



Selective Maslahah: Judicial Reasoning on Child Marriage Dispensation at the Religious Courts of Madura, Indonesia

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Abstract

Although Indonesia raised the minimum legal age for marriage to nineteen years through Law Number 16 of 2019, judicial dispensation remains available, placing Religious Courts at the center of decisions concerning child marriage. This study examines how judges at the four Religious Courts of Madura operationalize maslahah mursalah in marriage dispensation proceedings and evaluates the extent to which their reasoning reflects the objectives of maqasid al-shari'ah. An empirical-judicial qualitative approach was employed using semi-structured interviews with four senior judicial officers, documentary analysis of ten marriage dispensation decisions, and examination of annual court reports from 2020 to 2023. Data were analyzed through qualitative content analysis, thematic coding, and critical legal interpretation, with triangulation applied to strengthen the credibility of the findings. The results reveal that judges consistently invoke maslahah mursalah when justifying marriage dispensation; however, judicial reasoning predominantly emphasizes the protection of religion (hifz al-din) and lineage (hifz al-nasl), while the protection of life, intellect, and property receives limited evidentiary consideration. Pregnancy outside marriage emerges as the principal factor shaping judicial decisions, whereas multidisciplinary assessment and long-term evaluation of children's welfare remain inconsistently implemented. The study concludes that selective application of maslahah is primarily influenced by institutional and evidentiary constraints rather than inadequate doctrinal understanding. These findings contribute to Islamic family law scholarship by proposing a more systematic framework for evaluating judicial reasoning and offer practical recommendations for strengthening child-centered marriage dispensation procedures in Indonesia.

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INTRODUCTION

Child marriage remains one of the most contested issues in contemporary family law because it intersects legal protection, religious interpretation, cultural traditions, and human rights obligations (Mishra et al., 2023; Suhardi, 2025). Although many countries have strengthened legal frameworks to delay the age of marriage, the persistence of judicial exceptions demonstrates that legislative reform alone rarely resolves the underlying social and legal tensions (Ebetürk, 2021; Hussain, 2026). Indonesia represents a particularly significant case in this regard following the enactment of Law Number 16 of 2019, which equalized the minimum marriage age for women and men at nineteen years while preserving judicial discretion through marriage dispensation. Rather than eliminating child marriage, this reform shifted responsibility for determining exceptional cases from lawmakers to judges, thereby placing the Religious Courts at the center of legal decision-making. This institutional shift has expanded the influence of judicial interpretation, especially when statutory provisions must be reconciled with Islamic legal reasoning in adjudicating urgent petitions (Asa'ari & Iskandar, 2026; Khodadadi, 2025). Consequently, judges are required to balance competing legal values, including child protection, family welfare, religious norms, and societal expectations within a single legal proceeding. The complexity of this balancing process makes marriage dispensation not merely an administrative legal mechanism but also an arena in which

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broader questions concerning justice, public benefit, and the objectives of Islamic law are continuously negotiated (Hasan et al., 2026). Understanding how judges construct these decisions has therefore become increasingly important for evaluating the practical consequences of Indonesia's child marriage reform.

Despite the revised legal framework, empirical evidence indicates that applications for child marriage dispensation remain substantial across Indonesia, suggesting that the legal amendment has not significantly reduced judicial involvement in underage marriage cases. This situation reflects the continuing influence of socio-cultural expectations, family honor, economic vulnerability, early engagement practices, and pregnancies outside marriage, all of which frequently motivate parents to seek judicial authorization before the statutory age requirement is met. Previous studies have consistently shown that these factors interact with local religious understandings and community norms, making marriage dispensation a complex socio-legal phenomenon rather than a purely legal procedure (Purwanti & Natalis, 2026a). Within this national landscape, Madura provides an especially relevant context because its Religious Courts handle a considerable number of dispensation petitions while operating in communities characterized by strong kinship obligations, *pesantren* traditions, and deeply embedded concepts of family honor. Court records demonstrate that hundreds of petitions continue to be registered annually across the four Religious Courts serving the island, indicating that marriage dispensation remains a routine component of judicial practice rather than an exceptional legal remedy. These empirical conditions raise important questions regarding how judges evaluate urgent circumstances, interpret statutory requirements, and justify legal outcomes within culturally sensitive environments. They also suggest that understanding judicial reasoning requires examining not only legal texts but also the institutional realities in which those texts are interpreted and applied (Baldacci, 2022). Consequently, investigating the reasoning employed by judges offers valuable insights into how legal reform operates in practice beyond the formal provisions of legislation.

The urgency of examining judicial reasoning has become even greater because marriage dispensation decisions directly influence the realization of children's rights and the implementation of Indonesia's broader child protection agenda (Akbari, 2025). Supreme Court Regulation Number 5 of 2019 requires judges to prioritize the best interests of the child by carefully assessing physical readiness, psychological maturity, educational continuity, and socio-economic conditions before granting a dispensation. At the same time, judges serving Muslim communities frequently employ *masalah mursalah* as an interpretive framework for resolving legal issues that are not fully addressed by statutory provisions. As one of the central concepts within *maqasid al-shari'ah*, *masalah* seeks to preserve essential human interests through the protection of religion, life, intellect, lineage, and property. Nevertheless, applying these objectives in courtroom practice is considerably more complex than articulating them in legal theory because judges must respond to immediate evidence presented during hearings while simultaneously considering long-term consequences that may be difficult to verify. This practical tension raises a fundamental question regarding whether judicial reasoning reflects a comprehensive application of *maqasid al-shari'ah* or emphasizes only those dimensions that are most visible within litigation (Kurniawan et al., 2025). Addressing this question is essential not only for assessing the effectiveness of current judicial practice but also for understanding whether procedural reforms have adequately equipped courts to achieve the broader objectives of Islamic family law and child protection (Dahash, 2025). Accordingly, a closer investigation into the operationalization of *masalah mursalah* within marriage dispensation proceedings represents both a timely scholarly inquiry and a significant policy concern for the continuing development of Indonesia's legal system.

Although marriage dispensation has received increasing scholarly attention, existing studies have largely examined the issue from separate disciplinary perspectives rather than integrating judicial practice with Islamic legal reasoning (Abdullah et al., 2026; Akhtar, 2026). Normative legal scholarship has predominantly focused on evaluating the compatibility of Article 7(2) of Law Number 16 of 2019 with Indonesia's child protection framework and has generally concluded that the dispensation mechanism continues to provide a broad legal pathway for underage marriage under exceptional circumstances (Merilu Ripner, 2026; Syuroya & Husnayain, 2025). Socio-legal investigations, meanwhile, have emphasized the social determinants that encourage families to seek dispensation, including economic hardship, customary engagement practices, community

expectations, and concerns regarding family reputation (Hanifah et al., 2026; Julianti et al., 2024; Olabiyi et al., 2025). Another group of studies has approached the issue from the perspective of *maqasid al-shari'ah*, arguing that the objectives of Islamic law provide a more appropriate normative foundation for determining marriage eligibility than biological maturity alone (Mohadi, 2023). More recently, scholars have explored judicial reasoning itself by demonstrating that Religious Courts frequently reconcile statutory obligations with local religious values when deciding marriage dispensation cases (Ghosh, 2023; Purwanti & Natalis, 2026). Collectively, these studies have substantially enriched understanding of Indonesia's child marriage debate, yet they continue to examine legal norms, social drivers, and Islamic jurisprudence as largely independent analytical domains. Consequently, relatively little attention has been devoted to explaining how these normative and institutional dimensions converge within the reasoning process adopted by judges during actual dispensation proceedings.

The existing literature also exhibits a dominant analytical tendency to evaluate whether judges justify marriage dispensation decisions rather than examining how that justification is systematically constructed (Arrasyid & Pradikta, 2025). Previous research has convincingly demonstrated that judicial decisions frequently invoke child protection principles, public benefit (*masalahah*), or family welfare when legitimizing exceptions to the statutory marriage age (Yasin et al., 2024). Nevertheless, these studies generally treat *masalahah mursalah* as a normative conclusion instead of investigating the internal reasoning process through which judges identify, prioritize, and balance competing objectives of Islamic law (Elmahjub, 2021). As a result, important questions remain unanswered regarding whether every dimension of *maqasid al-shari'ah* receives equal judicial consideration or whether certain objectives consistently dominate courtroom deliberations because they are supported by more accessible evidence (Astuti et al., 2021; Dancy & Zalnieriute, 2026). Existing scholarship also provides limited discussion of how institutional conditions, evidentiary limitations, hearing procedures, and judicial capacity influence the practical application of *masalahah* in Religious Court proceedings (Fajriyati et al., 2026; Kasim & Daud, 2022). Moreover, comparative analyses across courts operating under the same legal framework but differing in organizational capacity remain relatively scarce. Without examining these institutional dynamics, explanations of judicial reasoning risk attributing decision-making primarily to cultural or religious influences while overlooking procedural factors embedded within the adjudication process itself. These limitations indicate that the relationship between Islamic legal principles, statutory child protection, and judicial practice remains insufficiently understood despite the growing volume of scholarship on child marriage in Indonesia.

Building upon these limitations, the present study identifies a more specific research gap concerning the operationalization of *masalahah mursalah* within marriage dispensation proceedings at Indonesia's Religious Courts. Previous studies have successfully explained why child marriage persists, why families seek judicial permission, and why judges frequently approve dispensation petitions, yet few have critically examined which dimensions of *maqasid al-shari'ah* are actually activated during judicial reasoning and which remain largely absent from legal deliberation. Even fewer studies have compared multiple Religious Courts sharing similar socio-cultural environments while assessing whether differences in institutional capacity produce variations in judicial reasoning despite identical legal rules (Wahidah et al., 2024). Addressing this gap is particularly important because selective application of *maqasid al-shari'ah* may significantly influence the consistency, transparency, and quality of judicial protection afforded to children. Accordingly, this study investigates how judges at the four Religious Courts of Madura operationalize *masalahah mursalah* when deciding child marriage dispensation petitions and evaluates the extent to which their reasoning engages the five essential objectives of Islamic law (Nurcholis et al., 2025). By integrating empirical legal research with the analytical framework of *maqasid al-shari'ah*, the study moves beyond normative interpretation toward a systematic examination of judicial reasoning as an observable institutional practice. In doing so, it contributes to contemporary debates on Islamic family law by demonstrating that variations in judicial reasoning may arise not solely from doctrinal interpretation or cultural accommodation but also from structural characteristics of judicial institutions that shape the evidence available during legal decision-making.

Against this background, the present study seeks to examine how judges at the four Religious Courts of Madura operationalize *masalahah mursalah* in deciding child marriage dispensation

petitions following the enactment of Law Number 16 of 2019. More specifically, the study reconstructs the legal grounds employed by judicial panels, identifies which dimensions of *maqasid al-shari'ah* are substantively incorporated into judicial reasoning, and analyzes the implications of these reasoning patterns for the implementation of child protection within Indonesia's Islamic family law system. Unlike previous studies that primarily evaluate the legality or social consequences of marriage dispensation, this research treats judicial reasoning itself as the principal object of analysis by examining how legal arguments are formulated, supported by evidence, and translated into judicial decisions. The study further investigates whether variations in judicial reasoning reflect differences in religious interpretation or instead arise from institutional constraints that shape the evidentiary process within court proceedings. By integrating empirical legal research with a systematic *maqasid al-shari'ah* framework, this study provides a more comprehensive understanding of the interaction between statutory regulation, Islamic jurisprudence, and judicial practice in contemporary Indonesia. Theoretically, it advances the discussion of *masalah mursalah* by repositioning it from a normative doctrine invoked to justify legal outcomes into an analytical framework capable of evaluating the completeness and consistency of judicial reasoning across the five essential objectives of Islamic law. Practically, the findings are expected to contribute to ongoing policy discussions concerning the refinement of Supreme Court Regulation Number 5 of 2019, the strengthening of multidisciplinary assessment in marriage dispensation proceedings, and the development of more accountable judicial practices that better balance child protection with the objectives of Islamic law. Ultimately, the study offers empirical evidence that may support future reforms aimed at improving both the quality of judicial decision-making and the effectiveness of legal protection for children facing marriage dispensation proceedings in Indonesia.

METHOD

Research Design

This study employed an empirical-juridical qualitative research design to investigate how *masalah mursalah* is operationalized in judicial reasoning during child marriage dispensation proceedings at the Religious Courts of Madura, Indonesia. The empirical component focused on examining judicial practices, whereas the juridical component analyzed the statutory and regulatory framework governing marriage dispensation, including Law Number 16 of 2019, the Compilation of Islamic Law, and Supreme Court Regulation (PERMA) Number 5 of 2019. This design was selected because the research sought not merely to interpret legal norms but also to explain how those norms are implemented, negotiated, and justified within judicial practice. A qualitative approach was considered appropriate because judicial reasoning represents a contextual and interpretative process that cannot be adequately captured through quantitative measurement. Accordingly, the study aimed to reconstruct patterns of judicial reasoning rather than estimate the statistical prevalence of judicial outcomes.

Research Setting and Period

The research was conducted at the Religious Courts of Sumenep, Pamekasan, Sampang, and Bangkalan, East Java, Indonesia. These courts were purposively selected because they operate under the same national legal framework while serving communities sharing comparable socio-religious characteristics, including strong kinship structures, *pesantren* traditions, and cultural values concerning family honor. Such similarities provided an appropriate setting for examining whether differences in judicial reasoning were attributable to institutional practices rather than socio-cultural variation. Fieldwork was undertaken sequentially across the four courts, while documentary data were collected from annual court reports covering the period 2020–2023 together with officially available marriage dispensation decisions.

Participants and Sampling

Participants consisted of four senior judicial officers directly responsible for adjudicating marriage dispensation petitions, including the Presidents of the Religious Courts of Sumenep, Pamekasan, and Sampang, together with the Deputy President of the Religious Court of Bangkalan. Participants were selected using purposive sampling because the study required individuals

possessing institutional authority and extensive experience in marriage dispensation adjudication. Inclusion criteria required participants to (1) hold judicial leadership positions, (2) have direct experience in deciding marriage dispensation cases, and (3) consent voluntarily to participate in recorded interviews. The documentary corpus consisted of ten marriage dispensation decisions representing the four courts and encompassing both pregnancy-related and non-pregnancy cases to maximize analytical variation. Sample adequacy was determined using the principle of information richness, whereby participants and judicial decisions were selected because they provided comprehensive insights into judicial reasoning rather than statistical representativeness. Data collection concluded when analytical saturation was reached and no substantially new themes emerged.

Research Instruments

Two complementary instruments were employed for data collection. The first consisted of a semi-structured interview guide containing nine open-ended questions exploring judges' perspectives regarding child marriage, legal reasoning, evidentiary assessment, implementation of *masalah mursalah*, institutional constraints, and judicial recommendations. The second instrument comprised a structured document analysis protocol used to examine judicial decisions systematically. The protocol recorded statutory references, legal arguments, evidentiary sources, judicial considerations, application of *maqasid al-shari'ah*, and procedural conditions accompanying each dispensation ruling. Annual court reports were additionally analyzed to establish the institutional context and case trends.

Instrument Validity and Trustworthiness

Instrument development was informed by previous studies on Islamic family law, judicial reasoning, child marriage, and *maqasid al-shari'ah*. Prior to data collection, both instruments underwent content validation through expert judgment involving specialists in Islamic legal studies and qualitative research methodology. Methodological rigor was ensured using Lincoln and Guba's trustworthiness framework. Credibility was strengthened through triangulation across interview transcripts, judicial decisions, and annual court reports. Dependability was maintained through detailed documentation of coding procedures and analytical decisions, whereas confirmability was established by continuously comparing interview findings with documentary evidence. Transferability was supported through detailed descriptions of the institutional setting, participant characteristics, and judicial context to facilitate comparison with similar legal environments.

Data Collection Procedures

Data collection proceeded through four consecutive stages. Initially, relevant legislation, judicial regulations, annual reports, and marriage dispensation decisions were compiled to establish the legal and institutional context of the study. Subsequently, selected judicial officers were contacted, informed about the objectives of the research, and interviewed using a semi-structured protocol following informed consent. Interviews were audio-recorded and transcribed verbatim. Thereafter, judicial decisions were analyzed systematically using the document analysis protocol to identify recurring legal arguments and applications of *masalah mursalah*. Finally, interview transcripts and documentary evidence were compared iteratively to evaluate consistency between judges' explanations and their documented judicial reasoning. Throughout the research process, participant confidentiality was maintained, and all identifying information relating to children involved in marriage dispensation proceedings was removed from the dataset.

Table 1. Research Workflow

Research Phase	Research Activities	Data Sources	Expected Output
Phase 1. Problem Identification	Identification of research problems related to child marriage dispensation, judicial reasoning, and the implementation of <i>masalah mursalah</i> .	Legislation, previous policy, studies, documents	Research problem formulation and conceptual orientation

Phase 2. Literature Review	Review of literature on Islamic family law, <i>maqasid al-shari'ah</i> , judicial reasoning, and child marriage to establish the theoretical framework and identify research gaps.	Scientific journals, books, legal regulations	Theoretical framework and research gap
Phase 3. Site and Participant Selection	Selection of four Religious Courts and purposive recruitment of judicial officers, together with selection of representative judicial decisions.	Religious Courts of Sumenep, Pamekasan, Sampang, and Bangkalan	Research participants and documentary corpus
Phase 4. Data Collection	Conducting semi-structured interviews, documentary analysis of judicial decisions, and examination of annual court reports (2020–2023).	Interview transcripts, judicial decisions, annual reports	Comprehensive qualitative dataset
Phase 5. Data Validation	Validation through expert judgment, source triangulation, and comparison across interviews, court decisions, and documentary evidence.	Multiple qualitative data sources	Credible and trustworthy research evidence
Phase 6. Data Analysis	Open coding, axial coding, selective coding, thematic development, and critical legal interpretation based on the five objectives of <i>maqasid al-shari'ah</i> .	Verified qualitative dataset	Themes explaining patterns of judicial reasoning
Phase 7. Interpretation and Reporting	Integration of findings, theoretical interpretation, policy implications, and preparation of research conclusions.	Analytical findings	Discussion, conclusions, and research contributions

Data Analysis

Data analysis combined qualitative content analysis with critical legal interpretation. Interview transcripts and judicial decisions were first subjected to open coding to identify meaningful units concerning judicial reasoning, legal considerations, evidentiary practices, and institutional constraints. Similar codes were subsequently organized through axial coding, followed by selective coding to construct overarching themes explaining how masalah mursalah was operationalized during marriage dispensation proceedings. The five essential objectives of *maqasid al-shari'ah* (hifz al-din, hifz al-nafs, hifz al-'aql, hifz al-nasl, and hifz al-mal) served as the principal analytical framework for classifying judicial arguments. Themes emerging from interviews were continuously compared with judicial decisions and annual court reports through triangulation to ensure analytical consistency. Finally, critical legal interpretation was employed to identify not only the legal considerations explicitly articulated by judges but also the dimensions that remained absent from judicial deliberation. The analytical process involved repeated reading, comparative coding, memo writing, and iterative refinement until conceptual coherence and interpretative saturation were achieved.

RESULTS AND DISCUSSION

Results

Caseload profile

The four courts received a combined 464 dispensation petitions in 2020, 305 in 2021, 730 in 2022, and 593 in 2023. The distribution across courts was uneven, and the trend was not uniform, as Table 1 shows.

Table 1. Dispensation petitions registered at the Religious Courts of Madura, 2020–2023

Court	2020	2021	2022	2023
Bangkalan	120	118	133	99
Sampang	39	21	27	17
Pamekasan	13	20	257	297
Sumenep	292	146	313	180
Total	464	305	730	593

Two features of the table require comment. The figures for Bangkalan, Sampang, and Sumenep decline after 2022, whereas those for Pamekasan rise sharply from twenty petitions in 2021 to 257 in 2022. A change of this magnitude within a single year is unlikely to reflect a change in social behaviour alone and more probably indicates a change in recording or registration practice. The reports consulted do not explain the discontinuity, and the figures for Pamekasan before 2022 should accordingly be treated with caution.

This study does not compute an aggregate rate at which the four courts granted petitions. Published research reports that Indonesian religious courts approve more than ninety per cent of dispensation applications (Grijns & Horii, 2018), and nothing in the present material suggests that the Madura courts depart markedly from that pattern; the figure is cited here as an established national finding rather than as a measurement of the four courts, whose outcome data were not independently recompiled. The argument developed below does not rest on such a figure. It concerns the structure of the reasoning by which petitions are decided rather than the frequency with which they succeed.

The grounds the panels rely upon

The interviews produced a consistent account of the legal bases invoked. All four judicial officers identified Article 7(2) of Law Number 16 of 2019 together with Supreme Court Regulation Number 5 of 2019 as the governing framework, and all four supplemented it with Islamic legal maxims, most frequently the principle that averting harm takes precedence over securing benefit and the principle that where two harms compete the lesser is to be borne.

The officers were also consistent in stating a position on child marriage that is more restrictive than their courts' practice. The President of the Religious Court of Sumenep observed that early marriage is not advisable because it carries substantial physical and psychological risk, particularly for girls, while noting that the volume of petitions in Madura cannot simply be disregarded. The President of the Religious Court of Pamekasan identified school discontinuation, psychological and economic unpreparedness, and elevated divorce rates as the principal risks, while noting that the statute nonetheless leaves the dispensation route open where urgent grounds exist. The President of the Religious Court of Sampang similarly stated that children below the statutory age are unprepared psychologically, physically, and economically to carry the responsibilities of marriage, while acknowledging cultural, economic, and emergency factors operating in the community. The Deputy President of the Religious Court of Bangkalan stated the position most directly, describing early marriage as impermissible on psychological, biological, and socio-economic grounds, while noting that the law retains a dispensation route in urgent circumstances.

The recurring difficulties the officers reported were likewise convergent. All four identified pregnancy outside marriage as the most frequent circumstance. Three identified parental anxiety about unsupervised association and the risk of zina. Three identified long-standing betrothal arrangements and consequent family or customary pressure. Two identified procedural and documentary problems, including the absence of birth certificates. Two identified limited parental understanding of the consequences of early marriage. The pattern indicates that petitions arrive already framed as responses to a situation that has occurred, rather than as proposals to be assessed prospectively.

The maqasid distribution of judicial reasoning

Classifying the stated grounds against the five dharuriyyat produced a markedly uneven distribution, summarised in Table 2.

Table 2. Distribution of stated grounds across the five dharuriyyat

Dimension	How it appears in the reasoning	Evidentiary support	Frequency
Hifz al-din	Averting zina; protecting moral standing	Testimony of parents and witnesses	Consistently present
Hifz al-nasl	Securing lineage of an expected child; averting family disgrace	Pregnancy certification	Consistently present
Hifz al-nafs	Reproductive health; risk of domestic violence	Rarely examined; no medical assessment recorded	Rare
Hifz al-'aql	Continuation of schooling	Undertaking given by parents; not verified	Occasional, unverified
Hifz al-mal	Economic capacity of the prospective husband	Assertion of employment; not verified	Occasional, unverified

Two dimensions are engaged consistently and with documentary support. The remaining three appear either rarely or in a form that records an undertaking rather than an assessment. Where continuation of schooling is mentioned, it typically takes the form of a commitment given by the petitioning parents and recorded in the ruling; no mechanism exists by which that commitment is subsequently verified. Where economic capacity is mentioned, it rests on an assertion that the prospective husband is employed, without documentation of income. Reproductive health assessment was not recorded in the corpus examined, notwithstanding that the majority of petitions concern girls who are already pregnant.

The asymmetry is not merely one of frequency. The two dimensions that are consistently engaged are those whose harms are already realised and evidentially available at the moment of the hearing. The three that are not are those whose harms lie in the future and would require expertise the court does not routinely possess. The reasoning is therefore internally coherent as a response to what the hearing can observe, while being incomplete as an application of the framework it invokes.

Pregnancy as a near-determinative ground

Pregnancy outside marriage emerged as the single most consequential circumstance. All four officers identified it as the most common ground, and the rulings examined show it operating as a dispositive rather than a contributory factor: where pregnancy is established, the surrounding assessment contracts. The reasoning follows a stable sequence. The pregnancy is treated as an accomplished fact; refusal is understood to entail the birth of a child without lawful paternal attribution; that consequence is classified as a harm at the dharuriyyat level affecting hifz al-nasl; and the grant is justified as the lesser of two harms. The sequence is doctrinally intelligible and, taken on its own terms, defensible. Its effect, however, is to foreclose the questions that Supreme Court Regulation Number 5 of 2019 requires to be asked. Once the case is classified as an emergency, the readiness of the child, the continuation of her education, and her reproductive health cease to be treated as live issues, because the classification has already resolved the balance. None of the rulings examined records an inquiry into whether the pregnancy arose from coercion or from an act that would engage the criminal law, a question that classification as an emergency renders invisible rather than answers.

Variation between the four courts

Notwithstanding the shared framework, the courts differ in the thoroughness of their examination. The Religious Court of Bangkalan has developed the most elaborated practice, incorporating child-friendly hearing arrangements, the participation of a psychologist, and an arrangement for following up cases after judgment in cooperation with the regional women's and children's agency and civil society organisations. The Religious Court of Sampang applies the most demanding evidentiary standard, with particular attention to detecting economic motives that would indicate exploitation. The Religious Court of Pamekasan integrates pesantren authority into the process by involving religious scholars in counselling petitioners and by requiring pre-marital

counselling. The Religious Court of Sumenep, serving the largest and most dispersed jurisdiction including island districts, treats difficulty of educational access in the outer islands as a consideration weighing in favour of a grant. This variation is consequential for equality of protection. A child whose case is heard in a court that involves a psychologist and follows the case after judgment receives materially different protection from a child whose case is heard where those arrangements do not exist. Because the governing regulation is identical across the four courts, the variation is attributable to institutional capacity and to the priorities of court leadership rather than to the norm itself. The comparison here rests on the arrangements each court has put in place, which are observable and documented, rather than on differences in outcome frequency.

Divergence between regulation and practice

Supreme Court Regulation Number 5 of 2019 requires several steps that the corpus indicates are performed inconsistently. Expert participation, which the regulation contemplates in assessing readiness, appears rarely; examination relies principally on the testimony of parents, the prospective spouses, and family witnesses, all of whom have an interest in the grant. Assessment of long-term consequences for education, reproductive health, and psychosocial development appears in summary form where it appears at all. Exploration of alternatives to marriage, including deferral with social or economic support, is largely absent from the rulings examined. No mechanism exists for monitoring compliance with undertakings recorded in a ruling, a gap the regulation does not address and which the innovations at Bangkalan and Pamekasan address only locally and without standardisation. The judicial officers themselves identified structural constraints that account for much of this divergence. Caseload volume limits hearing time. Budgetary provision for engaging psychologists, physicians, or social workers is limited. In the island districts of Sumenep, such professionals are in short supply irrespective of budget. These constraints are institutional rather than attitudinal, and they bear directly on the interpretation offered below.

Discussion

The findings demonstrate that the application of *masalah mursalah* in marriage dispensation cases is neither arbitrary nor purely doctrinal but reflects a pragmatic judicial response to evidentiary realities within Religious Courts. Although judges consistently framed their decisions through the objectives of *maqāṣid al-sharī'ah*, the reasoning was predominantly concentrated on *hifz al-dīn* and *hifz al-nasl*, while the protection of life, intellect, and property received considerably less attention. This pattern suggests that judicial reasoning is shaped more by the immediacy and availability of evidence than by an equally balanced application of Islamic legal objectives. Such findings extend the theoretical understanding of *masalah mursalah* by demonstrating that its implementation is institutionally mediated rather than exclusively determined by jurisprudential doctrine. This interpretation aligns with recent studies emphasizing the contextual nature of judicial discretion in Islamic family law (Asa'ari & Iskandar, 2026; Kurniawan et al., 2025; Purwanti & Natalis, 2026).

Another important finding concerns the dominant influence of pregnancy outside marriage in judicial decision-making. Once pregnancy is legally established, judicial deliberation tends to shift from preventive child protection toward resolving an immediate legal and social emergency. From the perspective of *maqāṣid al-sharī'ah*, this approach is doctrinally understandable because preserving lineage becomes an urgent objective. Nevertheless, it also narrows judicial consideration of other dimensions, particularly children's educational continuity, psychological readiness, and reproductive health. This indicates that emergency-based reasoning may inadvertently reduce the comprehensiveness of child-centered justice envisioned by Supreme Court Regulation No. 5 of 2019. Similar tendencies have been reported in previous studies, although the present research further explains that the dominance of pregnancy functions as a mechanism that restructures judicial priorities rather than merely serving as one among several legal considerations (Akbari, 2025; Nurcholis et al., 2025; Syuroya & Husnayain, 2025).

The observed variation among the four Religious Courts further indicates that judicial quality is influenced not only by legal norms but also by institutional capacity. Courts with stronger collaboration involving psychologists, child protection agencies, and community organizations demonstrated more comprehensive assessments than courts operating under limited professional and financial resources. This finding suggests that differences in judicial practice arise from

organizational capability rather than divergent interpretations of Islamic law. Such evidence supports institutional perspectives on judicial behavior, which argue that legal outcomes are shaped by organizational conditions alongside normative frameworks. Consequently, strengthening multidisciplinary support may contribute more substantially to child protection than introducing additional legal provisions alone.

The discrepancy between regulatory expectations and courtroom practice also reveals an important structural challenge. Although PERMA No. 5 of 2019 promotes comprehensive assessments of children's welfare, expert participation, long-term monitoring, and alternative interventions were implemented inconsistently across the cases examined. Rather than indicating inadequate judicial commitment, this inconsistency appears closely related to procedural limitations, heavy caseloads, and restricted access to professional expertise. Therefore, improving judicial reasoning requires institutional reform that strengthens evidentiary support instead of relying solely on normative refinement. This perspective broadens previous scholarship by positioning institutional constraints as a central determinant of how *maqāṣid al-sharī'ah* is translated into judicial practice (Fajriyati et al., 2026; Dancy & Zalnieriute, 2026).

Theoretically, this study contributes to the literature by repositioning *maslahah mursalah* from a doctrine primarily used to justify judicial outcomes into an analytical framework for evaluating the completeness of judicial reasoning. Rather than asking whether judges invoke *maqāṣid al-sharī'ah*, the findings encourage scholars to examine how each objective is balanced throughout legal deliberation. This perspective enriches contemporary debates on Islamic family law by integrating doctrinal interpretation with institutional analysis, an aspect that remains underexplored in previous research. Consequently, the study bridges the gap between normative Islamic jurisprudence and empirical judicial practice while offering a more comprehensive lens for evaluating child protection within Religious Courts.

Overall, this research demonstrates that selective judicial reasoning should be understood as an institutional phenomenon rather than a doctrinal deficiency. The novelty of the study lies in revealing that the uneven application of *maqāṣid al-sharī'ah* is primarily driven by evidentiary accessibility, organizational capacity, and procedural realities instead of insufficient judicial understanding of Islamic legal principles. This insight contributes to the global discourse on judicial discretion by illustrating how religious legal principles are operationalized within modern legal institutions. Accordingly, future reforms should prioritize strengthening multidisciplinary assessments, evidentiary procedures, and post-decision monitoring to ensure that child protection is realized through a more balanced and holistic application of *maqāṣid al-sharī'ah*.

CONCLUSION

This study demonstrates that the application of *maslahah mursalah* in child marriage dispensation proceedings at the Religious Courts of Madura extends beyond formal compliance with Islamic legal doctrine and reflects the institutional realities within which judicial decisions are produced. Although judges consistently invoke the objectives of Islamic law when justifying marriage dispensation, the analysis reveals that judicial reasoning is predominantly concentrated on the protection of religion (*hifz al-din*) and lineage (*hifz al-nasl*), while the protection of life, intellect, and property receives comparatively limited evidentiary consideration. Rather than indicating a deficiency in judicial understanding of *maqasid al-shari'ah*, this selective pattern appears to result from procedural and institutional constraints that shape the availability of evidence during court proceedings. These findings suggest that improving the quality of judicial reasoning requires strengthening the evidentiary capacity of Religious Courts through multidisciplinary assessment, standardized procedural guidance, and systematic post-decision monitoring rather than relying solely on further normative regulation. Theoretically, this study contributes to the development of Islamic family law by repositioning *maslahah mursalah* from a justificatory doctrine into an analytical framework through which the completeness

and consistency of judicial reasoning can be critically evaluated across the five essential objectives of maqasid al-shari'ah. Practically, the findings provide evidence-based recommendations for enhancing the implementation of Supreme Court Regulation Number 5 of 2019 and promoting a more comprehensive child-centered approach in marriage dispensation adjudication. While the study is limited to four Religious Courts and a qualitative corpus of judicial decisions, it offers an empirically grounded perspective that may inform future comparative research and support continuing efforts to harmonize statutory child protection with the substantive objectives of Islamic law in Indonesia.

AUTHOR CONTRIBUTIONS STATEMENT

Moh. Afif Wahyudi Conceptualization, methodology, investigation, data curation, formal analysis, writing original draft, and project administration. Idzam Fautanu Supervision, conceptual refinement, validation, writing review and editing, and interpretation of Islamic legal perspectives. Siah Khosyi'ah Methodological validation, legal analysis, interpretation of empirical findings, writing review and editing, and critical revision of the manuscript. Ateng Ruhendi Theoretical validation, supervision, manuscript review, language refinement, and final approval of the manuscript. All authors contributed to the interpretation of the findings, reviewed and approved the final version of the manuscript, and agreed to be accountable for all aspects of the work.

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