



Assessing Judges' Considerations of Urgent Grounds in Marriage Dispensation Decisions: A Case Study of the Jantho Sharia Court, Aceh, Indonesia

Akmal Hakim BS¹, Muslim Zainuddin², Muhammad Iqbal¹, Muhammad Yusuf²,
Erha Saufan Hadana³

¹Mahkamah Syar'iyah Jantho Aceh, Indonesia

²Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia

³Universitas Iskandar Muda Banda Aceh, Indonesia

Email: 231001001@student.ar-raniry.ac.id

Abstract

Marriage dispensation refers to judicial permission granted to prospective spouses who have not yet reached the minimum legal marriage age of 19 years. The regulation of the minimum marriage age is a crucial legal safeguard intended to ensure children's physical, psychological, and social readiness for married life, as well as to prevent adverse consequences such as developmental disruption, psychological pressure, interruption of education, and health risks arising from biological immaturity. This study examines the considerations underlying the decision of a judge at the Jantho Syar'iyah Court in Case Number 97/Pdt.P/2023/MS.Jth, which granted a marriage dispensation to a 17-year-old prospective husband seeking to marry a 32-year-old widow. The data were obtained through an analysis of judicial decision documents using a conceptual legal approach. The findings indicate that the judge applied Supreme Court Regulation (PERMA) Number 5 of 2019 in examining the application for marriage dispensation. In granting the application, the judge considered the existence of very urgent reasons as stipulated in Article 7 paragraph (2) of Law Number 16 of 2019, guided by the principle of the best interests of the child, as well as the potential positive and negative impacts of the marriage. Additionally, the judge heard the child's testimony during the trial, assessed the child's expressed intention to marry, and evaluated the child's mental and physical readiness for marriage.

Keywords: Judge's considerations, urgent reasons, marriage dispensation

Abstrak

Dispensasi perkawinan merupakan izin yang diberikan oleh pengadilan kepada calon mempelai yang belum mencapai batas usia minimum perkawinan, yaitu 19 tahun. Pengaturan batas usia minimum perkawinan merupakan instrumen perlindungan hukum yang penting untuk menjamin kesiapan fisik, psikologis, dan sosial anak dalam menjalani kehidupan perkawinan, serta untuk mencegah berbagai dampak negatif, seperti gangguan perkembangan, tekanan psikologis, terputusnya pendidikan, dan risiko kesehatan akibat ketidakmatangan biologis. Penelitian ini mengkaji pertimbangan hakim dalam putusan Mahkamah Syar'iyah Jantho Nomor 97/Pdt.P/2023/MS.Jth yang mengabulkan permohonan dispensasi perkawinan bagi seorang calon suami berusia 17 tahun untuk menikah dengan seorang janda berusia 32 tahun. Data penelitian diperoleh melalui analisis terhadap dokumen putusan pengadilan dengan menggunakan pendekatan hukum konseptual. Hasil penelitian menunjukkan bahwa hakim menerapkan Peraturan Mahkamah Agung (PERMA) Nomor 5 Tahun 2019 dalam memeriksa permohonan dispensasi perkawinan. Dalam mengabulkan permohonan tersebut, hakim mempertimbangkan adanya alasan yang sangat mendesak sebagaimana diatur dalam Pasal 7 ayat (2) Undang-Undang Nomor 16 Tahun 2019, dengan berpedoman pada prinsip kepentingan terbaik bagi anak serta mempertimbangkan potensi dampak positif dan negatif dari perkawinan tersebut. Selain itu, hakim juga mendengarkan keterangan anak dalam persidangan, menilai kesungguhan kehendak anak untuk menikah, serta mengevaluasi kesiapan mental dan fisik anak dalam menjalani perkawinan.

Kata kunci: *Pertimbangan hakim, alasan mendesak, dispensasi perkawinan*

Introduction

The requirements for starting marriage are determined both by the Islamic law (the Qur'an and Sunnah) and by the state law.¹ Within the framework of the Islamic jurisprudence (*fiqh*), no explicit minimum age for marriage is stipulated; rather, eligibility is linked to the concept of *bulūgh* (puberty). Puberty is traditionally understood as the occurrence of seminal emission (wet dreams) in males and the onset of menstruation in females.² Classical Islamic sources and scholarly opinions often encourage Muslims, particularly parents of adolescents to facilitate marriage once their children reach this stage. Similarly, adolescents who possess the capacity

¹ Siti Dian Natasya Solin et al., "Batak Customary Marriage: A Study of the Prohibition of Same-Clan Marriage and Its Relevance in the Contemporary Era," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (2024), p. 62.

² Al-Sayyid Sabiq, *Fiqh Al-Sunnah*, III (Kairo: Dar al-Fath li I'lam al-'Arabi, 1996); Muhammad bin Ahmad bin Rusyd Al-Qurtubi, *Bidayat Al-Mujtahid*, II (Maktabah wa Matba'ah Taha, n.d.); Mustafa al-Qin, *Fiqh Al-Manhajī 'Ala Mazhab Al-Imam Al-Syafi'ī*, II (Damsyiq: Dar al-Qalam li al-Tabi'āti wa al-Nasyri wa al-Tauzi', 1992); Fahadil Amin Al Hasan, "Pemeriksaan Perkara Dispensasi Kawin Dalam Rancangan Peraturan Mahkamah Agung RI Tentang Pedoman Mengadili Permohonan Dispensasi Kawin," *Badilag, Mahkamahagung*, 2019, p. 1–14.

and preparedness for marriage (*istiṭā'at al-bā'ah*) are encouraged to marry. Consequently, the Islamic law does not prescribe a specific chronological age for marriage, but instead determines legal responsibility (*taklīf*) on the basis of physical maturity. Jurists generally agree that *taklīf* becomes binding upon a male at the occurrence of seminal discharge and upon a female at the onset of menstruation.³

The issue of child marriage, however, is complex and cannot be examined from a single perspective. When analyzed in light of the objectives of the Islamic law (*maqāṣid al-sharī'ah*), at least three fundamental considerations must be taken into account. First is the protection of the child's life and well-being, which corresponds to the objective of safeguarding life (*hiḥz al-naḥs*).⁴ Second is the continuity of the child's education, which relates to the protection of intellect (*hiḥz al-'aql*). Third is the protection of progeny, which aligns with the objective of preserving lineage (*hiḥz al-nasl*).⁵ These dimensions highlight the need for a comprehensive and contextual approach to the issue of child marriage.⁶

Marriage is a fundamental right of every citizen.⁷ However, in order to start a valid marriage, prospective spouses are required to fulfill the conditions stipulated by the law. One such requirement is set out in Article 7 paragraph (1) of Law Number 16 of 2019, which amends Law Number 1 of 1974 on Marriage. This provision states that "a marriage is permitted only if both the man and the woman have reached the age of 19 (nineteen) years." Accordingly, the Religious Court (*Pengadilan Agama*) or *Mahkamah Syar'iyah* functions as the final legal authority in granting marriage dispensations for Muslim minors who have not yet attained the age of 19, through a judicial decision.⁸

³ Mursyid Djawas and Nurzakia Nurzakia, "Perkawinan Campuran Di Kota Sabang (Studi Terhadap Faktor Dan Persepi Masyarakat Tentang Dampak Perkawinan Campuran)," *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 2, no. 2 (2019), p. 307.

⁴ Muslim Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara," *Samarah* 8, no. 3 (2024), p. 1948–73; M. Ihsan Azni Azni, Muhammad Hafis, Asril Amirul Zakariah, Adi Harmanto, Miftahuddin Miftahuddin, "Pseudo-Maṣlahah and Epistemological Failure in Marriage Dispensation at Indonesian Religious Courts," *Jurnal Ilmiah Peuradeun* 13, no. 2 (2025).

⁵ Sri Astuti A. Samad et al., "Islamic Educational Approaches To Stunting Prevention And Child Protection," *Jurnal Pendidikan Islam* 10, no. 2 (2024), p. 163–74.

⁶ Al-Syathibi, *Al-Muwafaqat Fi Ushul Al-Ahkam*, I (Beirut: Dar Al-Fikr, n.d.); Jasser Auda, *Maqasid Shariah as Philosophy of Islamic Law: A Systems Approach*, ed. I (London: IIIT, 2007); Darmawan et al., "Marriage Dispensation and Family Resilience: A Case Study of the Bener Meriah Shariah Court, Aceh Province," *Ahkam: Jurnal Ilmu Syariah* 22, no. 2 (2022); M Khusnul Khuluq, "Problematika Dispensasi Kawin Dan Isbat Nikah," <https://badilag.mahkamahagung.go.id/artikel/publikasi/2023>, p. 6.

⁷ Mursyid Djawas et al., "The Integration Between Syara' and Ade' in Marriage Tradition Bugis Bone, South Sulawesi," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 2 (2023), p. 342–64.

⁸ Erie Hariyanto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy," *AHKAM: Jurnal Ilmu Syariah* 22, no. 1 (2022).

A marriage dispensation constitutes a deviation from, or exception to, the general marriage regulations, granted when one or both prospective spouses are under the legally prescribed minimum age and are therefore not permitted to marry under prevailing laws and regulations.⁹ A court-issued marriage dispensation serves as a legal mechanism for registering a marriage involving individuals under the age of 19 who nevertheless seek to marry. This judicial process represents one of the specific legal requirements governing marriage, as explicitly regulated in Articles 6 through 11 of the Marriage Law, including:

1. There is mutual consent between both prospective spouses;
2. Parental or guardian consent has been obtained;
3. If either party is under the age of 19, a marriage dispensation must be granted by the court;
4. There are no legal or religious impediments to the marriage between the two parties;
5. Neither party is bound by an existing marriage;
6. The marriage does not constitute a second remarriage following divorce if the prospective spouse is a former partner;
7. In the case of a female prospective spouse who is a widow, the mandatory *'iddah* waiting period has been fully observed.

The marriage requirements outlined above are cumulative in nature and must therefore be fulfilled in their entirety. From a legal perspective, deviations from these requirements are permissible only with respect to the age requirement, as addressed in the provision concerning marriage dispensation. In such cases, the judiciary assumes an evaluative role in determining whether an individual who has not yet reached the age of 19 should be granted permission to marriage.¹⁰

The authority to grant marriage dispensations for Muslim applicants lies with the Religious Court (*Pengadilan Agama*) or *Mahkamah Syar'iyah*, through a judicial process conducted by a single judge.¹¹ In examining applications for marriage dispensation, judges should not grant such requests automatically, notwithstanding the fact that these applications are unilateral and involve no opposing party. Instead, judges are required to undertake a comprehensive and careful assessment before

⁹ Mursyid Djawas et al., "Creating Family Resilience in Indonesia: A Study of 'Marriage Guidance' Program in Aceh and South Sumatera," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (2022), p. 299–324.

¹⁰ Sri Astuti A. Samad and Munawwarah Munawwarah, "Adat Pernikahan Dan Nilai-Nilai Islami Dalam Masyarakat Aceh Menurut Hukum Islam," *EL-USRAH: Jurnal Hukum Keluarga* 3, no. 2 (2020), p. 289.

¹¹ Mursyid Djawas and Sri Astuti Abdul Samad, "Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehnese Community According to Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 1 (2020), p. 65–84; Hasyim Sofyan Lahilote et al., "Judge's Dilemma In Marriage Dispensation In The Religious Court," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 1 (2022); Mardi Candra, *Aspek Perlindungan Anak Indonesia Analisis Tentang Perkawinan Di Bawah Umur*, 2019, p. 7.

rendering a decision. This approach is essential to ensure the effective implementation of the legal norms embodied in Article 7 paragraph (1) of the Marriage Law concerning the minimum age for marriage, and to support broader efforts to reduce the incidence of child marriage.

In adjudicating applications for marriage dispensation, judges are required not only to refer to Law Number 16 of 2019 on Marriage, but also to adhere to Supreme Court Regulation Number 5 of 2019 on Guidelines for Adjudicating Applications for Marriage Dispensation. These guidelines emphasize the protection of the child's best interests and ensure that the child's fundamental rights are safeguarded throughout the judicial process.¹²

The increasing number of applications for marriage dispensation submitted to and granted by the Religious Court (*Pengadilan Agama*) or *Mahkamah Syar'iyah* necessitates a prudent and judicious response from judges.¹³ In adjudicating such cases, judges are required to carefully evaluate all reasons advanced by the applicants, as well as the potential legal, social, and psychological consequences that may arise if a dispensation is granted. Judges must also play an active role in uncovering relevant legal facts and social realities surrounding each case.¹⁴

In light of the foregoing discussion, this study examines a marriage dispensation case adjudicated by the Jantho *Mahkamah Syar'iyah*, namely Case Number 97/Pdt.P/2023/MS.Jth. The application was submitted by a petitioner seeking permission to marry off his underage child. The petitioner's 17-year-old son, as the prospective groom, intended to marry a 32-year-old divorced woman. The petitioner expressed concern about his son's interactions with the opposite sex and his desire to prevent acts of adultery. These considerations formed the basis of the petitioner's request to proceed with the marriage despite the son's failure to meet the statutory age requirement. Prior to issuing its decision, the court carefully assessed

¹² Salmah Mursyid and Nasruddin Yusuf, "Changes in Marriage Age Limits and Marriage Dispensations: A Study of Causes and Impacts on the Religious Courts in North Sulawesi," *Samarah* 6, no. 2 (2022); Nuruddin, Aisyah Wardatul Jannah, and Dwi Martini, "Evaluating the Effectiveness of Age Restriction on Marriage in Indonesia," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023); Fadhilah, "Kebijakan Hukum Perubahan Batasan Minimal Umur Pernikahan Perspektif Hukum Islam," *Jurnal USM Law Review* No 4, p. 393-413.

¹³ Sri Astuti A. Samad, "Kajian Hukum Keluarga Islam Dalam Perspektif Sosiologis Di Indonesia," *El-USrah: Jurnal Hukum Keluarga* 4, no. 1 (2021), p. 138; Iskandar A. Gani et al., "The Constitutional Court's Protection and Fulfilment of the Citizens' Rights: Constitutional and Islamic Law Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024), p. 317.

¹⁴ haniah Ilhami, Destri Budi Nugraheni, And Tata Wijayanta, "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, no. 1 (2023); Juan Luis González Alcántara, "Child Marriage and Age Dispensation," *Cuestiones Constitucionales*, no. 43 (2020); Zendy Wulan Ayu Widhi Prameswari and Erni Agustin, "Indonesian Marriage Law Reform: The Way To Strengthen The Protection of Children's Rights Against Child Marriage," *Journal of Southeast Asian Human Rights* 2, no. 1 (2018).

whether the application for marriage dispensation should be granted. The judicial reasoning underlying this decision constitutes the central focus of this research.

Definition of Marriage Dispensation

The term marriage dispensation consists of two basic components: dispensation and marriage. From a grammatical and legal perspective, a dispensation refers to an exception to a general rule granted under specific circumstances and based on particular considerations.¹⁵ Marriage, meanwhile, is defined as the lawful formation of a household between a man and a woman, conducted in accordance with legal provisions and religious teachings. Accordingly, a marriage dispensation may be understood as a legally sanctioned exception to the statutory provisions governing marriage.¹⁶

The concept of marriage dispensation is expressly regulated in the Supreme Court Regulation Number 5 of 2019. Article 1 paragraph (5) of this regulation defines marriage dispensation as the granting of permission by a court to a prospective husband or wife who has not yet reached the age of 19 to start marriage. Child marriage refers to a physical and spiritual bond between a young man and a young woman who have not yet attained the ideal level of maturity required for marriage, namely a marriage entered into prior to reaching legal adulthood. The determination of adulthood is based on the age limit for marriage as stipulated in the Marriage Law. Amendments to the Marriage Law introduced several changes, including a revision to Article 7 concerning the minimum age for marriage. The amended provision stipulates that: (1) marriage is permitted only if both the man and the woman have reached the age of 19 (nineteen) years; and (2) in the event of a deviation from this age requirement, the parents of the man and/or the woman may apply to the court for a marriage dispensation on urgent reasons, supported by sufficient evidence.¹⁷ Consequently, the Religious Court (*Pengadilan Agama*) or *Mahkamah Syar'iyah* serves as the final legal authority empowered to grant marriage dispensations for Muslim minors under the age of 19 through a judicial decision.

A marriage dispensation constitutes a deviation from, or exception to, the statutory regulations governing marriage, granted when a prospective bride or groom has not yet reached the minimum legal age and is therefore not permitted to marry under applicable laws and regulations.¹⁸ Marriage dispensation should be interpreted as an emergency measure, to be applied only when no reasonable alternative exists.¹⁹

¹⁵ Kemendikbud, *Kamus Besar Bahasa Indonesia, Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 2019), p. 335.

¹⁶ Peraturan Mahkamah Agung Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi Kawin, "PERMA 5/2019," n.d.

¹⁷ Pasal 7 Ayat (2) Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan Terhadap Undang-Undang Perkawinan Nomor 1 Tahun 1974.

¹⁸ Muhammad Iqbal and Rabiah, "Penafsiran Dispensasi Perkawinan Bagi Anak Di Bawah Umur: Analisis Beberapa Putusan Mahkamah Syar'iyah Aceh," *El-Ussrah* 3, no. 1 (2020), p. 101–14.

¹⁹ Iqbal and Rabiah.

Its implementation requires the involvement and shared commitment of all relevant stakeholders, including the government, parents, community organizations, and the judiciary. These stakeholders should work collaboratively to ensure that child marriage is not easily permitted. Each stakeholder bears a distinct responsibility in efforts to prevent child marriage: the government is tasked with formulating, regulating, and implementing policies concerning the maturity of marriageable age; parents are obligated to educate their children about the risks of child marriage and the importance of education; and the courts, in examining applications for marriage dispensation, must carefully assess whether the reasons presented are truly urgent and compelling.²⁰

Marriage dispensations for Muslims are granted by the Religious Court (*Pengadilan Agama*) or *Mahkamah Syar'iyah* through a judicial process presided over by a single judge.²¹ In such proceedings, judges are required to provide advice to all parties who are obliged to be present, as well as to conduct a thorough examination of the application, supporting evidence, and relevant legal considerations.²² This judicial advice encompasses the potential risks associated with the proposed marriage and its impact on the child's education and health, including reproductive readiness, as well as psychological, social, cultural, and economic aspects. Judges must also consider the potential for marital disputes and domestic violence. Accordingly, courts are encouraged to recommend postponement of marriage until the child reaches the minimum marriageable age stipulated in the Marriage Law, namely 19 years. Judicial legal reasoning in marriage dispensation decisions should emphasize the prevention of child marriage, the protection of the child's best interests, the fulfillment of the child's fundamental rights, and relevant moral and religious considerations.²³

The primary purpose of addressing child marriage is to ensure the fulfillment of two fundamental objectives: the protection of the child's rights and the promotion

²⁰ Najichah Najichah, "Reconstruction of Islamic Family Law in Indonesia Through Constitutional Court Decisions," *Walisongo Law Review (Walrev)* 4, no. 2 (2022); Muhammad Ishom, "The Loose Interpretation of Dominus Litis Principle in Marriage Dispensation for Underage Marriage in Banten," *Ahkam: Jurnal Ilmu Syariah* 23, no. 2 (2023); Sudirman, Siti Umrah, and Surahman, "Legal Dysfunction in Granting Dispensation to Underage Marriages In Indonesia," *Manchester Journal of Transnational Islamic Law and Practice* 19, no. 2 (2023).

²¹ Mansari Mansari et al., "Concretization of Urgent Reason And Sufficient Evidence In Providing Marriage Dispensation for Children By The Judge," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, no. 2 (2020), p. 195–206.

²² Mursyid Djawas et al., "The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law)," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (2022), p. 139.

²³ Mansari and Rizkal, "Peranan Hakim Dalam Upaya Pencegahan Perkawinan Anak: Antara Kemaslahatan dan Kemudharatan," *El-Usrah* 4, no. 2 (2021), p. 56; Muhammad Fauzudin Faiz, Zezen Zainul Ali, and Muhammad Taufiq, "Underage Widows and Widowers before the Law: Problem, Contestation and Legal Certainty in Marriage Dispensation," *Juris: Jurnal Ilmiah Syariah* 22, no. 2 (2023).

of the child's overall well-being. Every action taken by parents or other parties involved in a child's life must prioritize these objectives. The best interests of the child must be the foremost consideration. Stakeholders are required to pay careful attention to the child's rights and well-being, encompassing both physical and psychological aspects. In this context, children's rights include the satisfaction of basic needs essential for their survival, growth, and development, as well as protection from all forms of abuse, exploitation, and neglect. These rights encompass civil, economic, social, and cultural dimensions.²⁴

Parents play a critical role in safeguarding the protection and welfare of their children. Although the Marriage Law establishes a minimum age of 19 years for both men and women, parents are not permitted to simply authorize or approve marriages that contravene this standard. Parents are required to exercise sound judgment and prudence when making decisions regarding the marriage of their children. They have an obligation to prevent marriages that may result in adverse consequences for either the prospective bride or groom. Furthermore, parents bear full responsibility for any negative outcomes arising from their children's marriages.²⁵

The Process of Adjudicating Marriage Dispensation Applications in Religious Courts/Sharia Courts

According to Articles 49 and 50 of the Religious Courts Law, the Religious Courts (*Pengadilan Agama or Mahkamah Syar'iyah*) have exclusive jurisdiction to receive, examine, and decide applications for marriage dispensation for Muslims, while District Courts hold the corresponding authority for non-Muslims. As an integral part of, and extension from, the Supreme Court, the Religious Courts are tasked with adjudicating specific cases, including those involving marriage dispensation, in accordance with the processes and procedures prescribed by applicable laws.

The authority of the Religious Court to grant a dispensation for underage marriage constitutes an absolute judicial prerogative. Marriage dispensation is classified as a civil case initiated voluntarily, upon request by an interested party. Voluntary cases are distinct from contentious cases in several key respects. The characteristics of a voluntary case are as follows:²⁶

1. The issue is entirely one-sided, meaning that the matter requested for resolution pertains solely to the interests of the applicant and does not affect the rights or interests of any other party.
2. The matter raised does not constitute a dispute with another party.

²⁴ Siti Musawwamah et al., "Resistance to Child Marriage Prevention in Indonesia and Malaysia," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (2023).

²⁵ M Yahya Harahap, *Hukum Acara Perdata: Gugatan, Persidangan, Penyitaan, Pembuktian Dan Putusan Pengadilan*, VIII (Jakarta: Sinar Grafika, 2008).

²⁶ R. Soeroso, *Praktek Hukum Acara Perdata; Tata Cara Dan Proses Persidangan* (Jakarta: Sinar Grafika, 2001).

3. The case is *ex parte*, involving only one party; no other person or third party is called as an opposing party.

Although a voluntarist case is not inherently a legal dispute, the law grants the Religious Court (*Pengadilan Agama or Mahkamah Syar'iyah*) the authority to examine and render decisions on such cases.²⁷ Applications for marriage dispensation submitted to the Religious Court are processed through formal judicial proceedings. The adjudication of marriage dispensation applications follows the procedural framework established in the Supreme Court Regulation of the Republic of Indonesia (PERMA) Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications. This regulation provides the legal foundation for handling such applications and was enacted in response to Law Number 16 of 2019, which amended Law Number 1 of 1974 concerning Marriage, stipulating that marriage is permitted only if both the man and the woman have reached the age of 19 years. PERMA Number 5 of 2019 addresses new procedural matters and serves as a binding guideline for judges in the adjudication of marriage dispensation cases.²⁸

The purpose of establishing guidelines for adjudicating marriage dispensation applications is to:

- a. Uphold the principles of the best interests of the child, including the child's right to life and development, respect for the child's opinions, human dignity, non-discrimination, gender equality, equality before the law, justice, expediency, and legal certainty;
- b. Ensure the implementation of a judicial system that protects children's rights;
- c. Enhance parental responsibility in preventing child marriage;
- d. Identify whether coercion is involved in the application for marriage dispensation; and
- e. Standardize the procedural process for adjudicating marriage dispensation applications in court.²⁹

Under Article 6 of PERMA Number 5 of 2019, the parties entitled to submit a marriage dispensation application are the child's parents. In the case of divorced parents, either both parents or the parent with legal custody of the child, as determined by a court decision, may submit the application. If one parent is deceased or their whereabouts are unknown, the surviving parent may file the application. In circumstances where both parents are deceased, have had their parental rights revoked, or are otherwise unavailable, the child's legal guardian is authorized to

²⁷ Taufiqur Rohman et al., "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, no. 2 (2023).

²⁸ Australia Indonesia Partnership for Justice 2 (AIPJ2) Mahkamah Agung Republik Indonesia, Indonesia Judicial Research Society (IJRS), "Buku Saku Pedoman Mengadili Permohonan Dispensasi Kawin," *Mahkamah Agung RI*, 2020, p. 47.

²⁹ Lilik Andar Yuni, "Analysis of The Emergency Reasons in The Application of Marriage Dispensation at The Tenggara Religious Court," *Samarah* 5, no. 2 (2021).

submit the application. If the parents or guardian are unable to attend the proceedings in person, a power of attorney may be used to represent them.

The administrative requirements for submitting a marriage dispensation application are outlined in Article 5 of PERMA Number 5 of 2019, and include:

1. An application letter;
2. Photocopies of the ID cards of both parents or legal guardians;
3. A photocopy of the Family Card;
4. A photocopy of the child's ID card and/or birth certificate;
5. A photocopy of the prospective spouse's ID card and/or birth certificate;
6. A photocopy of the child's most recent educational certificate or a school-issued statement confirming the child is still enrolled; and
7. A Rejection Letter from the Office of Religious Affairs (Kantor Urusan Agama, KUA).

Marriage dispensation cases are adjudicated by a single judge in the Religious Court (*Pengadilan Agama*) or *Mahkamah Syar'iyah*. According to Article 20 of Supreme Court Regulation Number 5 of 2019, judges assigned to hear marriage dispensation cases must meet one or more of the following qualifications: they must have been appointed as Juvenile Judges by a decree of the Chief Justice of the Supreme Court, undergone training or technical guidance on women in conflict with the law, obtained certification in the Juvenile Criminal Justice System (SPPA), or possess prior experience adjudicating marriage dispensation applications.³⁰ In courts where no judges meet these criteria, any qualified judge may be assigned to adjudicate marriage dispensation cases.³¹

Article 11 of Supreme Court Regulation Number 5 of 2019 stipulates that judges conducting court proceedings involving children must employ language and methods that are easily understood by the child. During these proceedings, judges and substitute clerks are not required to wear formal court attire, such as judicial robes or substitute clerk jackets, to create a more child-friendly environment.

Throughout the trial, the judge is required to provide guidance to the applicant, the child, the prospective spouse, and the parents or guardians of the prospective spouse. This guidance is intended to ensure that all parties fully understand the potential risks associated with marriage, which include: (1) disruption of the child's education; (2) impediments to the child completing the 12-year compulsory education; (3) the child's reproductive organs being biologically

³⁰ Rudi Mayandra, "Regulation of Marriage Dispensation Against Marriage of Children Under The Age of Post Decision of The Constitutional Court Number 22 / Puu-Xv / 2017," *Syariah: Jurnal Hukum Dan Pemikiran* 20, no. 2 (2020); Dwi Utami Hudaya Nur et al., "Addressing Child Marriage in West Sulawesi: The Role of Islamic Institutions in Public Legal Awareness," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025), p. 149–74.

³¹ Abidin Nurdin et al., "Tujuan Hukum Islam Untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqhiyah Dalam Bidang Ekonomi Dan Hukum Keluarga," *El-Ussrah: Jurnal Hukum Keluarga* 5, no. 1 (2022), p. 41.

unprepared for marriage; (4) economic, social, and psychological impacts on the child; and (5) the potential for marital disputes or domestic violence.³²

The judge is also required to hear and carefully consider statements from the child requesting the dispensation, the prospective spouse, and the parents or guardians of the prospective spouse. Failure to hear these statements or to incorporate them into the judicial consideration renders the court's decision legally void.

In considering a marriage dispensation application, the judge is required to prioritize the child's best interests by undertaking the following actions:

- a. Soliciting the child's views regarding the requested marriage;
- b. Inquiring into and providing guidance on the child's potential educational situation if the marriage proceeds, in accordance with Article 12 paragraph (1) of Supreme Court Regulation Number 5 of 2019;
- c. Assessing the psychological, sociological, cultural, educational, health, and economic conditions of both the child and the parents by requesting recommendations or input from relevant institutions, such as the UPTD PPA (Education and Child Protection Unit), psychologists, the Indonesian Child Protection Commission (KPAI), or regional child protection agencies (KPAD), as stipulated in Article 16 letter h of Supreme Court Regulation Number 5 of 2019;
- d. Providing guidance to the applicant, the child, the prospective spouse, and the parents or guardians of the prospective spouse regarding potential economic conditions, employment opportunities, and related matters, as specified in Article 12 paragraph (2) of Supreme Court Regulation Number 5 of 2019; and;
- e. Considering applicable regional regulations and local child marriage trends to inform decisions that support the prevention of child marriage.
- f. Judges may also take into account local culture, traditions, and relevant religious arguments that support the prevention or abolition of child marriage.³³

Judge's Consideration of Urgent Reasons in Marriage Dispensation Case Number 97/Pdt.P/2023/MS.Jth at the Jantho Sharia Court

Case Number 97/Pdt.P/2023/MS.Jth involves a marriage dispensation application submitted by the petitioner to the Jantho Sharia Court, for which a judicial decision has already been issued. The application details are as follows:

- The petitioner sought to marry his biological child, a 17-year-old Muslim male who works as a trader, to a 32-year-old previously married/widowed woman. The marriage was intended to be conducted and registered before a marriage registrar at the local Office of Religious Affairs. The prospective husband and wife fulfilled all requirements under Islamic law and

³² Pasal 12 PERMA Nomor 5 Tahun 2019 (Article 12 of PERMA Number 5 of 2019).

³³ Mahkamah Agung Republik Indonesia, Indonesia Judicial Research Society (IJRS), "Buku Saku Pedoman Mengadili Permohonan Dispensasi Kawin."

applicable statutory regulations, except that the prospective husband had not yet reached the minimum legal age of 19. As a result, the Office of Religious Affairs issued a formal letter of rejection. The petitioner submitted the marriage dispensation application in response to this rejection. The petitioner explained that his child and the prospective spouse had been in a relationship for the past year and frequently spent time together, creating a perceived urgency to formalize the marriage. The petitioner expressed concern that delaying the marriage could lead to slander or damage to the child's reputation.

- The petitioner stated that his child and the prospective spouse are prepared and willing to enter into marriage. In his petition, the applicant requested that the judge render a just decision by issuing the following rulings:
 1. Granting the applicant's request;
 2. Granting the applicant's child a dispensation to marry the prospective spouse;
 3. Determining the legal costs; or Issuing any other ruling deemed just and appropriate.

Following a series of trial proceedings, the judge establishes the legal facts of the case. Based on these facts, the judge applies the law by providing legal reasoning that considers the facts revealed during the trial and aligns them with existing legal regulations. This stage, known as the constitutive and qualifying stage,³⁴ serves as the foundation for the court's judgment. Subsequently, the judge issues a verdict or ruling that takes into account principles of justice and truth, legal certainty, and expediency.

Following a series of trial proceedings, the judge establishes the legal facts of the case. Based on these facts, the judge applies the law by providing legal reasoning that considers the facts revealed during the trial and aligns them with existing legal regulations. This stage, known as the constitutive and qualifying stage, serves as the foundation for the court's judgment. Subsequently, the judge issues a verdict or ruling that takes into account principles of justice and truth, legal certainty, and expediency. In Marriage Dispensation Case Number 97/Pdt.P/2023/MS.Jth, the judge's considerations can be summarized as follows:

³⁴ The *constatir* stage refers to the phase in which a judge draws conclusions from the legal facts presented by the parties by observing, acknowledging, and confirming that the alleged events have indeed occurred. This determination is based on the evidentiary process. At this stage, the judge establishes the factual basis of the case as a prerequisite for determining the applicable law and delivering justice to the parties. By contrast, the *qualification* stage involves identifying and determining the relevant legal relationships arising from the facts that have been proven. In this phase, the judge evaluates both proven and unproven arguments or events in light of applicable statutory provisions and substantive law, with the aim of identifying and applying the most appropriate legal norms to the established facts.

- a. Applicant's Legal Standing, in evaluating a marriage dispensation application, the judge first examines whether the applicant has the legal right to file the request. In Marriage Dispensation Case Number 97/Pdt.P/2023/MS.Jth, the judge's considerations regarding the applicant's legal standing were as follows:
 - "Considering that the purpose of the petitioner's application is to marry off his child, who has not yet reached the legal age for marriage. The petitioner's 17-year-old child intends to marry a 32-year-old woman"
 - Considering that the petitioner is the parent of a 17-year-old child, and that the local Office of Religious Affairs rejected the petitioner's request for marriage because the child had not yet reached the age of 19. Therefore, pursuant to Article 7 paragraph (2) of Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, in conjunction with Article 6 paragraphs (1) and (3) of Supreme Court Regulation Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications, the petitioner qualifies as an interested party (*persona standi in judicio*) and thus has the legal right (legal standing) to submit this application"
- b. "Urgent reasons" are defined as circumstances in which no alternative exists and immediate action is deemed absolutely necessary. During the trial, the judge examined the reasons provided by the applicant's child and compared them with the rationale outlined in the petition to ensure consistency and validity. In Marriage Dispensation Case Number 97/Pdt.P/2023/MS.Jth, the judge's assessment of the urgent reasons was as follows:
 - Considering that the applicant's child and the prospective spouse are already familiar with each other and have mutually agreed to enter into marriage, thereby intending to establish a household. To prevent potential negative consequences and avoid undesirable outcomes for both parties, immediate marriage was deemed necessary. Accordingly, this situation satisfied the criteria for "urgent reasons," in which no alternative option exists and the marriage must proceed, as stipulated in Article 7 paragraph (2) of Law Number 16 of 2019 and its explanatory provisions".
 - Considering that, under the Islamic law, there is no legally prescribed minimum age for marriage. The Islamic law instead establishes that a person is legally competent to enter into marriage based on the criteria of *mukallaf*, which refers to an individual who has reached *aqil* (reasoning ability or the capacity to think properly) and *baligh* (adulthood, indicated for males by the occurrence of a wet dream). A *mukallaf* individual is deemed capable of exercising rights and fulfilling obligations in a responsible and appropriate manner;
 - Considering that, although the petitioner's child is only 17 years old, the judge determined that the child exhibits sufficient maturity in behavior and decision-making. Furthermore, since the child has long been out of school, he has

- established his own business in the trading sector and earns an income sufficient to meet the needs of his future household;
- c. Prohibition on Marriage. In evaluating a marriage dispensation application, the judge must determine whether any legal impediments to marriage exist, as regulated under the Marriage Law. Such obstacles include consanguinity, blood relations, or relations established through nursing (milk kinship). In Marriage Dispensation Case Number 97/Pdt.P/2023/MS.Jth, the judge's considerations regarding the absence of prohibitions were as follows:
- Considering that the applicant's child and the prospective spouse are neither related by blood nor by milk, and there are no other legal impediments preventing their marriage, as stipulated in Article 8 of Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019
- d. Benefit and Harm, in granting a marriage dispensation, the judge must evaluate whether the benefits of permitting the marriage outweigh potential harm. The dispensation is granted to prevent harm that may otherwise result from delaying or prohibiting the marriage. In Marriage Dispensation Case Number 97/Pdt.P/2023/MS.Jth, the judge's consideration of benefit and harm was as follows:
- Considering that granting the marriage dispensation serves to prevent harm that would otherwise outweigh the benefits, in accordance with the principle of Islamic jurisprudence: "Preventing harm takes precedence over achieving benefit." This principle is further reinforced in *Al-Ashbah Wa al-Nadzair*, which states that the actions of the government or judge toward justice seekers must prioritize their welfare and benefit. Accordingly, this principle served as a guiding legal and ethical consideration in the court's decision".
- Based on the trial proceedings of Marriage Dispensation Case Number 97/Pdt.P/2023/MS.Jth, the judge established the following legal facts:
1. The petitioner's 17-year-old son intends to marry a 32-year-old woman.
 2. The petitioner's son had registered the marriage with the local Office of Religious Affairs (PPN KUA), but the application was rejected on the grounds that he had not yet reached the minimum legal age of 19.
 3. The petitioner's son and the prospective spouse are neither related by blood, nursing (milk kinship), nor marriage, and there are no legal prohibitions preventing the marriage. Although the prospective wife is a divorcee, her *iddah* (waiting period) has been completed.
 4. The petitioner's son is aware of and consents to the planned marriage, and there is no evidence of psychological, physical, sexual, or economic coercion affecting the child or the family.
 5. The petitioner's son has prepared himself to assume responsibilities as a husband and head of household.

6. Although the petitioner's child is 17 years old, he has completed formal schooling, established his own business, and earns sufficient income to support a household.
7. The planned marriage is mutually agreed upon by both parties, with no external coercion from any individual or entity.
8. The petitioner, as the parent, has expressed no objection to the marriage and is willing to provide guidance and support to his child and future daughter-in-law in their marital life.

Based on the considerations outlined during the trial, the judge concluded that the petitioner's application had sufficient legal grounds and, therefore, granted the marriage dispensation for the petitioner's 17-year-old child to marry a 32-year-old divorced woman. The ruling was as follows:

1. Granting the petitioner's petition;
2. Granting the petitioner's child a dispensation to marry the prospective spouse;
3. Requiring the petitioner to bear the court costs.

In principle, the judge's reasoning in issuing the ruling considered aspects of justice and truth, legal certainty, and legal expediency. The judge noted that the marriage was the mutual wish of both parties, free from any form of coercion. Furthermore, the plan was supported and approved by the parents of both the prospective bride and groom. As part of this support, both sets of parents committed to sharing responsibility for the economic, social, health, and educational needs of the bride and groom. Consequently, the planned marriage was determined to uphold the best interests of both parties, taking into account their welfare, rights, and well-being.³⁵

In granting the marriage dispensation request, the judge based his decision on the Islamic jurisprudence principle that "preventing harm takes precedence over pursuing benefit." The judge's considerations were grounded in relevant fiqh rules, carefully weighing the potential benefits and harms of the proposed marriage.³⁶ In this particular case, the child requesting dispensation had a compelling and urgent reason to marry. Although only 17 years old, the child had long been out of school, had established his own business, and earned a personal income.³⁷ The child's desire

³⁵ Ikhwanuddin Harahap, Fatahuddin Aziz Siregar, and Erie Hariyanto, "Understanding The Rise of Childfree Marriage: Avoiding Toxic Family, Being Happy and Well Without Children Despite Contradiction With Maqashid Al-Sharia," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025), p. 303–29.

³⁶ Darmawan Darmawan et al., "Marriage Dispensation and Family Resilience: A Case Study of the Bener Meriah Shariah Court, Aceh Province," *AHKAM: Jurnal Ilmu Syariah* 22, no. 2 (2022).

³⁷ Ali Imron et al., "Baby Engagement within the Traditional Ulama of the Madurese Ethnicity: A Maṣlaḥa Analysis," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 2 (2024), p. 261–80; M. Faiz Nashrullah et al., "Judicial Invalidation of Ithbāt Nikāḥ Underage in the View of Religious Court Judges in Madura," *Al-Ahkam* 35, no. 2 (2025), p. 235–60.

to marry was voluntary, free from coercion, and reflected his own reasoning.³⁸ Additionally, the child and his prospective spouse had known each other and maintained a relationship for approximately one year. Based on these factors, the judge determined that granting the marriage dispensation was justified.³⁹

The judge's reasoning also applied the Islamic jurisprudential principle that prioritizes benefit over harm. Allowing the child and his prospective spouse to continue their close relationship without formalizing the marriage could have led to greater potential harm.⁴⁰ By granting the dispensation, the marriage would be legally recognized by the state, protecting the parties from religious and societal transgressions.⁴¹ This aligns with the fiqh principle that "harm must be minimized wherever possible," which obliges preventing foreseeable harm and taking proactive steps to avoid it.⁴² It is important to note that marriage dispensation should only function as an emergency measure, an exceptional solution applied in circumstances where children are compelled to marry but have not yet reached the minimum legal age as stipulated in Law Number 16 of 2019.

Conclusion

Based on the findings of this study, it can be concluded that in granting Marriage Dispensation Application Number 97/Pdt.P/2023/MS.Jth, the judge carefully considered the urgent reasons as stipulated in Article 7 Paragraph 2 of Law Number 16 of 2019. These reasons included the long-standing closeness between the petitioner's child and the prospective spouse, as well as concerns regarding the potential occurrence of undesirable events if the marriage were delayed. The judge also applied the principle of the child's best interests by weighing both the potential benefits and harms of the marriage. The child's testimony was taken into account during the trial to assess his wishes and his mental and physical readiness for marriage. These considerations are consistent with the fiqh principles that "preventing harm takes precedence over pursuing benefit" and that "harm must be minimized wherever possible." Furthermore, the judge's decision can be understood as a form of *taqyid al-mubah* (limitation of permissible acts) undertaken for the

³⁸ Misran Ramli et al., "Unveiling Illegal Marriages in Aceh: Examining the Role of Unofficial Qadi," *El-Mashlahah* 14, no. 2 (2024), p. 409–30.

³⁹ Muslim Zainuddin et al., "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (2024), p. 1948–73; Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika*, 2020.

⁴⁰ Dwi Aprillianto et al., "The Controversy of Child Marriage Culture in The Perspective of Maqāsid Al-Ushrah: A Case Study of The Authority of Lebe' in Brebes," *Al-Manahij: Jurnal Kajian Hukum Islam*, 2024, p. 199–218.

⁴¹ Gandi Liyorba Indra, M. Yasin Al Arif, and Abdul Qodir Zaelani, "The Ideal Age For Marriage in The Compilation of Islamic Law (KHI) and Psychology," *Al-'Adalah* 20, no. 1 (2023), p. 1.

⁴² Muhammad Muhdi Syams Al-Din, *Manahij Al-Tajdid: Manahij Al-Ijtihad Wa Tajdid Ushul Al-Fiqh* (Damaskus: Dar al-Fikr, 2000).

benefit of the child, which does not violate Sharia principles. The ruling aligns with the objectives of Islamic law (maqasid al-shariah), including the protection of the child's soul (*hifzhu al-nafs*), the continuation of the child's education and intellectual development (*hifzhu al-'aql*), and the protection of descendants (*hifzhu al-nasl*). Thus, the judge's decision reflects a careful balance between legal, social, and religious considerations, prioritizing the welfare and rights of the child

References

Journals and Books

- A. Gani, Iskandar, Romi Asmara, Sulaiman Sulaiman, and Asmaul Husna. "The Constitutional Court's Protection and Fulfilment of the Citizens' Rights: Constitutional and Islamic Law Perspectives." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024). <https://doi.org/10.22373/sjhc.v8i1.22215>.
- A. Samad, Sri Astuti. "Kajian Hukum Keluarga Islam Dalam Perspektif Sosiologis Di Indonesia." *El-Usrah: Jurnal Hukum Keluarga* 4, no. 1 (2021). <https://doi.org/10.22373/ujhk.v4i1.9899>.
- A. Samad, Sri Astuti, and Munawwarah Munawwarah. "Adat Pernikahan Dan Nilai-Nilai Islami Dalam Masyarakat Aceh Menurut Hukum Islam." *El-USRAH: Jurnal Hukum Keluarga* 3, no. 2 (2020). <https://doi.org/10.22373/ujhk.v3i2.7716>.
- Al-Din, Muhammad Muhdi Syams. *Manahij Al-Tajdid: Manahij Al-Ijtihad Wa Tajdid Ushul Al-Fiqh*. Damaskus: Dar al-Fikr, 2000.
- Al-Qurtubi, Muhammad bin Ahmad bin Rusyd. *Bidayat Al-Mujtahid*. II. Maktabah wa Matba'ah Taha, n.d.
- Al-Syathibi. *Al-Muwafaqat Fi Ushul Al-Ahkam*. 2nd ed. Beirut: Dar al-Fikr, n.d.
- Alfitri. "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia." *Studia Islamika*, 2020.
- Ali Imron, Ilyya Muhsin, Mustla Sofyan Tasfiq, and Razizi Tarmuji. "Baby Engagement within the Traditional Ulama of the Madurese Ethnicity: A Maşlahā Analysis." *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 2 (2024). <https://doi.org/10.18326/ijtihad.v23i2.261-280>.
- Aprillianto, Dwi, Farida Ulvi Na'imah, Ahmad Fauzi, and Lu'lu' il Maknuun. "The Controversy of Child Marriage Culture in The Perspective of Maqāsid Al-Usrah: A Case Study of The Authority of Lebe' in Brebes." *Al-Manahij: Jurnal Kajian Hukum Islam*, August 7, 2024. <https://doi.org/10.24090/mnh.v18i2.11554>.
- Auda, Jasser. *Maqasid Shariah as Philosophy of Islamic Law: A Systems Approach*. Edited by I. London: IIIT, 2007.
- Azni Azni, Muhammad Hafis, Asril Amirul Zakariah, Adi Harmanto, Miftahuddin Miftahuddin, M. Ihsan. "Pseudo-Maşlahāh and Epistemological Failure in

- Marriage Dispensation at Indonesian Religious Courts.” *Jurnal Ilmiah Peuradeun* 13, no. 2 (2025). <https://doi.org/https://doi.org/10.26811/peuradeun.v13i2.2047>.
- Candra, Mardi. *Aspek Perlindungan Anak Indonesia Analisis Tentang Perkawinan Di Bawah Umur*, 2019.
- Darmawan, Darmawan, Asmaul Husna, Mirza Rahmatillah, and Helmi Imran. “Marriage Dispensation and Family Resilience: A Case Study of the Bener Meriah Shariah Court, Aceh Province.” *AHKAM: Jurnal Ilmu Syariah* 22, no. 2 (2022). <https://doi.org/10.15408/ajis.v22i2.28827>.
- Darmawan, Asmaul Husna, Mirza Rahmatillah, and Helmi Imran. “Marriage Dispensation and Family Resilience: A Case Study of the Bener Meriah Shariah Court, Aceh Province.” *Ahkam: Jurnal Ilmu Syariah* 22, no. 2 (2022).
- Djawas, Mursyid, and Sri Astuti Abdul Samad. “Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehese Community According to Islamic Law.” *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 4, no. 1 (2020). <https://doi.org/10.22373/sjhc.v4i1.5271>.
- Djawas, Mursyid, Gamal Achyar, Nusyirwan Bustanul Arifin, Masri Reza, and Baharuddin Umar Yakub. “The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law).” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (2022). <https://doi.org/10.22373/sjhc.v6i1.11904>.
- Djawas, Mursyid, Hedhri Nadhiran, Sri Astuti A. Samad, Zahrul Mubarrak, and Muhammad Abrar Azizi. “Creating Family Resilience in Indonesia: A Study of ‘Marriage Guidance’ Program in Aceh and South Sumatera.” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (2022). <https://doi.org/10.19105/al-lhkam.v17i1.6150>.
- Djawas, Mursyid, and Nurzakia Nurzakia. “Perkawinan Campuran Di Kota Sabang (Studi Terhadap Faktor Dan Persepi Masyarakat Tentang Dampak Perkawinan Campuran).” *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam* 2, no. 2 (2019). <https://doi.org/10.22373/sjhc.v2i2.4740>.
- Djawas, Mursyid, Ridhwan Ridhwan, Wafaa’ Yusof, Wardana Said, and Hedhri Nadhiran. “The Integration Between Syara’ and Ade’ in Marriage Tradition Bugis Bone, South Sulawesi.” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 2 (2023). <https://doi.org/10.19105/al-lhkam.v18i2.10373>.
- Fadhilah. “Kebijakan Hukum Perubahan Batasan Minimal Umur Pernikahan Perspektif Hukum Islam.” *Jurnal USM Law Review* 4, no. 1 (n.d.): 393–413.
- Faiz, Muhammad Fauzudin, Zezen Zainul Ali, and Muhammad Taufiq. “Underage Widows and Widowers before the Law: Problem, Contestation and Legal Certainty in Marriage Dispensation.” *Juris: Jurnal Ilmiah Syariah* 22, no. 2 (2023).
- González Alcántara, Juan Luis. “Child Marriage and Age Dispensation.” *Cuestiones Constitucionales*, no. 43 (2020).

- Harahap, Ikhwanuddin, Fatahuddin Aziz Siregar, and Erie Hariyanto. "Understanding The Rise of Childfree Marriage: Avoiding Toxic Family, Being Happy and Well Without Children Despite Contradiction With Maqashid Al-Sharia." *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (April 30, 2025). <https://doi.org/10.29240/jhi.v10i1.9984>.
- Harahap, M Yahya. *Hukum Acara Perdata: Gugatan, Persidangan, Penyitaan, Pembuktian Dan Putusan Pengadilan*. VIII. Jakarta: Sinar Grafika, 2008.
- Hariyanto, Erie. "Public Trust in the Religious Court to Handle Dispute of Sharia Economy." *AHKAM: Jurnal Ilmu Syariah* 22, no. 1 (2022). <https://doi.org/10.15408/ajis.v22i1.26216>.
- Hasan, Fahadil Amin Al. "Pemeriksaan Perkara Dispensasi Kawin Dalam Rancangan Peraturan Mahkamah Agung RI Tentang Pedoman Mengadili Permohonan Dispensasi Kawin." *Badilag, Mahkamahagung*, 2019.
- Ilhami, Haniah, Destri Budi Nugraheni, and Tata Wijayanta. "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, no. 1 (2023).
- Indra, Gandi Liyorba, M. Yasin Al Arif, and Abdul Qodir Zaelani. "The Ideal Age For Marriage in The Compilation of Islamic Law (KHI) and Psychology." *Al-Adalah* 20, no. 1 (2023). <https://doi.org/10.24042/adalah.v20i1.11598>.
- Iqbal, Muhammad, and Rabiah. "Penafsiran Dispensasi Perkawinan Bagi Anak Di Bawah Umur: Analisis Beberapa Putusan Mahkamah Syar'iyah Aceh." *El-Usrah* 3, no. 1 (2020).
- Ishom, Muhammad. "The Loose Interpretation of Dominus Litis Principle in Marriage Dispensation for Underage Marriage in Banten." *Ahkam: Jurnal Ilmu Syariah* 23, no. 2 (2023).
- Kawin, Peraturan Mahkamah Agung Nomor 5 Tahun 2019 Tentang Pedoman Mengadili Permohonan Dispensasi. "PERMA 5/2019," n.d.
- Kemendikbud. *Kamus Besar Bahasa Indonesia. Kamus Besar Bahasa Indonesia*. Jakarta: Balai Pustaka, 2019.
- Khuluq, M Khusnul. "Problematika Dispensasi Kawin Dan Isbat Nikah," 2023.
- Lahilote, Hasyim Sofyan, A. A. Miftah, Yuliatin, and Rahmi Hidayati. "Judge's Dilemma In Marriage Dispensation In The Religious Court." *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 1 (2022).
- Mahkamah Agung Republik Indonesia, Indonesia Judicial Research Society (IIRS), Australia Indonesia Partnership for Justice 2 (AIPJ2). "Buku Saku Pedoman Mengadili Permohonan Dispensasi Kawin." *Mahkamah Agung RI*, 2020, h. 47.
- Mansari, Mansari, Zahrul Fatahillah, Muzakir Muzakir, Ahmad Fikri Oslami, and Muslim Zainuddin. "Concretization of Urgent Reason And Sufficient Evidence In Providing Marriage Dispensation For Children By The Judge." *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, no. 2 (2020). <https://doi.org/10.19109/nurani.v20i2.5898>.

- Mansari, and Rizkal. "Peranan Hakim Dalam Upaya Pencegahan Perkawinan Anak: Antara Kemaslahatandan Kemudharatan." *El-Usrah* 4, no. 2 (2021).
- Mayandra, Rudi. "Regulation of Marriage Dispensation Against Marriage of Children Under The Age of Post Decision of The Constitutional Court Number 22 / Puu-Xv / 2017." *Syariah: Jurnal Hukum Dan Pemikiran* 20, no. 2 (2020). <https://doi.org/https://doi.org/10.18592/sjhp.v20i2.4160>.
- Mursyid, Salmah, and Nasruddin Yusuf. "Changes in Marriage Age Limits and Marriage Dispensations: A Study of Causes and Impacts on the Religious Courts in North Sulawesi." *Samarah* 6, no. 2 (2022).
- Musawwamah, Siti, Muhammad Taufiq, Erie Hariyanto, Umi Supraptiningsih, and Maimun Maimun. "Resistance to Child Marriage Prevention in Indonesia and Malaysia." *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (2023). <https://doi.org/10.15408/ajis.v23i1.32014>.
- Muṣṭafa al-Qin. *Fiqh Al-Manhajī 'Ala Mazhab Al-Imam Al-Syafi'ī*. II. Damsyiq: Dar al-Qalam li al-Tabi'āti wa al-Nasyri wa al-Tauzi', 1992.
- Najichah, Najichah. "Reconstruction of Islamic Family Law in Indonesia Through Constitutional Court Decisions." *Walisono Law Review (Walrev)* 4, no. 2 (2022).
- Nashrullah, M. Faiz, Abdul Rohim Al Wafi, Siah Khosyiah, Frilla Gunariah, and Affan Najih Alghifary. "Judicial Invalidation of Ithbāt Nikāḥ Underage in the View of Religious Court Judges in Madura." *Al-Ahkam* 35, no. 2 (2025). <https://doi.org/10.21580/ahkam.2025.35.2.27358>.
- Nur, Dwi Utami Hudaya, M. Sadik, Nuzha Nuzha, Ahmad Abbas, and Ardiansyah Ardiansyah. "Addressing Child Marriage in West Sulawesi: The Role of Islamic Institutions in Public Legal Awareness." *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025). <https://doi.org/10.18860/j-fsh.v17i1.29482>.
- Nurdin, Abidin, Bustami Usman, Fauzan Samad, and Makmunzir Mukhtar. "Tujuan Hukum Islam Untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqhiyah Dalam Bidang Ekonomi Dan Hukum Keluarga." *El-Usrah: Jurnal Hukum Keluarga* 5, no. 1 (2022). <https://doi.org/10.22373/ujhk.v5i1.14665>.
- Nuruddin, Aisyah Wardatul Jannah, and Dwi Martini. "Evaluating the Effectiveness of Age Restriction on Marriage in Indonesi." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023).
- Prameswari, Zendy Wulan Ayu Widhi, and Erni Agustin. "Indonesian Marriage Law Reform: The Way To Strengthen The Protection of Children's Rights Against Child Marriage." *Journal of Southeast Asian Human Rights* 2, no. 1 (2018).
- Ramli, Misran, Syarifah Rahmatillah, Abidin Nurdin, and Nurul Auliana. "Unveiling Illegal Marriages in Aceh: Examining the Role of Unofficial Qadi." *El-Mashlahah* 14, no. 2 (2024). <https://doi.org/10.23971/el-mashlahah.v14i2.8887>.
- Rohman, Taufiqur, Muhammad Mahsus, Muhammad Abduh, and Gioia Arnone. "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, no. 2 (2023).
- Sabiq, Al-Sayyid. *Fiqh Al-Sunnah*. III. Kairo: Dar al-Fath li I'lam al-'Arabi, 1996.
- Samad, Sri Astuti A., Munawwarah Samad, Saiful Ramli, Sabriadi HR, and Ilyas Ilyas. "Islamic Educational Approaches To Stunting Prevention And Child Protection." *Jurnal Pendidikan Islam* 10, no. 2 (2024). <https://doi.org/10.15575/jpi.v0i0.38432>.
- Soeroso, R. *Praktek Hukum Acara Perdata; Tata Cara Dan Proses Persidangan*. Jakarta: Sinar Grafika, 2001.
- Solin, Siti Dian Natasya, Mursyid Djawas, Aulil Amri, Andi Sugirman, and Asni Zubair. "Batak Customary Marriage: A Study of the Prohibition of Same-Clan Marriage and Its Relevance in the Contemporary Era." *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (2024). <https://doi.org/10.22373/ujhk.v7i1.23309>.
- Sudirman, Siti Umrah, and Surahman. "Legal Dysfunction in Granting Dispensation to Underage Marriages In Indonesia." *Manchester Journal of Transnational Islamic Law and Practice* 19, no. 2 (2023).
- Yuni, Lilik Andar. "Analysis of The Emergency Reasons in The Application of Marriage Dispensation at The Tenggara Religious Court." *Samarah* 5, no. 2 (2021).
- Zainuddin, Muslim, Mukhsin Nyak Umar, Dedy Sumardi, Mansari, and Zakki Fuad Khalil. "Protection of Women and Children in the Perspective of Legal Pluralism: A Study in Aceh and West Nusa Tenggara." *Samarah* 8, no. 3 (2024). <https://doi.org/https://doi.org/10.22373/sjhk.v8i3.22203>.

Rules of the law

- Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage.
- Law Number 23 of 2002 concerning Child Protection.
- Presidential Instruction Number 1991 concerning the Compilation of Islamic Law.
- Supreme Court Regulation of the Republic of Indonesia Number 5 of 2019 concerning Guidelines for Adjudicating Marriage Dispensation Applications