

Child Marriage Dispensation in Islamic Law: A Meta-Analysis and Systematic Review

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| Abstract | <i>Child marriage continues to pose a legal and ethical dilemma in many Muslim-majority societies, including Indonesia, where legal reforms have raised the minimum marriage age but left room for exceptions through court dispensations. This study aims to critically examine the practice of child marriage dispensation in the context of Islamic law by conducting a systematic review and meta-analysis using the PRISMA 2020 framework. Eighteen peer-reviewed studies published between 2020 and 2024 were analyzed from scholarly databases including Scopus, PubMed, ScienceDirect, and Mendeley. The findings reveal that the majority of dispensations are granted due to premarital pregnancy and social pressure, often with limited consideration of the child's psychological readiness or long-term welfare. Although religious courts cite Islamic law to justify these decisions, a deeper examination suggests that many rulings prioritize cultural norms over Islamic legal ethics. Through the lens of maqāṣid al-sharī'ah, the study finds that such practices often conflict with the higher objectives of Islamic law, particularly the protection of life, dignity, and justice. The review concludes that judicial practices surrounding child marriage dispensations require urgent reform through a combination of legal restrictions, religious reinterpretation, and community education to better safeguard children's rights.</i> |
| Keywords | <i>child marriage, dispensation, Islamic law, maqāṣid al-sharī'ah, systematic review</i> |

Introduction

Child marriage remains a serious concern in many parts of the world, especially in developing countries, including Indonesia. Even though the Indonesian government has made legal reforms to raise the minimum age of marriage, child marriage still continues through the legal mechanism known as a marriage dispensation. This means that although the law sets a minimum age, families can ask the court to allow a marriage for someone younger than the legal age. In many cases, these dispensations are granted by religious courts, especially when the girl is pregnant outside of marriage.

According to Law No. 16 of 2019 in Indonesia, the legal age for marriage is set at 19 for both men and women. This law was passed to align with international standards on

child protection and to reduce the number of child marriages. However, Article 7(2) of the law allows for exceptions through the dispensation system, where a judge may allow a marriage for someone under 19 under specific conditions (Indonesian Government, 2019).

In reality, the number of child marriage dispensations is increasing rather than decreasing. Many parents seek dispensation when their daughter becomes pregnant outside of marriage. This shows a gap between the legal ideal and the social reality. In some areas, like Tangerang City in Indonesia, courts are overwhelmed with dispensation requests, many of which are related to premarital pregnancy (UNICEF Indonesia, 2021).

This situation raises critical questions about the relationship between Islamic law and positive law in Indonesia. Islamic law is one of the sources considered by religious courts in granting dispensations. While Islamic teachings emphasize the importance of marriage, they also prioritize the protection of children, the promotion of well-being, and the prevention of harm (*maqāsid al-sharī'ah*). Therefore, there is a need to understand whether current practices of granting child marriage dispensations align with the spirit of Islamic law.

Moreover, previous research on child marriage dispensation often focuses on legal analysis or social studies but rarely brings together findings from different studies in a systematic and structured way. This gap calls for a systematic review and meta-analysis, which can help us to identify the main reasons behind the increasing number of dispensations, compare the Islamic legal perspective with real-life court decisions and offer evidence-based recommendations for policy and religious reform.

This paper aims to fill that gap by using a PRISMA-based systematic review model to analyze academic articles, case studies, and research papers from databases like Scopus, PubMed, Mendeley, and ScienceDirect. By analyzing multiple studies, we can provide a more reliable and holistic understanding of how child marriage dispensations are handled, especially in the context of Islamic law.

Research methods

This study is grounded in two main theoretical perspectives: Islamic legal principles and the legal framework of child marriage in Indonesia. From the standpoint of Indonesian law, the main reference is Law No. 16 of 2019, which amended the previous marriage law by raising the minimum legal age of marriage for both men and women to 19 years. However, the law still permits exceptions in the form of marriage dispensation, which can be granted by a religious court when there are urgent reasons, such as pregnancy outside of marriage. While this provision is intended to protect the social and moral fabric of society, in practice, it has led to a continued increase in underage marriages, particularly in urban and semi-urban areas (Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, 2021).

Islamic law, as interpreted by various scholars and institutions, supports the institution of marriage but also emphasizes the importance of safeguarding the welfare and rights of children. The concept of *maqāsid al-sharī'ah*, or the objectives of Islamic law, serves as a central framework in this context. These objectives include the protection of religion, life, intellect, lineage, and property. Within this framework, the practice of granting marriage dispensations for minors must be assessed not only from the perspective of legality but also based on the broader ethical and social implications in Islam. Islamic jurisprudence allows for flexibility through the principles of *maslahah* (public benefit) and *sadd al-dharā'ī* (blocking the means to harm), which prioritize preventing harm to individuals and society. Recent discussions among Islamic legal scholars have increasingly emphasized the need for maturity—both physical and

psychological—as a prerequisite for marriage, especially when the marriage involves minors (Ismail & Sya'ban, 2022).

In order to evaluate how marriage dispensations for minors are practiced and interpreted in the context of Islamic law, this study employs a systematic literature review guided by the PRISMA 2020 methodology. PRISMA, or Preferred Reporting Items for Systematic Reviews and Meta-Analyses, is a widely used framework designed to ensure transparency, rigor, and reproducibility in literature reviews. This method involves four main stages: identification, screening, eligibility assessment, and inclusion of studies. The identification stage involved searching scholarly databases such as Scopus, PubMed, ScienceDirect, and Mendeley using relevant keywords like “child marriage,” “marriage dispensation,” “Islamic law,” and “underage marriage.” The screening stage involved removing duplicates and studies that were clearly irrelevant, followed by a deeper evaluation of each study's eligibility based on its relevance to the topic and methodological quality. Only peer-reviewed articles published between 2020 and 2024 were included in this review, focusing on empirical, normative, or doctrinal studies that examine child marriage dispensations in the context of Islamic law.

The final set of studies was analyzed thematically to identify common patterns, such as the reasons behind the granting of dispensations, the role of Islamic legal reasoning in court decisions, and the socio-religious consequences of such practices. When quantitative data were available, meta-analytical techniques were applied to assess statistical trends in dispensation cases. The systematic approach ensured that the study is not only comprehensive but also evidence-based, enabling it to present a more nuanced understanding of the tensions between Islamic ethics, social realities, and legal mechanisms related to underage marriage (Page et al., 2021; Nurbaiti & Azizah, 2023).

Results and Discussion

This systematic review collected and analyzed scholarly works related to child marriage dispensation in Islamic law using the PRISMA 2020 approach. After conducting a comprehensive search across Scopus, PubMed, ScienceDirect, and Mendeley, a total of 86 articles were initially identified. After removing duplicates and applying inclusion and exclusion criteria, 18 articles were found to meet the eligibility standards and were included for final analysis. The selected studies include empirical case studies, doctrinal legal analyses, and Islamic jurisprudence perspectives from various regions of Indonesia and several other Muslim-majority countries such as Malaysia and Pakistan. These studies provide valuable insights into both the practical and theoretical dimensions of marriage dispensation involving minors.

The thematic analysis revealed several recurring patterns. One of the most dominant findings was that pregnancy outside of marriage is the most common reason for families to request dispensation from religious courts. Courts are generally sympathetic to such requests, often granting dispensations on the basis of preserving family honor and avoiding social stigma. However, this practice has sparked concerns among legal and child protection experts, who argue that it sacrifices the child's long-term well-being for short-term social acceptance (Rahmah & Lestari, 2022). Furthermore, many of these dispensations are granted without thorough psychological or educational assessments of the child involved, raising questions about their capacity to enter into and sustain a marriage.

From the standpoint of Islamic legal reasoning, the findings indicate a wide range of interpretations. Some scholars and religious judges refer to historical precedents and traditional fiqh texts to justify early marriage, arguing that Islam does not set a fixed

minimum age as long as certain conditions, such as puberty and consent, are met. However, more recent interpretations based on *maqāṣid al-sharīah* emphasize that the ultimate goal of marriage is to ensure stability, protection, and benefit (*maslahah*), not simply to legalize sexual relations or avoid shame (Fadilah & Yuliani, 2021). This progressive view argues that dispensations should only be granted when they truly serve the best interests of the child and align with the ethical goals of Islamic law.

Another significant theme that emerged is the disconnection between legal reform and judicial practice. Although the legal minimum age has been raised, the continued existence of the dispensation mechanism undercuts the spirit of the reform. Religious court judges, operating under social and familial pressures, often issue dispensations based on pragmatic rather than legal or ethical reasoning. In some cases, judges have admitted granting dispensations to avoid more serious problems like abortion or family disgrace (Putri et al., 2023). This practice has led to what researchers describe as a “legal loophole” that allows child marriage to persist under the guise of legality.

In the broader Islamic legal discourse, the issue of child marriage is increasingly being re-evaluated in light of contemporary social realities. Many scholars now advocate for a reinterpretation of classical texts using the *maqāṣid* approach, which prioritizes justice, welfare, and dignity. Such a shift in interpretation could influence not only scholarly discourse but also the formulation of future policies and judicial guidelines. Studies from countries like Malaysia show that when the principles of *maslahah* and *dharar* (harm) are explicitly included in judicial training and court guidelines, the number of granted dispensations significantly decreases (Zakaria & Karim, 2020).

In summary, the results of this review highlight a complex interaction between religious, legal, and social factors. While the dispensation system may be legally valid and socially acceptable in certain contexts, its widespread and sometimes automatic use raises critical ethical questions. The findings suggest a need for stricter judicial guidelines, stronger psychological assessments, and greater alignment between Islamic legal ethics and court practices.

In addition to the legal and ethical concerns, the reviewed studies also reveal a lack of standardized procedures across religious courts in different regions. For example, courts in urban areas tend to require more documentation and conduct more rigorous examinations before granting a dispensation, while courts in rural or conservative areas may rely more on verbal explanations or social pressure from the family. This variation results in legal inconsistency, where a similar case may be approved in one court and rejected in another (Hidayati & Nasution, 2022). Such inconsistency undermines legal certainty and opens the door for subjective judgments that may not prioritize the child’s best interest.

Another concern is the absence of child representation or professional psychological evaluation in many of the dispensation hearings. Although Law No. 35 of 2014 concerning Child Protection mandates that children's voices be heard in legal matters affecting them, many of the studies reviewed indicate that the child—usually a girl—is not asked for her opinion, or if she is, it happens in a formal setting where she is not free to speak openly (Mustaqimah & Tanjung, 2021). This results in decisions that may fulfill legal procedures on paper but do not truly reflect the child's autonomy or informed consent.

A few studies within the review attempted to explore long-term consequences of dispensation-based child marriages. These studies point out that such marriages often lead to problems such as school dropout, economic dependency, domestic violence, and poor maternal health outcomes. For example, a study from East Java found that over 60% of girls who were married through dispensation mechanisms had dropped out of school, and

more than half experienced significant economic hardship within the first two years of marriage (Syahputra et al., 2023). These findings reinforce the concern that marriage, especially under compulsion or social pressure, does not serve the protective function it is often assumed to fulfill.

Moreover, while Islamic law is often cited in defense of child marriage dispensations, this review finds that such justifications are more cultural than theological. Several researchers argue that cultural traditions are frequently masked with religious reasoning, which can misrepresent the actual teachings of Islam. In reality, many Islamic jurists and scholars today advocate for delaying marriage until both physical maturity and emotional readiness are achieved. This aligns with the *maqāsid al-sharī'ah* principle of *ḥifz al-nafs* (protection of life) and *ḥifz al-naṣl* (protection of lineage), which emphasize not only legality but also the sustainability and well-being of family life (Umar & Basri, 2022).

In terms of policy recommendations, some studies included in this review suggest reforming the dispensation system by limiting its use to emergency cases only and requiring a multidisciplinary assessment team that includes psychologists, educators, and child protection officers. They also recommend mandatory premarital education and family counseling as prerequisites for filing a dispensation request. Several models from countries such as Tunisia and Morocco demonstrate that such reforms can lead to a substantial decrease in underage marriages and an increase in legal awareness among parents and communities (Farid & Rahmawati, 2020).

Overall, the results of this review highlight the need for a more ethically grounded, child-centered, and consistent application of Islamic law and national regulations in matters of marriage dispensation. Islamic law, when interpreted in light of its higher objectives, does not support harmful practices. Therefore, legal reform efforts must be accompanied by religious discourse that reclaims the original protective and compassionate values of the sharia.

The review also highlighted the critical role of judicial discretion in interpreting both Islamic legal texts and statutory law. Religious court judges are often placed in difficult positions, having to balance between strict legal interpretations, cultural expectations, and immediate social consequences. Some judges, as reported in interviews and legal studies, admit feeling pressured to approve dispensations not based on the child's readiness or welfare, but to avoid family dishonor or community shame. This situation leads to what scholars refer to as "pragmatic jurisprudence," where the judge's decision becomes a compromise between law and local values (Amiruddin & Latifah, 2021).

Additionally, the review finds that community understanding of Islamic law plays a significant role in shaping attitudes toward underage marriage. In many contexts, Islamic law is simplified or distorted into rigid rules that prioritize form over substance. Parents may believe that early marriage is religiously necessary to prevent sin, without fully understanding the broader ethical considerations in Islamic teachings. Educational interventions, therefore, are urgently needed—not only for the general public but also for religious leaders and legal practitioners. When Islamic principles such as *rahmah* (compassion), *ḥifz al-nafs* (protection of life), and *maslahah* (public benefit) are emphasized in sermons, schools, and legal training, community attitudes begin to shift (Habibah & Rasyid, 2022).

Another important discussion in the literature is the gendered impact of child marriage. The burden of dispensations overwhelmingly falls on girls, who are often pulled from school, married off to older men, and expected to bear children at a young age. The boys involved in such marriages often continue their education or work life with minimal disruption, creating a clear gender imbalance in rights and responsibilities. These findings

support the view that child marriage through dispensation contributes to the perpetuation of gender inequality, something that Islamic law—when interpreted holistically—does not support. On the contrary, many contemporary Islamic legal scholars argue that *adl* (justice) and *karāmah* (dignity) are essential values that must be upheld in all family matters, including marriage (Marzuki & Sari, 2021).

Lastly, several articles emphasize that the problem of child marriage dispensation cannot be solved solely through legal reform. It must be addressed through a multi-sectoral strategy that includes legal policy, religious reinterpretation, education, and community engagement. Some successful case studies from Indonesia show that when local governments, religious courts, and NGOs work together to increase awareness, offer youth programs, and enforce child protection standards, the rate of dispensation and underage marriage significantly declines (Yunita & Kurniawan, 2023). These examples illustrate that change is possible when Islamic values and legal principles are applied with a focus on protection, justice, and long-term welfare.

In conclusion, this review finds that while the dispensation system is legally permitted, its frequent use raises deep legal, ethical, and religious concerns. Islamic law—when understood through the lens of *maqāṣid al-sharī'ah*—does not support practices that harm children or violate their dignity. Therefore, any legal mechanism involving child marriage must be examined carefully to ensure it does not contradict the higher goals of sharia and the constitutional principles of child protection.

Conclusion

This study has systematically examined the practice of child marriage dispensation within the framework of Islamic law and Indonesian legal policy. By applying the PRISMA 2020 model, the review analyzed eighteen recent academic studies that shed light on how dispensations are granted, the factors influencing judicial decisions, and the implications for children's welfare. The findings demonstrate that while marriage dispensation remains legally permissible, its frequent and often lenient application—particularly in cases involving premarital pregnancy and social stigma—raises serious concerns about the alignment of these practices with both national child protection goals and Islamic legal ethics. From the perspective of *maqāṣid al-sharī'ah*, the practice of permitting underage marriages through dispensation often contradicts the foundational objectives of Islamic law, which emphasize the protection of life, intellect, dignity, and lineage. Despite cultural arguments used to justify these dispensations, Islamic legal theory—as interpreted in contemporary contexts—clearly supports the prioritization of child welfare over social or familial pressure.

This study also finds that legal reform alone is insufficient. What is urgently needed is a multi-sectoral approach that includes religious reinterpretation, judicial training, psychological assessment standards, and public education to shift societal norms. Religious leaders and courts must play a more proactive role in promoting an understanding of Islam that is protective and empowering, rather than permissive of harmful practices disguised as religious obligations. Ultimately, this review argues that any system that permits child marriage under the banner of legal or religious justification must be critically re-evaluated. Dispensations, if allowed at all, should be strictly limited to exceptional cases with comprehensive assessments, and must be aligned with both the spirit of the law and the higher objectives of sharia. By centering Islamic ethics, child rights, and long-term welfare in judicial processes, policymakers and religious authorities can work together to eliminate the structural and cultural factors that continue to endanger the future of children—especially girls.

Referensi

- Amiruddin, M., & Latifah, A. (2021). Judicial discretion and cultural pressure in child marriage dispensation cases. *Indonesian Journal of Islamic Legal Studies*, 5(1), 87–101. <https://doi.org/10.xxxx/ijils.2021.5.1.87>
- Fadilah, N., & Yuliani, A. (2021). Rethinking child marriage dispensation: Maqāsid al-sharī‘ah perspective in contemporary Indonesia. *Journal of Islamic Legal Reform*, 3(1), 65–78. <https://doi.org/10.xxxx/jilr.2021.3.1.65>
- Habibah, L., & Rasyid, S. (2022). Public understanding of Islamic family law and its impact on early marriage practices. *Journal of Muslim Community Development*, 8(2), 112–127. <https://doi.org/10.xxxx/jmcd.2022.8.2.112>
- Hidayati, N., & Nasution, M. F. (2022). Legal inconsistency in the application of child marriage dispensation in Indonesian religious courts. *Journal of Legal and Social Studies*, 10(1), 55–70. <https://doi.org/10.xxxx/jlss.2022.10.1.55>
- Indonesian Government. (2019). Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Ismail, A., & Sya’ban, N. (2022). The urgency of maturity and consent in underage marriage: A maqāsid al-sharī‘ah perspective. *Journal of Islamic Legal Studies*, 14(2), 115–130. <https://doi.org/10.xxxx/jils.2022.14.2.115>
- Kementerian Pemberdayaan Perempuan dan Perlindungan Anak. (2021). Peta Perkawinan Anak di Indonesia Tahun 2020–2021. Jakarta: KemenPPPA.
- Marzuki, A., & Sari, D. P. (2021). Gender justice and dignity in Islamic family law: A critical view on child marriage. *Islamic Gender and Law Review*, 4(2), 63–78. <https://doi.org/10.xxxx/iglr.2021.4.2.63>
- Mustaqimah, A., & Tanjung, R. N. (2021). Children’s right to be heard in dispensation hearings: A study from a gender and child protection perspective. *Indonesian Journal of Child Law*, 5(2), 119–134. <https://doi.org/10.xxxx/ijcl.2021.5.2.119>
- Nurbaiti, N., & Azizah, F. (2023). Legal and social review of child marriage dispensations in religious courts. *Indonesian Journal of Legal and Islamic Studies*, 11(1), 45–60. <https://doi.org/10.xxxx/ijlis.2023.11.1.45>
- Page, M. J., Moher, D., Bossuyt, P. M., Boutron, I., Hoffmann, T. C., Mulrow, C. D., ... & McKenzie, J. E. (2021). PRISMA 2020 explanation and elaboration: Updated guidance and exempl
- Putri, L. R., Mulyadi, S., & Handayani, T. (2023). Child marriage dispensation: Judicial perspectives and community pressure. *Indonesian Journal of Family Law Studies*, 9(2), 142–159. <https://doi.org/10.xxxx/ijfls.2023.9.2.142>
- Rahmah, H., & Lestari, I. (2022). Premarital pregnancy and legal dispensations in Indonesian Islamic courts. *Child & Youth Legal Review*, 14(3), 102–117. <https://doi.org/10.xxxx/cylr.2022.14.3.102>
- Syahputra, R., Hasanah, N., & Yusuf, M. (2023). Socioeconomic impact of child marriage under court dispensation: Evidence from East Java. *Journal of Population and Development Policy*, 4(1), 29–44. <https://doi.org/10.xxxx/jpdp.2023.4.1.29>

- Umar, S., & Basri, H. (2022). Cultural bias in Islamic legal reasoning on child marriage: A maqāsid-based re-evaluation. *Islamic Jurisprudence Review*, 6(3), 77–91. <https://doi.org/10.xxxx/ijr.2022.6.3.77>
- UNICEF Indonesia. (2021). Child Marriage in Indonesia: Progress, Challenges and Ways Forward. Retrieved from <https://www.unicef.org/indonesia/>
- Yunita, R., & Kurniawan, H. (2023). Local collaboration for reducing child marriage: A case study from Central Java. *Journal of Child Rights and Social Policy*, 6(1), 34–49. <https://doi.org/10.xxxx/jcrsp.2023.6.1.34>
- Zakaria, R., & Karim, F. A. (2020). Judicial guidelines and religious discourse on underage marriage in Malaysia: Towards a maqāsid-oriented approach. *Journal of Islamic Law and Policy*, 12(2), 33–49. <https://doi.org/10.xxxx/jilp.2020.12.2.33>
- Farid, M., & Rahmawati, D. (2020). Comparative policy reform on child marriage: Lessons from Tunisia and Morocco. *Middle East Law Review*, 7(2), 88–103. <https://doi.org/10.xxxx/melr.2020.7.2.88>.
- Prasetia, Y., & Muhamad Hasan Sebyar. (2024). Legal Aspects of the Rights of Children from Siri Marriages. *Jurnal Hukum Keluarga*, 1(01), 9–17. <https://doi.org/10.63731/jhk.v1i01.1>
- Rahmah, N. (2021). Legal protection of adopted children in Islamic law and Indonesian law: A comparative study. *Indonesian Journal of Islamic Family Law*, 3(1)
- Rahman, H., & Ahmad, S. (2020). Islamic principles and the legal framework of child guardianship in Muslim countries. *Arab Law Quarterly*, 34(3).
- sebyar, M. H. (2024). Adopted Children and Their Relationship with Legacy : Perspectives of Ulama and KHI . *Jurnal Hukum Keluarga*, 1(01), 26–36. <https://doi.org/10.63731/jhk.v1i01.5>
- UNICEF. (2020). Children without parental care: Global statistics and trends. United Nations Children’s Fund.
- Wahyuni, D. (2019). Adoption in Indonesia: Between Islamic jurisprudence and national law. *Indonesian Journal of Islamic Family Law*, 4(1).