If left unresolved, it would lead to gossip and negative stigma, as well as bring disgrace upon the family. Therefore, granting the dispensation is considered the best solution in addressing such issues within society.”

This statement confirms that social and cultural considerations significantly influenced judicial reasoning. Within communities that strongly uphold moral and religious values, pregnancy outside marriage often results in social exclusion and psychological pressure toward women and their families. Consequently, the

granting of marriage dispensation was viewed as a form of social protection intended to preserve dignity and prevent broader conflict within society.

Another factor supporting the granting of the application was the readiness of the prospective groom to undertake marital responsibilities. Based on the interview with Mr. Joni, it was stated:

“A supporting factor in granting the marriage dispensation was that the prospective groom had already reached the age of 26, whereas the minimum legal age for marriage is 19.”

The judges considered that the age and maturity of the prospective groom indicated sufficient readiness to fulfill responsibilities as the head of a household. This condition strengthened the judges' confidence that the marriage would provide greater benefit than harm. Therefore, the granting of marriage dispensation in Decision Number 58/Pdt.P/2023/PA.Mt. was not solely based on emotional sympathy but was grounded in juridical, social, and religious considerations oriented toward achieving *maslahah*, particularly the protection of lineage (*hifz al-nasl*), prevention of immoral conduct, and maintenance of social order (Arrasyid et al., 2025).

Judicial Considerations in Rejecting Marriage Dispensation

Based on the copy of Determination Number 50/Pdt.P/2023/PA.Mt., the application for marriage dispensation was submitted by the petitioner as the biological father of an underage child who intended to marry before reaching the minimum legal age stipulated by Law Number 16 of 2019. Unlike Case Number 58/Pdt.P/2023/PA.Mt., the panel of judges rejected the application because the facts presented during the trial did not demonstrate urgent circumstances strong enough to justify deviation from statutory provisions. The rejection indicates that marriage dispensation is not automatically granted merely based on the wishes of the family or the existence of a close relationship between the prospective spouses.

The legal facts revealed during the trial showed that there was no pregnancy outside marriage and no condition that required immediate legalization of the relationship. In addition, the prospective groom had not yet demonstrated economic readiness and did not possess stable employment capable of supporting household responsibilities. The absence of financial stability became an important consideration for the judges because marriage requires not only emotional commitment but also economic capability to fulfill the rights and obligations of family life. In this regard, the judges considered that granting the application under such conditions would potentially create greater social and economic harm in the future.

The panel of judges emphasized that the minimum marriage age requirement constitutes a form of legal protection for children and therefore cannot be disregarded without compelling and measurable reasons. Although the general pillars and requirements of marriage were formally fulfilled and there were no

impediments such as blood relations or fosterage relationships (Kamarusdiana & Farohah, 2022), the judges concluded that the applicants failed to prove the existence of an urgent condition requiring immediate marriage. Consequently, the absence of urgency and the lack of economic preparedness became decisive factors leading to the rejection of the application (Aziz & Faishal, 2025).

Judicial considerations also focused on the psychological condition and emotional maturity of the child. The judges assessed that the prospective spouses, particularly the underage child, had not yet demonstrated sufficient readiness to face the responsibilities and pressures of married life. Marriage at an immature age carries significant risks, including emotional instability, domestic conflict, and vulnerability to divorce. Such conditions may negatively affect the child's mental and psychological well-being, especially because adolescence is still considered a stage of unstable emotional development (Lubis, 2025). Therefore, the rejection of the application reflects judicial efforts to protect the child's psychological welfare as part of the principle of *hifz al-nafs* (Ibrahim & Elfani, 2025).

In addition to psychological factors, educational continuity became another significant consideration underlying the rejection. The judges viewed education as a fundamental right that must be protected because it plays a strategic role in shaping the child's future and improving quality of life. Early marriage has the potential to interrupt educational continuity due to domestic responsibilities and economic burdens. The loss of educational opportunities may subsequently increase the risk of poverty, unemployment, and social vulnerability. For this reason, the judges considered that rejecting the marriage dispensation constituted a preventive effort to preserve the child's future welfare and economic stability, which aligns with the principle of *hifz al-mal* (Yusuf et al., 2024).

The judicial reasoning in this case also reflects the application of the principle of *sadd adz-dzari'ah*, namely blocking pathways that may lead to greater harm in the future. The judges considered that granting marriage dispensation without sufficient psychological and economic readiness would potentially open opportunities for domestic violence, household instability, and future divorce. From the perspective of *maslahah mursalah*, rejecting the application was therefore deemed more beneficial because it prevented broader social, psychological, and economic harms. This demonstrates that judicial considerations at the Religious Court of Metro are not solely oriented toward resolving immediate social demands but also toward protecting the long-term welfare of children and families.

Furthermore, the judges also considered the broader social consequences of underage marriage. Marriage involving individuals who are not yet emotionally and economically prepared may lead to social pressure, family dependency, and unstable household conditions (Arrasyid et al., 2024). Such conditions may create additional burdens not only for the couple but also for their families and surrounding communities. Therefore, the rejection of the application illustrates

judicial awareness that the protection of children's welfare should take precedence over short-term social desires or family pressure (Fadah et al., 2025).

Based on the overall findings, the rejection of marriage dispensation in Decision Number 50/Pdt.P/2023/PA.Mt. demonstrates that judges prioritize the prevention of harm (*dar'u al-mafasid*) over immediate practical considerations. Economic instability, unemployment, psychological immaturity, and the risk of educational discontinuity were interpreted as strong indicators that early marriage would potentially endanger the child's future welfare. Consequently, the rejection reflects the implementation of *maqāṣid al-syarī'ah*, particularly *hifz al-nafs* and *hifz al-mal*, through the application of *sadd adz-dzari'ah* as a preventive legal approach within judicial practice.

Implications and Critique of Marriage Dispensation Practices

The findings of this study demonstrate that the practice of marriage dispensation at the Religious Court of Metro carries not only juridical implications but also broader social, psychological, and normative consequences within society. The comparison between Decision Number 58/Pdt.P/2023/PA.Mt. and Decision Number 50/Pdt.P/2023/PA.Mt. reveals that judges at the Religious Court of Metro do not rigidly apply Law Number 16 of 2019 concerning the minimum marriage age. Instead, judges employ a contextual legal approach by considering the balance between *jalb al-masalih* (attaining benefits) and *dar'u al-mafasid* (preventing harms) in each case. This condition indicates that judicial reasoning in marriage dispensation cases is strongly influenced by factual realities and the broader objectives of Islamic law (*maqāṣid al-syarī'ah*) (Muis et al., 2025).

In Decision Number 58/Pdt.P/2023/PA.Mt., the judges granted the marriage dispensation because the legal facts demonstrated urgent social circumstances, particularly pregnancy outside marriage. The judges considered that granting the dispensation would create greater *maslahah* by protecting lineage (*hifz al-nasl*), safeguarding the legal status of the unborn child, and preventing social stigma and family disgrace. In this context, the judges interpreted marriage dispensation as a legal instrument to resolve immediate social problems and prevent broader harm that might arise if the application were rejected. The decision reflects the implementation of the principle of *jalb al-masalih wa dar'u al-mafasid*, in which legal benefit is prioritized to preserve social order and child protection.

Conversely, in Decision Number 50/Pdt.P/2023/PA.Mt., the judges rejected the application because the facts presented during the trial did not indicate urgent circumstances capable of justifying deviation from statutory provisions. The absence of pregnancy outside marriage, the lack of economic readiness, unstable employment conditions, and the psychological immaturity of the prospective spouses became dominant considerations in the rejection. The judges assessed that granting the application under such conditions would potentially produce greater harm, including educational discontinuity, economic instability, emotional

vulnerability, and the risk of household conflict in the future. Therefore, the rejection of the application reflected the application of *sadd adz-dzari'ah* as a preventive effort to block pathways leading to greater harm.

The comparison of these two decisions demonstrates that judges at the Religious Court of Metro apply Law Number 16 of 2019 flexibly and contextually rather than merely normatively. Although the law establishes the minimum marriage age of 19 years as a general rule, judges still consider the concrete realities faced by the applicants before determining whether marriage dispensation should be granted or rejected. In urgent circumstances, judges prioritize social protection and the prevention of immediate harm. However, in cases lacking urgency and involving significant risks to the child's welfare, judges emphasize the importance of protecting the child's future through rejection of the application. This contextual approach illustrates that judicial decisions are not solely text-oriented but are deeply influenced by considerations of proportionality, welfare, and social consequences.

The tendency of judges to prioritize legal utility reflects an adaptive judicial approach toward complex social realities. Nevertheless, this flexibility also raises several critical issues. One implication concerns the potential perception that marriage dispensation may become an accessible mechanism to legitimize premarital relationships, particularly in cases involving pregnancy outside marriage (Hasan, 2025). If not accompanied by strict and measurable parameters, such practices may indirectly contribute to the normalization of early marriage and weaken preventive efforts against child marriage.

Another important implication concerns the inconsistency of judicial considerations. Differences between granted and rejected applications indicate that judges possess broad discretionary authority in interpreting "urgent circumstances" within marriage dispensation cases. While such flexibility allows judges to respond contextually to each case, it may also create legal uncertainty and disparities in judicial decisions if not supported by clearer guidelines (Mustofa, 2025). In this regard, the application of *maslahah mursalah* requires measurable standards to ensure that judicial discretion remains aligned with child protection principles and the objectives of Islamic law.

Child protection remains the central issue in the critique of marriage dispensation practices. Granting dispensation may indeed protect a child's legal status and family dignity in certain urgent situations. However, early marriage continues to pose significant risks, including educational disruption, psychological instability, economic dependency, and vulnerability to domestic violence and divorce. Therefore, child protection should not be interpreted merely in administrative or legal terms but must also encompass the child's mental, educational, social, and economic readiness.

The findings of this study indicate the urgent need for clearer limitations and parameters regarding the interpretation of “urgent circumstances” in marriage dispensation cases. The absence of objective standards may result in differing judicial interpretations and inconsistent legal outcomes. Consequently, more systematic judicial guidelines are necessary to ensure that marriage dispensation remains an exceptional legal mechanism intended solely for circumstances that genuinely require immediate legal intervention (Mustofa, 2025).

Based on the overall analysis, the practice of marriage dispensation at the Religious Court of Metro reflects a continuous tension between the need to resolve urgent social problems and the obligation to uphold child protection and legal order. Through the comparison of Decisions Number 58/Pdt.P/2023/PA.Mt. and Number 50/Pdt.P/2023/PA.Mt., this study demonstrates that judges apply contextual legal reasoning grounded in the principles of *jalb al-masalih wa dar’u al-mafasid*. Such an approach enables judges to balance statutory provisions with social realities and the broader objectives of Islamic law, particularly the protection of lineage, psychological welfare, education, and economic stability.

CONCLUSION

This study concludes that judicial considerations in marriage dispensation cases at the Religious Court of Metro are not solely based on the textual application of Law Number 16 of 2019 but are highly contextual through the approach of *jalb al-masalih wa dar’u al-mafasid*. In Decision Number 58/Pdt.P/2023/PA.Mt., the judges granted the marriage dispensation because the case involved urgent moral and social circumstances, particularly pregnancy outside marriage. The granting of the application was considered capable of creating greater *maslahah* through the protection of lineage (*hifz al-nasl*), the legal status of the unborn child, and the prevention of social stigma and broader social harm. Conversely, in Decision Number 50/Pdt.P/2023/PA.Mt., the judges rejected the application because the facts presented did not demonstrate urgent circumstances justifying deviation from statutory provisions. The rejection was dominated by considerations regarding the child’s psychological immaturity, educational continuity, economic instability, and the lack of employment readiness of the prospective groom. In this context, the rejection reflected the application of *sadd adz-dzari’ah* as a preventive effort to protect the child’s psychological welfare (*hifz al-nafs*) and economic future (*hifz al-mal*).

The comparison between both decisions demonstrates that judges at the Religious Court of Metro apply flexible and adaptive legal reasoning in balancing social realities, child protection, and legal certainty. Marriage dispensation is therefore positioned not merely as an administrative legal mechanism but as a judicial instrument requiring careful assessment of the benefits and harms arising from each case. This study recommends that judges strengthen multidisciplinary considerations, particularly regarding psychological readiness, educational

continuity, and economic capability of prospective spouses in deciding marriage dispensation cases. In addition, the Supreme Court should formulate more measurable and standardized parameters concerning the interpretation of “urgent circumstances” in Supreme Court Regulation Number 5 of 2019 to minimize disparities in judicial decisions and ensure that marriage dispensation remains an exceptional mechanism used only in genuinely urgent situations.

REFERENCES

- Amri, A., Abdullah, A., & Khalidi, M. (2025). Implementing Child Protection in Marriage Dispensation Rulings: A Case Study at the Mahkamah Syar'iyah Takengon. *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam*, 17(1), 409–426. <https://doi.org/10.32505/jurisprudensi.v17i1.9280>
- Arrasyid, H. F., Asnawi, H. S., & Ismail, H. (2025). Nilai-Nilai Falsafah Jawa Sepikul Segendongan Terhadap Dinamika Pembagian Waris Perspektif Teori Hudud (Studi Kasus Di Desa Balekencono Kecamatan Batanghari). *Berkala Hukum, Sosial Dan Agama*, 2(1), 200–211. <https://jurnal2.umala.ac.id/index.php/bhsa/article/view/203>
- Arrasyid, H. F., Hidayat, E., Anam, K., Choirunnisa, S., & Wati, K. (2024). Sosialisasi Pembinaan Keluarga Masalah Kampung Sriwijaya Mataram Sebagai Bentuk Antisipasi Meningkatnya Angka Perceraian Di Kabupaten Lampung Tengah. *Abdi Makarti*, 3(1), 54–64. <https://doi.org/10.52353/abdimakarti.v3i1.585>
- Arrasyid, H. F., & Pradikta, H. Y. (2025). Marriage Dispensation and Gender Justice from a Mubādalah Perspective: A Critical Analysis of Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk. *Journal of Islamic Mubādalah*, 194–213. <https://doi.org/10.70992/8m1a5j14>
- Aziz, W. A. R. B. W. A., & Faishal, A. (2025). Reformulating the Concept of Nusyuz in Malaysian Islamic Family Law: A Mubadalah-Based Gender Justice Analysis in Malaysian Islamic Family Law. *Journal of Islamic Mubādalah*, 97–113. <https://doi.org/10.70992/5wj72143>
- Bangun, D. N. E. P. B., Ananda, F., & Turnip, I. R. S. (2025). Pernikahan Usia Dini Dalam Hukum Keluarga Islam Dan Perundang-Undangan Indonesia. *Tashdiq: Jurnal Kajian Agama Dan Dakwah*, 15(4), 61–70. <https://cibangsa.com/index.php/tashdiq/article/view/3837>
- Chatra, A., Komang Ayu Henny Achjar, Ningsi, Rusliyadi, M., Zaenurrosyid, A., Rumata, N. A., Nirwana, I., & Abadi, A. (2023). *Metode Penelitian Kualitatif: Panduan Praktis untuk Analisis Data Kualitatif dan Studi Kasus*. PT. Sonpedia Publishing Indonesia.
- Darajat, U. A., Nabhani, M., & Harun, M. (2025). Reconstructing the Enforcement Model of Child Maintenance Rights After Divorce in Indonesia. *Bulletin of Islamic Law*, 2(2), 75–86. <https://doi.org/10.51278/bil.v2i2.1993>
- Darmalaksana, W. (2020). Metode penelitian kualitatif studi pustaka dan studi lapangan. *Pre-Print Digital Library UIN Sunan Gunung Djati Bandung*. <https://digilib.uinsgd.ac.id/32855>
- Fadah, N. I., Maki, H. L. P., Irawan, H., Oktora, N. D., & Arrasyid, H. F. (2025). Tajdid Nikah: Legal Analysis, Ulama Perspectives, and Masalah Mursal (A Case

- Study in East Lampung Regency). *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam*, 95–110. <https://doi.org/10.25217/jm.v10i1.5855>
- Fadila, F., Safriani, S., Eliana, E., & Khaddafi, M. (2025). Pengumpulan data dalam Penelitian kualitatif: Wawancara. *Jurnal Intelek Insan Cendikia*, 2(7), 13446–13449. <https://jicnusantara.com/index.php/jiic/article/view/4377>
- Hasan, I. (2025). Women's Double Burden in the Family: An Analysis of Reciprocal Relations Based on Mubādalah Theory in Central Lampung Regency. *Journal of Islamic Mubādalah*, 177–193. <https://doi.org/10.70992/x11gw072>
- Ibrahim, M., & Elfani, M. (2025). Role of Women in Higher Education in the Digital Age: Analysis of Challenges and Gender Equality. *Journal Discrimination and Injustice*, 01–14. <https://doi.org/10.70992/f0z72p82>
- Kamarusdiana, K., & Farohah, N. (2022). Reform on The Marriage Age Limit by Jakarta Women's Health Organizations in Maqāṣid al-Syarī'ah Perspective. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 6(1), 198–223. <https://doi.org/10.22373/sjhc.v6i1.12892>
- Kashvi, F. A. (2024). Husband and Wife Relationship of Tabligh Jama'ah in Ambehta Mohan India and its Implications for Household Harmony from the Perspective of Mubadalah. *Journal of Islamic Mubādalah*, 79–95. <https://doi.org/10.70992/rzkm3p26>
- Lubis, S. (2025). Relasi Kuasa dan Ketimpangan Gender dalam Tradisi Larangan Pernikahan Marga Sama di Suku Batak: Kajian Sosio-Legal. *Bulletin of Islamic Law*, 2(2), 131–142. <https://doi.org/10.51278/bil.v2i2.2026>
- Miles, M. B., Huberman, A. M., & Saldana, J. (2014). Analisis data kualitatif: Buku sumber metode. *Edisi Ketiga. Dalam The SAGE Handbook of Applied Social Research Methods*.
- Mohamad, A. B., & Ismail, N. (2025). Structural Discrimination in Online Defamation Enforcement: A Hybrid Analysis of Malaysian Criminal Law and Islamic Jurisprudence. *Journal Discrimination and Injustice*, 75–91. <https://doi.org/10.70992/sw534g66>
- Muhtarom, M. A. (2025). Gender Bias and Structural Injustice in the Labor Market: Discrimination Against Single Men amid Increasing Female Labor Participation. *Journal Discrimination and Injustice*, 147–161. <https://doi.org/10.70992/qdmq1v89>
- Muis, M. Z., Hidayati, N., & Kusumo, M. T. (2025). Unregistered Marriage among University Students: Family Influence, Religious Legitimacy, and the Negotiation of Marriage Law. *Al-Hukama': The Indonesian Journal of Islamic Family Law*, 15(2), 176–203. <https://doi.org/10.15642/alhukama.2025.15.2.176-203>
- Mustofa, R. B. (2025). Women's Dynamics in Local Economic Development Metro City Case Study: Justice Perspective. *Journal Discrimination and Injustice*, 162–173. <https://doi.org/10.70992/2ck9a442>
- Nawawi, M. A., & Sa'diyah, C. U. (2025). A Mubādalah Based Legal–Cultural Model of Mak Dijuk Siang in the Lampung Pepadun Megou Pak Community for Strengthening Family Resilience in Indonesia. *Journal of Islamic Mubādalah*, 157–176. <https://doi.org/10.70992/xqrw3986>

- Prabawati, T. D., & Rusdiana, E. (2019). Kajian Yuridis Mengenai Alasan Pengajuan Dispensasi Kawin Dikaitkan Dengan Asas-Asas Perlindungan Anak. *Novum : Jurnal Hukum*, 6(03), 1–10. <https://doi.org/10.2674/novum.v6i3.30602>
- Rahmawati, M., & Nuraeni, H. A. (2021). Peran Dispensasi Kawin dalam Peningkatan Angka Pernikahan Dini di Wilayah Kotamadya Jakarta Barat. *Al-Istinbath: Jurnal Hukum Islam*, 6(1 May), 1–14. <https://doi.org/10.29240/jhi.v6i1.1578>
- Suryanti, I., & Rudy, D. G. (2021). Disfungsi Dispensasi Kawin dalam Upaya Pencegahan Perkawinan Anak. *Jurnal Magister Hukum Udayana*, 10(2), 782–794. <https://garuda.kemdiktisaintek.go.id/documents/detail/2543141>
- Wati, A. K., Isfihani, I., Pradana, A. F. K., & Nissa, I. K. (2025). Analisis Yuridis terhadap Dispensasi Pernikahan Anak di Bawah Umur di Pengadilan Agama Karanganyar Tahun 2024. *Jurnal Tana Mana*, 6(2), 194–202. <https://doi.org/10.33648/jtm.v6i2.1117>
- Yusuf, N., Jamal, R., & Makka, M. M. (2024). The Significance of Ushul al-Fiqh and Maqashid Syari'ah Approaches in Reforming Islamic Law in Indonesia: A Critical Study of the Penal Code or Another Topic. *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum*, 58(2), 389–417. <https://doi.org/10.14421/ajish.v58i2.1450>
- Zuhdi, M. N. (2025). Reconfiguring Islamic Religious Authority: The Muhammadiyah Model for Gender Equality Reform in a Global Context. *Journal Discrimination and Injustice*, 92–114. <https://doi.org/10.70992/tnt95y28>

