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Dispensation at Indonesian Religious Courts**

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PSEUDO-MAŞLAHAH AND EPISTEMOLOGICAL FAILURE IN MARRIAGE DISPENSATION AT INDONESIAN RELIGIOUS COURTS

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Abstract

This study looked at how *maşlahah* (public interest) was used in marriage cases in the Religious Courts of Sumatra, Indonesia, and how it was related to the goals of *maqāşid al-sharī'ah*. Based on a qualitative analysis of 48 court decisions and in-depth interviews with six judges, the research revealed that the concept of *maşlahah* was often employed as a procedural justification to accommodate social pressure, rather than as an evaluative ethical-legal framework. Judges tended to prioritize the protection of religion (*hiḏz al-dīn*) – mainly by preventing adultery – while neglecting essential dimensions such as protection of life (*hiḏz al-naḏs*), intellect (*hiḏz al-'aql*), and progeny (*hiḏz al-naşl*). This reductionist approach led to the legitimization of underage marriage without proper psychological, biological, or economic assessments. The study found that such practices contributed to systemic harm, including early divorce, reproductive health risks, and intergenerational poverty. By critically examining the misuse of *maşlahah*, this research offered an epistemological critique and proposes a reconstructive framework grounded in empirical evaluation and child-centered justice. It concluded that the reform of Islamic family law requires not only regulatory improvement but also a transformation of judicial reasoning. This study contributes to broader discussions on Islamic legal reform and child protection in Muslim-majority contexts.

Keywords: Marriage Dispensation; Maşlahah; Maqāşid Al-Sharī'ah; Underage Marriage; Child Protection.



A. Introduction

Child marriage dispensation in Indonesia is a normative paradox. On the one hand, Law No. 16 of 2019 raises the minimum age for marriage as a form of protection for children. On the other hand, more than 89.7% of dispensation requests are granted by the Religious Court each year (RI, 2023; Mujiburohman et al., 2024; Kamal, 2024). The main argument used by judges is the consideration of *maṣlaḥah*, namely preventing adultery, maintaining family honor, or saving pregnancies outside of marriage (Mutakin et al., 2021; Rasyid et al., 2024; Kamal, 2024). However, data indicates that this practice actually contributes to early divorce, domestic violence, stunting, and structural poverty (Halimatusa'diyah & Triana, 2024; Iwan et al., 2024).

This problem is not merely procedural, but touches on the epistemological roots of Islamic law, namely how *maṣlaḥah* is constructed and operated in legal considerations. Field findings show that many judges use the logic of *sadd al-dharī'ah* (closing the path to harm), which is narrowly understood as the prevention of adultery. As a result, *maqāṣid al-sharī'ah* is reduced to the protection of religion (*dīn*), while the aspects of the soul (*nafs*), reason (*'aql*), and lineage (*nasl*) are neglected (Al-Ghazali, 2022; Mutawali, 2023).

The recurrence of this pattern is not unique to Indonesia. In several Muslim-majority contexts, legal practices in the name of *maṣlaḥah* have been used to legitimize underage marriages or override fundamental rights of children and women. For example, in Iran, marriage and divorce still have legal consequences that disproportionately affect women's nationality status, reflecting an institutionalized bias in the law (Zavareh, 2023). Meanwhile, in Sri Lanka, the Muslim Marriage and Divorce Act has been widely criticized for failing to uphold gender equality in matters of marriage consent and age (Dawood, 2024; Rasyid et al., 2024).

In the Indonesian context, recent studies have drawn attention to the manipulation of religion in legalizing underage marriage (Barkah et al., 2023), the sociocultural justifications behind forced and early marriages (Sopyan et

al., 2023), and the practice of unregistered marriage that undermines the legal protection of spouses and children (Baihaqi et al., 2024). However, the practice of issuing dispensations is rarely interrogated from the lens of epistemological *maṣlahah*, especially in terms of how judicial reasoning navigates between procedural norms, social pressure, and substantive justice.

Previous research has provided an important foundation for understanding child marriage dispensations in Indonesia, particularly from the perspective of positive law (Faiz et al., 2023; Lahilote et al., 2022), legal aspects and child rights protection (Nawawi et al., 2022), and its relationship with the minimum age for marriage (Nurnazli & Pane, 2020). However, there are three critical gaps that remain unaddressed and constitute the primary focus of this study.

First, the epistemological dimension of *maṣlahah*. Previous studies tend to refer to *maṣlahah* as an unquestionable normative concept, without examining how judges construct it within the framework of legal logic. For example, Mutakin et al., (2021) and Rachmadhani et al., (2024) highlight the role of *sadd al-dharī'ah* in marriage dispensation, but have not explored how this principle is reduced to the legitimization of social pressure. *Second*, a partial reading of *maqāṣid*. Some literature, such as Aristoni (2022) and Halimatusa'diyah & Triana (2024), has identified the negative implications of early marriage, such as divorce and poverty. However, their discussion has not been integrally linked to the framework of *maqāṣid al-sharī'ah*, especially in relation to the neglect of protection of the soul (*naḥs*), reason (*'aql*), and lineage (*nasl*). *Third*, methodological imbalance. The studies by Nawawi et al., (2022) and Yetta et al., (2024) did pay attention to children's rights and the consistency of judges' decisions, but their approach did not combine doctrinal analysis of the decisions with empirical data obtained through interviews with judges, which is needed to understand the legal logic behind the use of *maṣlahah*.

In contrast, other scholars such as Maula & Muhsin (2024) and Rajafi et al., (2024) have emphasized the legal ambiguity surrounding interfaith and underage marriages in Indonesia, revealing how formalistic interpretations



often undermine the spirit of child protection and human rights. Yet, these studies have not fully employed *maqāṣid* as an analytical framework to evaluate judicial epistemology. Based on this, the author has not found any studies that explicitly and deeply criticize the use of *maṣlaḥah* by judges from the epistemological perspective of *maqāṣid*, a criticism that is not only normatively relevant but also strategic for the reform of Islamic jurisprudence that favors child protection.

Therefore, this study aims to fill this gap by critically analyzing how *maṣlaḥah* is formulated and used in marriage dispensation rulings. This study offers three main contributions: first, it reveals the shift of *maṣlaḥah* from the meaning of *ḥaqīqiyah* to *mawhūmah*, through the dominance of *sadd al-dharī'ah* and the neglect of the holistic principle of *maqāṣid*; second, it maps the imbalance between normative considerations and social reality through the integration of ruling data and interviews with judges; and third, it designs a *maqāṣid*-based reconstructive proposal, which includes judicial training, multidisciplinary assessment, and regulatory revision.

This study also draws inspiration from the work of Saleh et al., (2022), who emphasize the importance of philosophical reasoning in Islamic legal decisions, particularly in issues involving marriage and family resilience. In addition, recent findings from Mustofa et al., (2024) and Agustina & Ismah (2024) underscore the growing role of religious authority and women's scholarship in contesting traditional interpretations of family law. Their perspectives further justify the need for an epistemological shift in how judges understand and apply *maṣlaḥah*. Thus, this study not only addresses existing gaps in the literature but also proposes a new evaluative and policy framework that places *maqāṣid* as a substantive principle in child protection practices in Indonesian religious courts.

B. Method

This study employs a qualitative approach with a legal-normative method to explore how the concept of *maṣlaḥah* is constructed and applied in marriage dispensation decisions by Indonesian Religious Court judges.

The primary data consists of two sources: first, 48 purposively selected court decisions from five provinces in Sumatra—Aceh, North Sumatra, West Sumatra, Riau, and Jambi—chosen based on the presence of *maṣlaḥah*-related legal considerations; and second, semi-structured interviews with six judges experienced in handling marriage dispensation cases. These interviews were conducted between May and July 2023, both online and offline, lasting 45–90 minutes and transcribed verbatim.

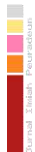
The use of purposive sampling allows a focused analysis of decisions where *maṣlaḥah* is central, while the multi-site coverage ensures variation across sociocultural and institutional contexts. Legal documents were obtained from the Supreme Court’s SIPP system and internal court archives, with cases lacking explicit legal arguments excluded from the data corpus.

The analysis employed a thematic content analysis method in three stages. First, open coding was used to identify keywords or phrases indicating *maṣlaḥah* considerations, such as “preventing adultery.” Second, axial coding grouped codes into broader categories like *Preventive Logic*, *Social Legitimacy*, and *Neglect of Readiness*. Third, selective coding linked these themes to *maqāṣid al-sharī’ah* principles—such as *ḥifẓ al-dīn*, *naḥs*, and *naṣl*—that were considered or omitted in judicial reasoning.

Al-Ghazālī’s framework of *maṣlaḥah ḥaqīqiyyah* and *mawḥūmah* was used as an analytical lens to assess the alignment between judicial justifications and the substantive goals of Islamic law. This allowed the study to distinguish between genuine benefits and pseudo-maṣlaḥat based on unverified social concerns.

Data validity was enhanced through triangulation by comparing written rulings with interview narratives. Discrepancies often emerged—for instance, a decision citing “family honor” contrasted with interview statements pointing to economic pressure. This methodological design was strengthened by cross-checking with contemporary *fiqh* literature and peer debriefings to minimize interpretive bias.

The integration of doctrinal and empirical methods reflects what Mesraini and Yunus (2023) describe as a holistic legal inquiry—bridging



normative reasoning with lived legal practice in family law. This is especially critical in contexts where judicial decisions are shaped not only by legal texts but also by prevailing cultural norms and institutional constraints.

While this study provides in-depth insights, it acknowledges limitations. The regional focus may limit generalizability, and court documents may underrepresent implicit legal reasoning. To mitigate this, interviews were used to uncover latent judicial motivations. As noted in Syaikh et al., (2024), incorporating localized normative frameworks is essential when analyzing legal responses to family issues in Muslim communities.

Unlike prior studies that mention *maqāṣid* as normative background, this research actively employs it as an interpretive tool to evaluate the coherence between legal reasoning, ethical objectives, and social outcomes. In Case No. 0090/Pdt.P/2023/PA.Pbr, for example, the focus on *ḥifẓ al-dīn* was critiqued for marginalizing *ḥifẓ al-nafs*, despite the biological vulnerability of the child bride. Such analysis situates *maqāṣid* not as rhetorical ornamentation but as an operative judicial ethic.

C. Results and Discussion

This section presents the empirical findings derived from an in-depth analysis of marriage dispensation decisions and judicial interviews conducted across five provinces in Sumatra. By examining both legal documents and judges' narratives, the study explores how the concept of *maṣlahah* has been constructed, interpreted, and applied in judicial practice. The results are organized thematically to reveal patterns of legal reasoning, procedural tendencies, and the socio-cultural factors influencing judicial decisions.

1. Results

a. The flawed construction of *maṣlahah* in marriage dispensations: A procedural focus and neglect of substance

The results of this study were obtained through the analysis of 48 marriage dispensation decisions from five provinces in Sumatra (Aceh, North

Sumatra, West Sumatra, Riau, and Bengkulu), supported by in-depth interviews with six judges experienced in handling such cases. The initial findings indicate that the majority of marriage dispensations were granted based on short-term considerations, especially the prevention of adultery or response to pregnancy outside of wedlock.

In 30 cases (62.5%), the primary justification cited was the need to prevent promiscuity or violations of religious norms. For instance, Decision No. 0090/Pdt.P/2023/PA.Pbr stated that the dispensation was granted “to prevent promiscuity that could violate religious norms.” Likewise, Decision No. 0078/Pdt.P/2023/PA.Jmb justified approval by stating “the request was granted to avoid adultery because their relationship was already very close”.

Meanwhile, 18 other cases (37.5%) were based on evidence of pregnancy outside marriage, such as in Decision No. 0045/Pdt.P/2023/PA.Bkl and Decision No. 0022/Pdt.P/2023/MS.Bna, which explicitly prioritized the urgency of formalizing the marriage. These trends are summarized in the following table.

Table 1. Legal justifications in marriage dispensation decisions

Reason	Number of Decisions	Percentage
Preventing adultery	30	62,5%
Unmarried pregnancy	18	37,5%
Total	48	100%

In addition to these direct justifications, this study found that some judges also considered socio-cultural factors surrounding the application. While not always explicitly cited as the primary legal basis, these factors appeared in the narrative considerations of court decisions or were revealed in interviews. The distribution is as follows.

Table 2. Socio-cultural factors in judicial consideration

Factors	Number of Decisions	Percentage
Economy	18	37,5%
Parental Guidance	15	31,5%
Culture	9	18,75%
Religion	6	12,5%



These motives were corroborated in the interview data. A judge from the Padang Religious Court, when asked about the assessment process in granting dispensation, explained: *“We do not have the tools to assess psychological maturity. As long as the administrative requirements are met, the dispensation must be granted”* (Interview with Judge, Decision No. 470/Rev.P/2023/PA.Pdg).

Similarly, a judge from the Jambi Religious Court stated: *“Our duty is to fulfill the formal requirements for dispensation in accordance with the law. The impact on the household is their own responsibility”* (Interview with Judge, Decision No. 103/Pdt.P/2019/PA.JMB). Another judge from Pekanbaru made the following observation: *“We only consider the formal requirements for a dispensation. The issue of maintenance is the husband’s responsibility after marriage”* (Interview with Judge, Decision No. 0084/Rev.P/2016/PA.Pbr).

The analysis shows that across nearly all decisions, there was a near absence of in-depth assessment of the couple’s psychological, emotional, or economic readiness. Reproductive health concerns were also largely ignored, with only a few exceptions. For example, Decision No. 0043/Pdt.P/2023/PA.Bkl briefly mentioned *“underdeveloped reproductive organs”* but still granted dispensation based on overriding social and moral pressures.

Likewise, Decision No. 0022/Pdt.P/2023/MS.Bna stated that *“because she is pregnant and her parents agree, the marriage must be performed,”* without any discussion of educational or financial preparedness. Decision No. 0050/Pdt.P/2023/PA.Mdn similarly relied solely on a pregnancy certificate, with no further inquiry into the future well-being of the minor. This procedural pattern is replicated in other documents, where *maṣlahah* is cited as a post-facto justification once administrative conditions are satisfied. In these cases, *maṣlahah* functions more as a symbolic endorsement rather than a rigorous legal-ethical evaluation grounded in *maqāṣid al-sharī’ah*.

In general, only the dimension of religious protection (*ḥifz al-dīn*) was cited explicitly. Other essential elements of *maqāṣid* – such as the protection of

life (*hiḏ al-naḏs*), intellect (*hiḏ al-'aql*), and lineage (*hiḏ al-nasl*) – rarely appeared, either explicitly or implicitly, in legal argumentation.

Most decisions were highly responsive to social pressure, such as the need to avoid family shame, manage unexpected pregnancies, or satisfy cultural expectations. Thus, *maṣlahah* was framed as an emergency accommodation rather than a framework for evaluating the long-term impact of early marriage. These tendencies were consistently found in Decisions No. 0022/Pdt.P/2023/MS.Bna and No. 0050/Pdt.P/2023/PA.Mdn, among others.

Therefore, these findings suggest that the use of *maṣlahah* in marriage dispensation rulings reflects a predominantly procedural approach. The concept is utilized to legitimize social demands rather than to enforce the ethical and protective intentions embedded in *maqāṣid al-sharī'ah*.

b. Social implications of the misconstrued concept of *maṣlahah*: from preventable adultery to permissible *maḏsadah*

The consequences of this formalistic and limited construction of *maṣlahah* are significant. Field findings indicate that early marriages resulting from dispensation rulings often generate deeper and long-term social, psychological, and economic harm.

In interviews and observations, four recurring vulnerabilities emerged in early marriage households: complications in reproductive health, unresolved domestic conflict, increased rates of divorce, and long-term economic instability. A 16-year-old female respondent from Pekanbaru, who married under a dispensation, shared: “*My child was born prematurely and has health problems*” (Interview with AN, 2024). From an economic standpoint, a young husband who married at 18 revealed: “*I married because I had to, but after that I had difficulty finding a decent job to support my wife and children*” (Interview with KH, 2024).

These empirical observations are consistent with prior studies. Halimatusa'diyah and Triana (2024) identified a higher propensity for domestic violence among underage couples. Aristoni (2022) documented the emotional immaturity that often leads to instability in marital relationships.



Similarly, Hilyasani et al., (2022) found that couples under the age of 19 face nearly double the risk of divorce compared to those who marry later.

Overall, the data reveal that judicial responses grounded in immediate concerns—such as avoiding *zina*—can lead to a normalization of deeper, systemic *mafsadah*. Although the Supreme Court Regulation No. 5 of 2019 mandates child protection as a guiding principle, in practice the application of *maṣlahah* in these cases tends to reflect emergency logic shaped by social pressure, rather than holistic, future-oriented analysis. This section thus lays the empirical groundwork for the next part of this study: a critical discussion on the legal and epistemological construction of *maṣlahah*, and the urgent need for reconstructive approaches rooted in *maqāṣid al-sharī'ah*.

2. Discussion

The findings of this study consistently demonstrate that in the implementation of marriage dispensation at the Religious Courts of Sumatra, the concept of *maṣlahah* is employed not as an ethical-legal evaluative mechanism, but as a symbolic procedural tool—functioning more as a social stamp than a framework for protective jurisprudence. This instrumentalization is particularly visible in judicial decisions such as Decision No. 0050/Pdt.P/2023/PA.Mdn, where judges approve dispensations by simply verifying administrative completeness, rather than engaging in a substantive analysis of *maṣlahah* and *mafsadah* (harm).

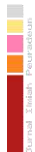
From the epistemological standpoint, this reduction of *maqāṣid al-sharī'ah* into procedural justifications reveals a deeper problem. Judicial reasoning in these cases centers predominantly on the protection of *dīn* (religion), narrowly interpreted as avoiding *zinā'* (fornication), while other foundational objectives of Islamic law such as *ḥifẓ al-nafs* (protection of life), *ḥifẓ al-'aql* (protection of reason), and *ḥifẓ al-nasl* (protection of progeny) are largely marginalized. Al-Ghazālī has emphasized that *maṣlahah* should only be considered valid if it aligns with the goals of *sharī'ah* and results in tangible, long-term benefits (Al-Ghazālī, 2022). When judges approve

underage marriage merely to avoid perceived sexual sin, without psychological, economic, or biological readiness assessment, they endanger rather than protect children's futures.

This epistemic reduction also perpetuates a dangerous form of legal formalism, where judges fulfill ritualistic requirements of religious law without engaging in moral reasoning or empirical scrutiny. The tendency to absolutize a single *maqṣad*—protection of religion—ignores the holistic interplay among other objectives, thus undermining the integrative spirit of Islamic jurisprudence. This study aligns with and deepens the critique made by Nawawi et al., (2022), who argue that most judges in Indonesia fail to apply the principle of the best interests of the child. However, our research shows that the problem is not merely procedural but epistemological—*maṣlaḥah* is invoked rhetorically, yet detached from empirical validation or holistic evaluation. The use of *sadd al-dharī'ah* (blocking the means to harm), for instance, is regularly cited as a justification for dispensation without proving that the potential harm (i.e., premarital sex) is more dangerous than the long-term consequences of child marriage.

Furthermore, the invocation of *maṣlaḥah* often serves to validate collective anxiety rather than ensure child protection. Such practice also mirrors what An-Na'im (2008) calls "legal mimicry," where *sharī'ah* ceases to function as a framework for ethical engagement and instead becomes a vehicle for socially unexamined legitimacy. Judges appear to respond more to collective anxiety—fear of scandal or social shame—than to the needs and rights of the child. In many cases, marriage dispensations are framed as preserving family honor or resolving economic pressures, rather than evaluating the individual's welfare (Wahyudi & Prastiwi, 2022). This corresponds to the concern expressed by Saleh et al., (2022) that legal institutions often prioritize social cohesion over individual rights, particularly in matters perceived as culturally sensitive.

Empirical evidence supports this pattern. Research by Gunawan & Bahri (2023) and Block et al., (2016) shows that early marriage significantly increases the risk of reproductive health complications, social instability, and



psychological harm. Further studies indicate that underage marriage often results in long-term educational and economic disadvantage for women and perpetuates cycles of poverty and gender inequality (Sutan & Siregar, 2021; McAfee & Hoffman, 2021). These findings provide a compelling counter-narrative to the justifications often used in court, revealing a gap between judicial logic and social realities.

However, the lack of integration of multidisciplinary evaluation in judicial proceedings exacerbates the issue. More concerning is the systemic absence of multidisciplinary evaluation in court proceedings. Court decisions rarely consider psychological assessments, reproductive health readiness, or financial capability. Faiz et al., (2023) highlight the legal uncertainties surrounding underage widows and widowers, underscoring the judicial failure to anticipate long-term social impact. Similarly, Sopyan et al., (2023) report instances of child exploitation in early marriages, revealing structural vulnerabilities legitimized through religious dispensations. As emphasized by Hilyasani et al., (2022), the absence of psychological expertise in judicial proceedings reduces the capacity of courts to weigh risks and future harms effectively.

This misuse of *maṣlahah* also carries implications for the integrity of Islamic jurisprudence globally. When *maṣlahah* is reduced to a stamp of procedural compliance, it undermines *sharī'ah*'s potential as a dynamic moral-legal system. The logic of *fiqh* should involve a balanced consideration of all *maqāṣid*, yet the current approach hierarchically privileges *dīn* at the expense of others, turning Islamic law into a servant of sociocultural anxiety rather than a shield of justice. Such transformation threatens the universal applicability of Islamic law, rendering it vulnerable to local biases and political pressures, and weakening its normative moral force in the eyes of international human rights discourse.

Comparative insights further underscore Indonesia's legal stagnation. In Malaysia, marriage dispensations require psychological and social assessments by official agencies before approval (Fakhria et al., 2024). In Morocco, under the post-Mudawwanah reforms, judges must consider

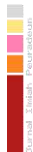


medical and psychological reports before granting dispensations (Welchman, 2007). These systems, although not perfect, demonstrate a more robust framework for aligning religious values with child protection principles. Brandts et al., (2022) further note that adaptive legal frameworks are more likely to evolve when religious authorities engage with evidence-based policymaking, rather than relying on tradition alone.

The failure to implement Perma No. 5 of 2019 effectively further highlights the institutional gap in Indonesia's judicial mechanism. Though the regulation affirms the importance of child protection, in practice, it remains superficial and poorly institutionalized. No mechanisms compel judges to incorporate professional input from psychologists or medical practitioners. Consequently, most decisions rely on the subjective moral judgments of judges or the persuasive narratives of parents, not objective assessments of the child's welfare (Rasyid et al., 2024; Syatar et al., 2023; Saleh et al., 2022). The result is a jurisprudence that prioritizes moral panic over material protection.

Furthermore, many judges continue to interpret *maṣlahah* in light of customary expectations rather than empirical verification. This aligns with the critique by Mesraini & Yunus (2023) regarding legal responses to diaspora marriages, where social norms override religious ethics. Similarly, Maula & Muhsin (2024) show how debates on interfaith marriage highlight the tension between religious norms and human rights, suggesting the need for a rethinking of legal foundations. These examples show that judicial reasoning in Islamic family law often reflects a socio-cultural compromise rather than a principled ethical stand, undermining both religious authority and child welfare.

The persistence of early marriage as a legal practice also reflects structural power imbalances in rural communities. As shown in Muljan et al., (2024), child marriage in Bone, South Sulawesi is deeply embedded in local customs and economic insecurities, which the courts rarely challenge. Barkah et al., (2023) further argue that religion is often manipulated to legitimize underage marriages, transforming sacred law into an instrument of patriarchal control.



From a theoretical perspective, this confirms that *maṣlahah* must be rescued from rhetorical deployment and grounded in measurable, long-term benefits. A reconstructed approach to Islamic family law must be anchored in operational *maqāṣid*, where legal decisions reflect empirical data and ethical consistency. The findings also reinforce Dawood's (2024) argument that Islamic legal reform must go beyond textual reinterpretation to include structural safeguards that protect women and children.

Rosyadi et al., (2024) demonstrate how families affected by disasters struggle to maintain resilience without proper legal and psychological support. In these cases, judges applying *maqāṣid al-sharī'ah* should consider both short-term vulnerabilities and long-term family stability. However, current practices prioritize immediate social concerns over sustainable justice.

Internationally, this research contributes to the discourse on Islamic legal pluralism and reform. As highlighted by Mustofa et al., (2024), the response of religious authorities like the Indonesian Ulema Council to interfaith marriage reveals a growing tension between doctrinal purity and social inclusivity. If courts are to uphold *maqāṣid al-sharī'ah* responsibly, they must navigate this tension by institutionalizing multidimensional evaluations and prioritizing the best interests of the child. Global readers concerned with Islamic reform will find in this study both a critique of current failures and a framework for ethical reconstruction.

Thus, this study asserts that the reconstruction of marriage dispensation law cannot be achieved solely through regulatory changes. It requires an epistemological reformation—shifting judicial reasoning from formal compliance to substantive justice. Judges must be trained not only in *uṣūl al-fiqh* but also in social science methodologies, psychological diagnostics, and risk evaluation frameworks (Hilyasani et al., 2022; Taufiqurohman & Fauziah, 2023).

Moreover, as Akmal et al., (2024) argue, integrating *maqāṣid al-sharī'ah* into legal responses to domestic violence and unregistered marriages requires a multidisciplinary lens that balances moral intent with legal effectiveness. Such integration is absent in most marriage dispensation

practices in Indonesia, making them vulnerable to reinforcing the very harms they aim to prevent.

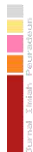
Finally, this research supports the call by Brandts et al., (2022) for adaptive legal systems that align with evolving social dynamics. Without transformation, Islamic courts risk becoming fossilized institutions—invoking *maqāṣid* rhetorically while perpetuating procedural harm. A *maqāṣid*-based judicial reform must institutionalize ethical responsibility, interdisciplinary evaluation, and long-term child protection as non-negotiable components of legal practice.

D. Conclusion

This study has critically examined the use of *maṣlahah* in marriage dispensation practices at the Religious Courts in Sumatra, revealing a profound epistemological gap between the normative ideals of *maqāṣid al-sharī'ah* and their actual judicial application. Rather than serving as a tool for holistic legal reasoning and child protection, *maṣlahah* is frequently reduced to a procedural device—used to legitimize social expectations rather than ensure ethical responsibility. In many cases, judges prioritize the singular goal of preventing *zinā'* while overlooking other essential objectives of Islamic law, such as the protection of life (*hiḥf al-naḥs*), reason (*hiḥf al-'aql*), and progeny (*hiḥf al-nasl*), thereby violating the integrated nature of *maqāṣid*.

The findings underscore the critical need to shift from a rhetoric-heavy invocation of *maqāṣid* to an empirically grounded, ethically coherent legal practice. The research shows that the application of *sadd al-dhārī'ah* without rigorous empirical justification has led to legal decisions that inadvertently perpetuate harm, including psychological trauma, educational setbacks, and intergenerational poverty. These consequences contradict the very essence of *maṣlahah* and call into question the legitimacy of current judicial interpretations.

To address these systemic shortcomings, this study proposes a multidimensional reform agenda. At the institutional level, marriage dispensation procedures must incorporate mandatory psychological,



medical, and social evaluations, supported by professional expertise. Regulatory frameworks such as Perma No. 5 of 2019 must be revised to include binding requirements for interdisciplinary assessments, ensuring that every judicial decision is based on verifiable indicators of child readiness and welfare. At the educational level, Islamic legal training must move beyond textual analysis and embrace social-scientific tools that equip future judges with the capacity to evaluate risk, anticipate harm, and engage with contemporary realities.

Theoretically, this research contributes to the broader discourse on Islamic legal reform by demonstrating that *maqāṣid al-sharī'ah* is not merely a normative ideal but a practical methodology for ensuring justice in evolving social contexts. By operationalizing *maṣlahah* through evidence-based assessments and institutional accountability, Islamic law can reclaim its function as a dynamic moral-legal system. As shown in comparative examples from Malaysia and Morocco, there is room for constructive emulation and transnational learning to strengthen child protection mechanisms within a sharī'ah-compliant framework.

On a global scale, these findings carry significant implications. As Indonesia continues to position itself as a leader in Islamic legal development, it must demonstrate that its judicial institutions are capable of translating Islamic ethical values into effective protection mechanisms for vulnerable populations—especially children. Without such transformation, Islamic family law risks becoming an instrument of procedural formalism rather than a beacon of justice. Therefore, this study calls for an epistemological reorientation of Islamic jurisprudence: one that places ethical integrity, empirical accountability, and human dignity at the heart of legal decision-making.

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