

## **Judicial Reasoning In Marriage Dispensation Cases: A Maqasid Al-Shariah Analysis Of Premarital Pregnancy**

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### **Abstract**

Marriage dispensation requests due to premarital pregnancy have become a significant legal and ethical issue in the practice of religious courts in Indonesia. This study analyzes the judicial reasoning in Decision Number 212/Pdt.P/2023/PA.Mtr and evaluates its alignment with the objectives of Maqasid al-Sharia. This research used a case study approach to examine the court's legal reasoning alongside relevant statutory frameworks, including Law Number 16 of 2019, Supreme Court Regulation Number 5 of 2019, and the Compilation of Islamic Law. The findings indicate that the judge relied on considerations of public benefit (*maslahah*) and the prevention of greater harm (*mafsadah*) to justify granting the dispensation. The decision frames marriage as a mechanism to protect lineage (*hifz al-nasl*), ensure the legal status of the unborn child, and mitigate social stigma. However, the case also reveals a normative

tension between short-term social urgency and the long-term objectives of child protection within a maqasid-based framework.

**Keywords:** *Marriage Dispensation; Maqasid al-Shariah; Judicial Reasoning; Premarital Pregnancy; Religious Courts*

## 1. Introduction

Marriage constitutes a fundamental social and legal institution that serves not only to legitimize family formation but also to maintain social order, moral stability, and intergenerational continuity. In Indonesia, the regulation of marriage has undergone a significant normative shift with the enactment of Law No. 16 of 2019, which amended Law No. 1 of 1974 by equalizing and raising the minimum legal age of marriage to 19 years for both men and women (Sekar, 2023). This reform reflects the state's commitment to child protection, human development, and long-term social welfare, aligning marriage regulation with broader governance objectives in public policy and social management. Despite this normative advancement, the implementation of the law has revealed persistent structural tensions between legal standards and social realities, manifested in the continued prevalence of applications for Marriage Dispensation submitted to Religious Courts (Ramdani, 2023). These applications represent a discretionary legal mechanism through which underage marriage may be authorized under exceptional circumstances, thereby positioning judges as key decision-makers balancing statutory compliance, social pressures, and moral considerations (Sarah & Isyanto, 2022).

The phenomenon of marriage dispensation became particularly pronounced during the COVID-19 pandemic, when socio-economic disruptions intensified household vulnerability. National data and regional trends from the Mataram High Religious Court (PTA Mataram) between 2019 and 2023 reveal that marriage dispensation is not merely a legal anomaly but a recurring institutional response to structural social challenges, reaching a peak of 1,127 cases in 2021 (P. A. Putra & Agung Burhanusyihab, 2023). Within this context, the decision of the Mataram Religious Court Number 212/Pdt.P/2023/PA.Mtr presents a representative case for examining judicial reasoning in marriage dispensation involving premarital pregnancy. While such decisions may align with short-term restorative considerations, they raise critical normative questions when assessed through the lens of Maqasid al-Shariah. From a maqasid perspective, marriage regulation is concerned with the realization of substantive welfare (maslahah) and the prevention

of long-term harm (mafsadah), particularly in relation to hifz al-nasl (protection of offspring), requiring a deeper evaluation of whether judicial decisions genuinely serve long-term Shariah objectives (Dewi Judiasih & Kusmayanti, 2024).

Existing scholarship on marriage dispensation in Indonesia has largely focused on doctrinal legal analysis or socio-cultural explanations. Studies such as those by (Dewi Judiasih & Kusmayanti, 2024) examine the dispensation of marriage in the context of positive law, but offer a limited explicit connection with the violation or achievement of Maqasid al-Shariah principles. Furthermore, research by (A. P. Putra & Burhanusyihab, 2023) highlights the significant trend of early marriage driven by sociological factors like premarital pregnancy, yet stops short of critically interrogating judicial reasoning as a normative decision-making process. Consequently, there remains a theoretical and methodological gap in understanding how Maqasid al-Shariah functions not merely as a normative ideal but as an evaluative framework for judicial discretion. To address this gap, this study proposes a Maqasid-based Holistic Adjudication Model as a solution, suggesting that judicial discretion must transition from focusing solely on immediate social emergencies to a comprehensive assessment of long-term welfare and the protection of the rights of the unborn (Rahman, 2020).

The novelty of this research lies in its systematic integration of Maqasid al-Shariah, particularly hifz al-nasl, into the analysis of judicial reasoning, moving beyond descriptive legal analysis toward a normative evaluation of decision-making quality. It critically argues that while marriage dispensation may reduce short-term social risks, such as stigma against children born out of wedlock, it may simultaneously generate long-term vulnerabilities that conflict with the broader objectives of family protection and social sustainability. Accordingly, this study is guided by research questions concerning how the Mataram Religious Court constructed its judicial reasoning in Decision Number 212/Pdt.P/2023/PA.Mtr, the extent to which this aligns with hifz al-nasl, and the normative tensions that arise between short-term social considerations and long-term maqasid-based welfare. By situating judicial discretion within a maqasid-based evaluative framework, this study contributes to broader discussions on Islamic legal governance, judicial accountability, and family law reform (Dewi Judiasih & Kusmayanti, 2024).

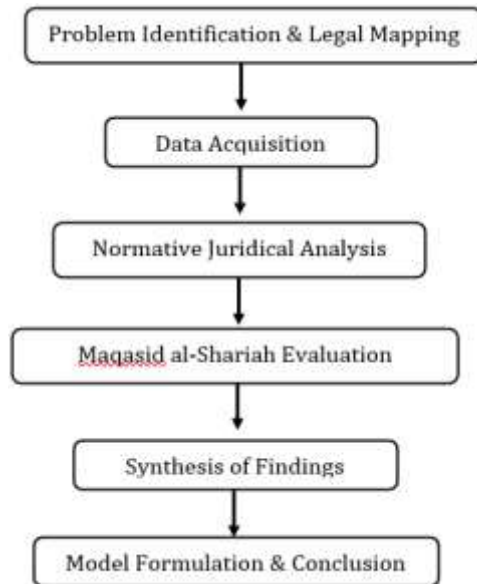
Accordingly, this study is guided by the following research questions: 1) How is the legal framework governing marriage dispensation implemented in judicial practice at the Mataram Religious Court? 2) How are factual considerations constructed in judicial reasoning in Decision Number 212/Pdt.P/2023/PA.Mtr, and how do they reflect the balance of maqasid al-shariah principles? 3) What patterns emerge in marriage dispensation cases within the Mataram jurisdiction, and what do these patterns indicate about the relationship between legal regulations and social dynamics? Methodologically, this research employs a qualitative interdisciplinary approach, combining normative juridical analysis with Maqasid al-Shariah theory. Primary data are drawn from the court decision, while secondary sources include statutory regulations, classical and contemporary maqasid literature, and relevant socio-legal studies. By situating judicial discretion within a maqasid-based evaluative framework, this study contributes to broader discussions on Islamic legal governance, judicial accountability, and family law reform in Muslim-majority contexts (Ramdani, 2023).

## **2. Research Method**

This research employs a qualitative method with an interdisciplinary approach, integrating normative juridical analysis and a *Maqasid al-Shariah* evaluative framework. This design is selected to scrutinize judicial reasoning and value-based decision-making in the Mataram Religious Court Decision Number 212/Pdt.P/2023/PA.Mtr.

### **2.1 Research Design and Flowchart**

To ensure a systematic investigation, the research follows a structured trajectory from problem identification to the formulation of a holistic adjudication model. The following flowchart illustrates the research stages:



**Figure 1.** Research Flow

1. Phase 1: Identification and Legal Mapping This initial phase focuses on identifying the core research problem, namely the increasing trend of marriage dispensation cases, particularly those caused by premarital pregnancy following the enactment of Law No. 16 of 2019 concerning the minimum age of marriage. At this stage, the researcher does not merely describe the phenomenon but also conducts legal mapping, which involves identifying relevant legal instruments, judicial practices, and socio-legal contexts surrounding the issue. This mapping is essential to position the research within the broader legal framework and to understand how regulatory changes influence judicial decisions (Mathew & Huberman, 1992). Furthermore, this phase establishes the research urgency by linking empirical trends with normative legal developments, thereby forming a strong foundation for subsequent analysis.
2. Phase 2: Data Acquisition. In this phase, the researcher collects qualitative legal data from both primary and secondary sources. The primary data consists of the official court decision, namely Decision Number 212/Pdt.P/2023/PA.Mtr, which serves as the central object of analysis. Secondary data includes statutory regulations, such as Law No. 1 of 1974 and Law No. 16 of 2019,

Supreme Court regulations (PERMA No. 5 of 2019), as well as scholarly literature on Maqasid al-Shariah. The data collection process is conducted through document analysis and literature review, ensuring that the study is grounded in authoritative legal texts and theoretical frameworks. This phase also involves organizing and classifying the collected data to facilitate systematic analysis in subsequent stages (P. A. Putra, 2022).

3. Phase 3: Normative Juridical Analysis. This phase focuses on examining the formal legal dimension of judicial reasoning. The analysis evaluates whether the judge's decision aligns with applicable statutory provisions, procedural rules, and principles of legal consistency. The researcher conducts a detailed examination of the "Legal Considerations" section of the court decision, identifying how legal norms are interpreted and applied. This includes assessing: Compliance with Law No. 16 of 2019 regarding marriage age limits, Application of PERMA No. 5 of 2019 on marriage dispensation. The extent of judicial discretion exercised in the decision (Sarah & Isyanto, 2022). This phase emphasizes that judicial reasoning is not merely mechanical but involves interpretative judgment, which must still remain within the boundaries of legal norms.
4. Phase 4: Maqasid al-Shariah Evaluation. Beyond formal legality, this phase evaluates the substantive justice of the judicial decision using the Maqasid al-Shariah framework (Paryadi, 2021). The analysis focuses on whether the decision promotes public benefit (*maslahah*) and prevents harm (*mafsadah*).
5. Phase 5: Synthesis and Model Formulation. In the final phase, the findings from the normative juridical analysis and Maqasid evaluation are integrated and synthesized. This synthesis aims to identify patterns, inconsistencies, and strengths in judicial reasoning. Based on this integration, the researcher proposes a "Maqasid-based Holistic Adjudication Model", which serves as a conceptual framework for improving judicial decision-making in similar cases.

## **2.2 Research Approach and Analytical Framework**

The study utilizes a two-layer analytical framework:

- Normative Juridical Approach: Focuses on statutory interpretation, legal consistency, and the application of judicial discretion within

the Indonesian legal system, specifically regarding marriage age limits.

- Theological–Philosophical Approach: Utilizes *Maqasid al-Shariah* as an evaluative tool. This approach assesses whether judicial considerations prioritize short-term harm prevention (*mafsadah*) or contribute to long-term welfare (*maslahah*) as categorized into *daruriyyat*, *hajiyyat*, and *tahsiniyyat*.

### **2.3 Data Sources and Collection**

Data is derived from document-based qualitative sources:

- Primary Data: The official written judgment of the Mataram Religious Court Decision Number 212/Pdt.P/2023/PA.Mtr, specifically the "Legal Considerations" (*Pertimbangan Hukum*) section.
- Secondary Data: Statutory regulations (Law No. 1/1974, Law No. 16/2019), Supreme Court regulations, classical and contemporary *Maqasid* literature, and statistical reports from the Religious Courts Agency (Badilag).

### **2.4 Data Analysis Procedures**

Analysis is conducted through qualitative descriptive–analytical techniques in three stages:

1. Textual Segmentation: Breaking down the court decision into thematic units (factual, moral, and legal arguments).
2. Normative Validation: Assessing thematic units against procedural guidelines and statutory provisions.
3. Maqasid Coding: Categorizing judicial arguments based on *Maqasid* dimensions to determine if the decision fulfills the protection of lineage (*hifz al-nasl*) without compromising other essential protections.

### **2.5 Data Validity and Trustworthiness**

The study employs source-based triangulation. Judicial reasoning is cross-empirical socio-legal literature. This ensures that the findings are not merely descriptive but are grounded in legal doctrine and Islamic ethical objectives.

## **3. Results**

### **3.1 Legal Framework Governing Marriage Dispensation**

The findings indicate that the implementation of marriage dispensation in Indonesia is carried out through the simultaneous application of multiple legal instruments within judicial practice. Based on

data derived from court decisions and relevant regulatory frameworks, four primary legal instruments are consistently referenced in dispensation cases, namely Law No. 16 of 2019, the amended Marriage Law, the Compilation of Islamic Law (KHI), and Supreme Court Regulation (PERMA) No. 5 of 2019 (Ramdani, 2023).

Law No. 16 of 2019 establishes the minimum legal age for marriage at 19 years for both men and women (Government of Indonesia, 2019). The Marriage Law provides a legal mechanism that allows dispensation requests to be submitted through judicial proceedings (Government of Indonesia, 1974) (Moulita et al., 2024). In specific cases, particularly those involving premarital pregnancy, Article 53 of the Compilation of Islamic Law is applied as a normative reference (Ministry of Religious Affairs of Indonesia, 1991). Supreme Court Regulation No. 5 of 2019 serves as the primary procedural guideline governing the adjudication of marriage dispensation cases (Supreme Court of Indonesia, 2019) (Paryadi, 2021).

Empirical data from the Mataram Religious Court show that all dispensation applications were processed in accordance with PERMA No. 5 of 2019. Court records indicate that judges consistently applied a structured examination process prior to issuing decisions. This process includes the assessment of four key aspects: the psychological condition of the minor, health status, educational background, and the urgency of the application. These aspects were systematically documented in all examined cases.

The findings further show that these components were treated as mandatory elements in judicial examination and were consistently recorded in court documents. The data demonstrate a uniform procedural application of the legal framework across cases.

### **3.2 Case Profile: Factual Consideration Decision Number 212/Pdt.P/2023/PA.Mtr**

The findings identify a set of recurring factual elements that form the basis of judicial consideration in marriage dispensation cases. These elements were derived from the analysis of Decision Number 212/Pdt.P/2023/PA.Mtr and supporting court records (Mataram Religious Court, 2023). (Mataram Religious Court, 2023). The data show that the applicants were the parents of the prospective bride, who was legally underage at the time of the application. The court records confirm the presence of premarital pregnancy as a central factual condition in the case.

The pregnancy was verified through an evidentiary examination during the hearing process. This verification was explicitly documented in the court’s consideration and formed a key component of the case record. The findings further indicate that the applicants stated the purpose of the dispensation request as ensuring the legal status of the unborn child and addressing family-related concerns. These reasons were formally recorded in the application and included in the court documents.

In addition, the court classified the pregnancy as an urgent condition within the case. This classification was based on the factual evidence presented during the proceedings and was consistently reflected in the structure of the judicial record.

Overall, the data show that factual considerations in marriage dispensation cases include the status of the applicants, the age of the prospective bride, the presence of pregnancy, the verification of evidence, and the stated purpose of the application.

### 3.3 Statistical Trends in Marriage Dispensation Cases

Statistical data from the Mataram High Religious Court indicate a significant increase in marriage dispensation applications following the implementation of the revised marriage law. The number of cases rose sharply and reached a peak of 1,127 cases in 2021.

**Table 3.** Marriage Dispensation Cases in the Mataram Jurisdiction

<u>Year</u>	<u>Number of Cases</u>
2019	643
2020	891
2021	1,127
2022	1,002
2023	978

The findings reveal a clear pattern in the number of marriage dispensation cases over a five-year period based on statistical data obtained from the Mataram High Religious Court ( Mataram High Religious Court, 2019–2023).

The number of recorded cases was 643. This figure increased to 891 cases in 2020 and reached a peak of 1,127 cases in 2021. Subsequently, the number of cases declined to 1,002 in 2022 and further to 978 in 2023. Despite this decline after 2021, the number of cases remained higher than the baseline recorded in 2019.

The data indicate an increase in the number of cases within a relatively short period following the revision of the minimum marriage age

under Law No. 16 of 2019 (Government of Indonesia, 2019). In addition, the data show that a substantial proportion of cases share similar characteristics.

Based on court documents and case summaries, most dispensation applications were associated with premarital pregnancy. This pattern appears consistently across the dataset.

Overall, the findings demonstrate that marriage dispensation cases in the Mataram jurisdiction exhibit a relatively consistent pattern in both case frequency and case characteristics over the observed period.

## **4. Discussion**

### **4.1 RQ1: The Meaning of the Legal Framework Implementation in Marriage Dispensation.**

The findings for RQ1 indicate that the implementation of marriage dispensation in Indonesia is carried out through the simultaneous application of multiple legal instruments, with Supreme Court Regulation (PERMA) No. 5 of 2019 functioning as the primary procedural guideline. These findings suggest that judicial practice does not rely solely on substantive legal norms such as the Marriage Law and the Compilation of Islamic Law, but is also significantly shaped by procedural frameworks that regulate how judges examine cases.

The meaning of this finding highlights that decision-making in marriage dispensation cases is procedural and structured, rather than purely normative. This supports the view that law operates not only as a set of substantive rules but also as an institutional mechanism that governs how decisions are produced (Supreme Court of Indonesia, 2019).

However, despite the existence of detailed procedural requirements, the findings indicate that the implementation of the legal framework tends to focus more on fulfilling administrative aspects rather than conducting a comprehensive evaluation of the best interests of the child. This suggests that procedural compliance may function more as a tool of legal legitimacy than as a substantive evaluative mechanism.

The contribution of this finding lies in demonstrating that the implementation of the legal framework governing marriage dispensation in Indonesia is predominantly procedural, with limited integration of comprehensive child protection considerations.

## **4.2 RQ2: The Meaning of Factual Considerations in Judicial Reasoning.**

The issue of proportionality in judicial discretion becomes more apparent when examined through the concept of balance (*tawāzun*) proposed by Mohammad Hashim Kamali. Kamali argues that the objectives of Islamic law should operate in a balanced manner so that the protection of one interest does not undermine others. In principle, judicial reasoning should therefore weigh the protection of lineage against other fundamental objectives, including intellectual development and physical well-being.

In the examined case, the court successfully secured *hifz al-nasl* by granting the marriage dispensation, thereby providing legal recognition to the unborn child. However, this decision simultaneously raises concerns regarding *hifz al-‘aql* and *hifz al-nafs*. Early marriage often leads to educational discontinuity and increases the risk of reproductive health problems among adolescents. As a result, the decision reflects a structural imbalance in which the protection of lineage is prioritized over the long-term intellectual and physical welfare of the minor.

This finding partially supports earlier research indicating that religious courts in Indonesia tend to adopt a pragmatic and situational approach when granting marriage dispensation. Nevertheless, the present study reveals a more specific pattern: judicial reasoning is often reactive rather than anticipatory. The court addresses immediate social problems, such as pregnancy and community stigma, but rarely evaluates the long-term developmental implications for the individuals involved.

From a practical perspective, this finding highlights the need for clearer guidelines that encourage judges to conduct more comprehensive assessments in dispensation cases. For example, integrating social worker assessments, psychological evaluations, and educational considerations into court procedures could help ensure that judicial discretion reflects a more balanced application of *maqasid* principles.

## **4.3 RQ3: The Meaning of Patterns in Marriage Dispensation Cases.**

The findings for RQ3 indicate a significant increase in marriage dispensation cases following the revision of the minimum marriage age under Law No. 16 of 2019. In addition, a consistent pattern is observed in which the majority of cases are associated with premarital pregnancy.

The meaning of this finding suggests that the increase in case numbers cannot be understood solely as a legal phenomenon but also reflects broader social dynamics within society. From a socio-legal

perspective, courts function as mechanisms for responding to social pressures, particularly those related to moral norms and family honor (Bowen, 2003).

This recurring pattern indicates that marriage dispensation is frequently used as a solution to urgent social problems. It also demonstrates that courts function not only as legal institutions but as mechanisms for stabilizing social tensions.

However, the findings also reveal a tension between the preventive objectives of the law and the reactive nature of judicial practice. Although Law No. 16 of 2019 aims to reduce child marriage, the widespread use of dispensation mechanisms suggests that legal exceptions continue to be applied extensively.

The contribution of this study lies in showing that patterns of marriage dispensation in Indonesia are shaped not only by legal regulations but also by recurring social factors.

*Limitation:* The statistical data used in this study are aggregate in nature and do not include variables such as socio-economic background, education level, or other contextual factors.

#### **4.4 Research Contribution and Implications.**

This study contributes to the development of Islamic family law and socio-legal studies by demonstrating that:

1. The implementation of marriage dispensation is procedural and structured, with PERMA serving as the dominant operational guideline.
2. Judicial reasoning tends to focus on urgent factual conditions, particularly premarital pregnancy.
3. Case patterns reflect a strong interaction between legal frameworks and social dynamics.

From a practical perspective, these findings highlight the importance of strengthening multidisciplinary evaluations in marriage dispensation cases, including psychological, educational, and health considerations.

## **5 Conclusions**

This study shows that marriage dispensation in Indonesia is shaped by the interaction of legal frameworks, social realities, and judicial reasoning. Its implementation is largely procedural, dominated by Supreme Court Regulation No. 5 of 2019, while substantive evaluation of the child's best interests remains limited. Premarital pregnancy emerges as the main factor driving applications and is consistently treated as an urgent

condition, leading to reactive judicial reasoning focused on short-term solutions. Statistically, dispensation cases increased significantly following Law No. 16 of 2019 and display relatively uniform patterns, predominantly linked to premarital pregnancy. These findings suggest that marriage dispensation reflects broader social dynamics beyond legal considerations. From a Maqasid al-Shariah perspective, judicial practice prioritizes the protection of lineage (*hifz al-nasl*), while other dimensions, such as intellect (*hifz al-'aql*) and life (*hifz al-nafs*), remain underemphasized, indicating a partial application of maqasid. This study highlights the need for a more holistic maqasid-based approach, strengthened multidisciplinary evaluation, and preventive policies. Its limitation lies in the use of a single case and aggregate data; future research should adopt broader empirical approaches.

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