

Why Pregnancy Is Not Enough: Judicial Interpretation of “Urgent Grounds” in Child Marriage Dispensation Cases at the Madiun Religious Court

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Abstract

This article examines how Muslim judges interpret the statutory requirement of “urgent grounds” in child marriage dispensation cases arising from pregnancies outside of wedlock at the Madiun Religious Court. Although the two cases share similar factual circumstances—pregnancies resulting from *zinā* (adultery) involving girls below the minimum legal marriage age—the judicial outcomes diverged significantly. The article aims to identify the factors shaping this divergence and to illuminate how state law, Islamic moral norms, and psychosocial considerations interact within religious court adjudication. Employing a socio-legal approach that combines document analysis of two judicial decisions with in-depth interviews involving three key informants, the study finds that “urgent grounds” is an elastic category heavily shaped by the interpretive discretion of Muslim judges. In the first case, a two-month pregnancy was construed as a moral and social emergency requiring immediate resolution through marriage. Conversely, the eight-month pregnancy in the second case was understood as an indicator of child vulnerability that necessitated preventing, rather than facilitating, early marriage. These findings demonstrate that the dispensation mechanism is not a mechanical application of legal rules but an interpretive arena in which judges negotiate statutory texts, Islamic legal maxims, cultural norms, and the best interests of the child. The article argues that such interpretive variation reflects the interplay among Islamic law, state law, and socio-cultural values in shaping contemporary Islamic family court judgments in Indonesia.



[Artikel ini mengkaji bagaimana hakim Pengadilan Agama Madiun menafsirkan persyaratan “alasan mendesak” dalam perkara dispensasi perkawinan anak yang diajukan akibat kehamilan di luar nikah. Meskipun kedua perkara memuat kondisi faktual serupa—kehamilan akibat zina oleh anak perempuan yang belum mencapai batas usia minimal perkawinan—putusan yang dihasilkan berbeda secara signifikan. Artikel ini bertujuan menelusuri faktor-faktor yang membentuk perbedaan tersebut serta mengungkap bagaimana hukum negara, nilai moral Islam, dan pertimbangan psikososial berinteraksi dalam praktik peradilan agama. Melalui pendekatan sosio-legal yang memadukan analisis dokumen atas dua putusan dengan wawancara mendalam terhadap tiga informan kunci, penelitian ini menemukan bahwa persyaratan “alasan mendesak” merupakan kategori yang lentur dan sangat dipengaruhi oleh diskresi interpretatif para hakim. Pada kasus pertama, kehamilan dua bulan dikonstruksikan sebagai kedaruratan moral-sosial yang menuntut penyelesaian segera melalui perkawinan. Sebaliknya, pada kasus kedua, kehamilan delapan bulan dipahami sebagai indikator kerentanan yang justru memerlukan pencegahan terhadap perkawinan anak. Temuan ini menunjukkan bahwa mekanisme dispensasi nikah bukan sekadar penerapan hukum secara mekanis, melainkan arena interpretatif di mana hakim menegosiasikan teks hukum, kaidah fikih, nilai budaya, serta prinsip kepentingan terbaik bagi anak. Artikel ini berargumentasi bahwa variasi interpretasi tersebut mencerminkan keterkaitan antara hukum Islam, hukum negara, dan nilai sosio-kultural dalam membentuk putusan pengadilan keluarga Islam kontemporer di Indonesia.]

Keywords: Best Interests of the Child; Child Marriage, Legal Interpretation, Madiun Religious Court, Marriage Dispensation, Urgent Grounds.

Introduction

In numerous Muslim societies, including Indonesia, child marriage persists as a legally and socially embedded phenomenon situated at the intersection of religious norms, customary practices, and state regulation.¹ Despite the existence of national legislation and international child-rights frameworks that underscore strong commitments to protecting the best interests of children,² the continued availability of judicial marriage dispensations and the social acceptance of early marriage sustain the practice. Notably, pregnancy outside of wedlock is often regarded as an exigent circumstance justifying the exceptional exercise of judicial discretion. These dynamics are further exacerbated by structural factors—such as economic

¹ See: Syahrudin Hidayat et al., “The Norm of Marriage Age Limit and Cultural Contestation of Child Marriage Law in Rural Communities,” *Jurnal Hukum Islam* 21, no. 1 (2023): 55–82; Dwi Aprilianto et al., “The Controversy of Child Marriage Culture in the Perspective of Maqāsid Al-Urah: A Case Study of The Authority of Lebe’ in Brebes,” *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 2 (2024): 199–218; Siti Kafidhoh et al., “Dynamics of Legal Politics Regarding Marriage Age Limits in Indonesia: Between Religious Norms and Social Change,” *Jurnal Hukum Islam* 22, no. 2 (2024): 405–36.

² See: John Eekelaar, “The Role of the Best Interests Principle in Decisions Affecting Children and Decisions about Children,” *The International Journal of Children’s Rights* 23, no. 1 (2015): 3–26; Fahadil Amin Al Hasan and Deni Kamaluddin Yusup, “Dispensasi Kawin dalam Sistem Hukum Indonesia: Menjamin Kepentingan Terbaik Anak Melalui Putusan Hakim,” *Al-Ahwal: Jurnal Hukum Keluarga Islam* 14, no. 1 (2021): 86–98.

vulnerability, gender inequalities, and limited access to education³—that prompt families to adopt pragmatic strategies, which nonetheless have enduring adverse effects on girls’ reproductive health, psychosocial development, and socio-economic mobility.⁴ Within this context, Muslim judges bear significant interpretive responsibilities, as they must navigate a statutory framework characterized by limited determinacy while simultaneously considering moral norms, communal expectations, and the state’s child protection mandate.⁵ Consequently, judicial decision-making in this domain exhibits considerable variability.

This variation is illustrated by two child marriage dispensation decisions issued by the judges of Madiun Religious Court, which serve as the empirical basis for this study. In Decision No. 31/Pdt.P/2024/PA.Kab.Mn, the Muslim judge granted a dispensation petition despite the prospective bride being pregnant as a result of *zinā* (extramarital sexual relations). In contrast, Decision No. 24/Pdt.P/2024/PA.Kab.Mn, which involved substantively similar circumstances, resulted in the denial of the petition. This inconsistency suggests that extramarital pregnancy is not uniformly recognized as an “urgent ground” (Indonesian: *alasan sangat mendesak*) within the dispensation framework. Instead, the determination of urgency depends on varying judicial assessments regarding the child’s best interests, the perceived level of social risk, and the moral significance attributed to extramarital sexual conduct.⁶ These divergent decisions highlight the significant interpretive discretion afforded to Muslim judges in applying both state family law and Islamic legal principles, thereby illustrating how judicial reasoning is shaped by the interplay of legal doctrine, prevailing moral values, and local socio-cultural contexts.

Existing scholarship on the judicial interpretation of the “urgent grounds” requirement has predominantly concentrated on categorizing the reasons presented by petitioners and accepted by Muslim judges.⁷ Research indicates that factors such as non-marital pregnancy, intimate relationships considered morally inappropriate, and concerns about potential immoral behavior frequently underpin

³ See: Luis Alfonso Mendoza Tascón et al., “Matrimonio Infantil: Un Problema Social, Económico y de Salud Pública,” *Revista Chilena de Obstetricia y Ginecología* 81, no. 3 (2016): 254–61; Nazir Ullah et al., “Child Marriages: International Laws and Islamic Laws Perspective,” *Journal of Educational and Social Research* 11, no. 3 (2021): 60–70; Qodariah Barkah et al., “Abandonment of Women’s Rights in Child Marriage; An Islamic Law Perspective,” *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 17, no. 2 (2022): 383–411.

⁴ See: Morvarid Irani and Robab Latifnejad Roudsari, “Reproductive and Sexual Health Consequences of Child Marriage: A Review of Literature,” *Journal of Midwifery and Reproductive Health* 7, no. 1 (2019): 1491–7; Farel Rifandanu and Ayu Febrianti, “Early Marriage and Implications for Future Orientation in Islamic Law,” *Contemporary Issues on Interfaith Law and Society* 2, no. 2 (2023): 187–214.

⁵ See: Hasyim Sofyan Lahilote et al., “Judge’s Dilemma in Marriage Dispensation in the Religious Court,” *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 22, no. 1 (2022): 52–60; Hoko Horii, “Legal Reasoning for Legitimation of Child Marriage in West Java: Accommodation of Local Norms at Islamic Courts and the Paradox of Child Protection,” *Journal of Human Rights Practice* 12, no. 3 (2021): 501–23.

⁶ SM, “Judge of the Madiun Religious Court,” June 2024.

⁷ Lilik Andar Yuni, “Analysis of the Emergency Reasons in the Application of Marriage Dispensation at the Tenggarong Religious Court,” *Samarah* 5, no. 2 (2021): 976–1002.

judicial approval of dispensation requests.⁸ Marzuki et al. note that some Muslim judges invoke *al-maṣlahah al-mursalāh* (public interest) to justify decisions perceived as safeguarding the welfare of the parties involved.⁹ Taufiqur Rohman and colleagues argue that the assessment of urgency should align with the overarching principle of the child's best interests, rather than being limited solely to the preservation of religious or social norms.¹⁰ Utilizing a semiotic framework, Ani Purwanti and Aga Natalis demonstrate that dispensation decisions function as dynamic texts that translate abstract legal norms into socially situated meanings.¹¹ For petitioners whose applications are denied, such decisions may engender uncertainty regarding the predictability of legal outcomes.¹² Nur Insani et al. further contend that this uncertainty arises from the intersection of legal, cultural, and social considerations that inform judicial deliberation.¹³

This article moves beyond the predominant emphasis on categorical mapping present in prior research by analyzing two dispensation cases involving similar factual circumstances—namely, pregnancies resulting from extramarital relations—that nonetheless yielded divergent judicial outcomes. The study examines how Muslim judges formulate their legal reasoning, the normative hierarchies they invoke, and how they navigate the intersection of morality, child protection, and state legal authority. It is argued that the judicial interpretation of the “urgent grounds” requirement operates as a flexible doctrinal category, whose meaning is shaped by integrating state family law, Islamic legal reasoning, and psychosocial assessments within the specific factual context of each case.

This study employs a socio-legal approach that combines doctrinal analysis with empirical fieldwork. The doctrinal analysis involves a comprehensive examination of two decisions issued by the Madiun Religious Court judges—Decision No. 31/Pdt.P/2024/PA.Kab.Mn and Decision No. 24/Pdt.P/2024/PA.Kab.Mn—obtained directly from the court official in June 2025. The empirical fieldwork consists of in-depth interviews with three key informants: a Muslim judge from the Madiun Religious Court, the Head of the Office of Religious Affairs (*Kantor Urusan*

⁸ See: Muhammad Ishom, “The Loose Interpretation of Dominus Litis Principle in Marriage Dispensation for Underage Marriage in Banten,” *AHKAM: Jurnal Ilmu Syariah* 23, no. 2 (2023): 329–50; Syufa’at Syufa’at, “Marriage Dispensation in Underage Marriage: A Case Study at the Purwokerto Religious Court,” *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 1 (2022): 91–102; Aris and Rosdalina Bukido, “Pemmali Culture in the Bugis Community versus Law Enforcement of Age of Marriage in the Religious Courts,” *Jurnal Ilmiah Al-Syir’ah* 20, no. 2 (2022): 206–25.

⁹ Marzuki Marzuki et al., “The Implementation of Underage Marriage Dispensation in Palu Religious Court,” *Review of International Geographical Education Online* 11, no. 3 (2021): 565–9.

¹⁰ Taufiqur Rohman et al., “Preventing Violations of Religious and Social Norms: Judicial Interpretation of ‘Urgent Reasons’ in Marriage Dispensation at the Wonosari Religious Court, Indonesia,” *Journal of Islamic Law* 4, no. 2 (2023): 218–36.

¹¹ Ani Purwanti and Aga Natalis, “Law as Text, Culture as Context: The Semiotics of Marriage Dispensation and Judicial Considerations in Indonesia,” *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique*, ahead of print, September 27, 2025.

¹² Mulyadi Antori et al., “Resolving Marriage Dispensation Cases for Pregnant Women Due to Adultery as Urgent Grounds: An Analysis of Practices in the Simalungun Religious Court,” *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 11, no. 2 (2024): 300–13.

¹³ Nur Insani et al., “Judicial Considerations in Child Marriage Dispensations: An Empirical Study of the Gorontalo Religious Court,” *Jurnal Ilmiah Al-Syir’ah* 22, no. 1 (2024): 41–52.

Agama, KUA) in Dolopo District, and the Secretary of the Office of Population Control, Family Planning, Women's Empowerment, and Child Protection of Madiun City. The collected data were analyzed qualitatively employing the interpretive theory formulated by Ronald Dworkin.¹⁴

Child Marriage Dispensations and the “Urgent Grounds” Requirement: A State Law Perspective

The regulatory reform concerning the minimum marriage age, enacted through Law No. 16 of 2019 (which amends Marriage Law No. 1 of 1974), has significantly transformed family law norms in Indonesia.¹⁵ This legislation establishes an equal minimum marriage age of nineteen for both men and women,¹⁶ representing a substantial increase from the previous provision that allowed females to marry at sixteen.¹⁷ While the reform aims to enhance child protection,¹⁸ it also maintains an exception that permits parents to request a marriage dispensation on “urgent grounds,” provided they present sufficient evidence.¹⁹ Consequently, the elevated age requirement not only imposes stricter formal restrictions on child marriage but also heightens the importance of judicial dispensation as a legal mechanism, the application of which largely depends on Muslim judges' interpretive discretion.²⁰

The explanatory provisions of Law No. 16 of 2019 provide only a minimal definition of “urgent grounds,” characterizing them as circumstances in which no reasonable alternative exists, and the marriage must proceed out of necessity.²¹ This limited formulation does not establish a clearly operational category that Muslim judges can apply normatively. The resulting ambiguity prompts the question of whether “urgent grounds” should be equated with the state of emergency (*darūrah*) as conceptualized in *fiqh* (Islamic jurisprudence)—for instance, in cases of extramarital pregnancy—or whether the term also encompasses socially and psychologically perceived concerns within families, such as reputational anxieties or fears of moral contagion.²² In the Islamic legal maxims (*al-qawā'id al-fiqhiyyah*), states of emergency denote extreme situations that permit otherwise prohibited

¹⁴ Ronald Dworkin, *Law's Empire* (Harvard University Press, 1988), 45–86.

¹⁵ Ulfi Azizah and Nur Wahid, “Historisitas dan Tujuan Aturan Umur Minimal Perkawinan dalam Perundang-Undangan Keluarga Islam di Indonesia,” *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 2, no. 2 (2019): 163–77.

¹⁶ “Law No. 16 of 2019 on Amendments to Marriage Law No. 1 of 1974,” October 14, 2019, Article 7(1).

¹⁷ “Marriage Law No. 1 of 1974,” January 2, 1974, Article 7(1).

¹⁸ Daud Rismana et al., “The Controversy on the Minimum Age for Marriage in Indonesia: Factors and Implications,” *Journal of Sustainable Development and Regulatory Issues (JSDEI)* 2, no. 1 (2024): 53–66.

¹⁹ “Law No. 16 of 2019 on Amendments to Marriage Law No. 1 of 1974,” Article 7(2).

²⁰ See: Sudirman et al., “Legal Dysfunction in Granting Dispensation to Underage Marriages in Indonesia,” *Manchester Journal of Transnational Islamic Law and Practice* 19, no. 2 (2023): 137–44; Salma Mursyid and Nasruddin Yusuf, “Changes in Marriage Age Limits and Marriage Dispensations: A Study of Causes and Impacts on the Religious Courts in North Sulawesi,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, no. 2 (2022): 975–96.

²¹ “Law No. 16 of 2019 on Amendments to Marriage Law No. 1 of 1974.”

²² Rohmadi Rohmadi et al., “Judges' Considerations in Granting Marriage Dispensation Licenses in Indonesia: Islamic Family Law Perspective,” *El-USrah: Jurnal Hukum Keluarga* 7, no. 1 (2024): 326–45.

actions to prevent greater harm.²³ Although scholars and adjudicators frequently invoke this concept to rationalize early marriage on ostensibly urgent grounds, the statutory text does not explicitly equate “urgent grounds” with *darūrah* in Islamic jurisprudence. Consequently, interpretive discretion remains broad and is highly contingent upon the social context of each case.²⁴

The diverse grounds presented by petitioners underscore the flexible nature of the term “urgent grounds.” While pregnancy is frequently cited as the primary justification, petitions often invoke a variety of other factors, including prior sexual intercourse, the existence of a seemingly stable romantic relationship, parental concerns regarding violations of religious or customary norms, and the potential for social stigma if the relationship remains informalized.²⁵ This multiplicity suggests that the term operates not only as a legal-formal category but also as a discursive space wherein moral tensions, social anxieties, and communal values are expressed. In this context, judges play a pivotal role in determining whether the asserted grounds qualify as urgent and merit dispensation. As interpretive actors, Muslim judges are expected to rigorously examine petitioners’ claims, evaluate the evidentiary basis, and consider the psychosocial and social consequences of granting a dispensation.²⁶ Such evaluations require careful balancing of statutory norms, international child rights obligations, Islamic moral principles, and the lived experiences of the parties involved, ensuring that dispensations are not granted mechanically but rather in alignment with the child’s best interests and judicial prudence.²⁷ Consequently, marriage dispensation emerges as a complex socio-legal arena in which law is produced through nuanced, context-sensitive interpretation.

Marriage Dispensation for Pregnant Girls in Cases of *Zinā*: An Overview of Two Cases

The two cases examined in this article originate from the Madiun Religious Court. Although both involve underage girls who became pregnant as a result of *zinā*—the primary basis for the dispensation petitions—the cases demonstrate how Muslim judges prioritize and interpret varying combinations of social, moral, and legal considerations. In the first case, a two-month pregnancy resulting from a brief romantic relationship was deemed an urgent circumstance requiring immediate resolution through marriage, leading to the petition’s approval. Conversely, in the

²³ Muḥammad bin Šāliḥ al-‘Uthaymīn, *Al-Qawā’id al-Fiqhiyyah* (Dār al-Bašīrah, 2008), 20–1.

²⁴ Very Julianto et al., “Judges’ Perspectives on Changes in the Legal Minimum Age at Marriage in Indonesia,” *Journal of Family Studies* 31, no. 1 (2025): 94–117.

²⁵ Rohman et al., “Preventing Violations of Religious and Social Norms,” 218–36.

²⁶ SM, “Judge of the Madiun Religious Court,” June 2024.

²⁷ See: Rohmadi, “Preventing Child Marriage in Lampung: An Analysis of the Community Embedded Implementation Process Adopted for the Provincial Regulation Number 55 of 2021 and Its Harmonisation with Local Custom and Islamic Law,” *Manchester Journal of Transnational Islamic Law and Practice* 20, no. 3 (2024): 165–76; Kafidhoh et al., “Dynamics of Legal Politics Regarding Marriage Age Limits in Indonesia,” 405–36; Achmad Fausi and Asmuni Asmuni, “Determination of the Minimum Age Limit for Marriage: Balancing Legal Supremacy and the Objectives of Sharia in Indonesian Marriage Law,” *Mazahib* 23, no. 1 (2024): 117–54; M Anwar Nawawi et al., “Harmonization of Islam and Human Rights: Judges’ Legal Arguments in Rejecting Child Marriage Dispensation in Sukadana, Indonesia,” *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 22, no. 1 (2022): 117–34.

second case, an eight-month pregnancy stemming from a longer relationship was not deemed an emergency that satisfied the statutory criteria of “urgent grounds.” While pregnancy outside of wedlock is indeed the most commonly cited reason for seeking a marriage dispensation,²⁸ the differing outcomes in these cases illustrate that such petitions cannot be reduced solely to the occurrence of pregnancy. Instead, they represent a complex site of negotiation wherein state law, Islamic morality, social expectations, and child-protection principles intersect, often in tension with one another.²⁹

Table 1
Description of Two Child Marriage Dispensation Cases Involving *Zinā*
at the Madiun Religious Court

No.	Description	Decision No. 31/Pdt.P/2024/PA.Kab.Mn	Decision No. 24/Pdt.P/2024/PA.Kab.Mn
1.	Age of the girl	18 years 3 months	18 years 5 months
2.	Age of prospective husband	23 years 4 months	19 years 9 months
3.	Length of relationship	± 6 months	± 2 years
4.	Gestational age	2-month pregnancy	8-month pregnancy
5.	Muslim judge’s conclusion	Meet the “urgent grounds” requirement	Does not meet the “urgent grounds” requirement
6.	Outcome	Granted	Rejected

Source: Data processed by the authors, 2025.

The initial case originated from a relationship between ACN, an 18-year-old unemployed female, and AHP, a 23-year-old unmarried male employed as an honorary staff member at a public housing complex. Their relationship endured for approximately 6 months before the case was submitted to the Madiun Religious Court on February 15, 2024. During this period, the relationship developed voluntarily and without coercion from either family. Both families affirmed that the relationship did not encounter any normative impediments under Islamic law: the individuals were not mahram, shared no consanguineous, marital, or milk kinship ties, and both were unmarried. This social and religious legitimacy was further evidenced by AHP’s family formally proposing marriage to ACN, a proposal that her parents warmly accepted.³⁰

The situation escalated in gravity when ACN was confirmed to be two months pregnant, as documented by a medical certificate dated February 6, 2024. The pregnancy resulted from consensual sexual intercourse outside of marriage. This development elicited considerable concern from ACN’s parents, who feared further moral violations prohibited under both Islamic law and state legislation.

²⁸ AKQ, “Secretary of the Office of Population Control, Family Planning, Women’s Empowerment, and Child Protection in Madiun City,” June 2024.

²⁹ See: Rohmadi, “Preventing Child Marriage in Lampung,” 165–76; Kafidhoh et al., “Dynamics of Legal Politics Regarding Marriage Age Limits in Indonesia,” 405–36; Fausi and Asmuni, “Determination of the Minimum Age Limit for Marriage,” 117–54.

³⁰ “Decision of the Madiun Religious Court No. 31/Pdt.P/2024/PA.Kab.Mn,” February 23, 2024, 1–8.

Subsequently, the couple sought to register their marriage at the KUA of Pilangkenceng. However, the registration was denied on February 12, 2024, because ACN had not attained the minimum legal marriage age of nineteen, as stipulated by Law No. 16 of 2019.³¹ This administrative rejection left the parents with no legal recourse other than to file a petition for marriage dispensation with the Madiun Religious Court.³²

During the hearing, ACN, AHP, and their parents provided consistent testimony affirming the voluntary nature of their relationship, the consensual nature of the intercourse that resulted in pregnancy, and their preparedness to establish a household. AHP maintained stable employment, and both families expressed their willingness to offer economic, social, educational, and health-related support. The Muslim judge evaluated these facts in conjunction with evidence of pregnancy, the moral considerations of the relationship, and *fiqh* norm on maturity (*bāligh*) and personal responsibility. The Muslim judge determined that these circumstances satisfied the statutory “urgent grounds” requirement under Article 7(2) of Law No. 16 of 2019 and Supreme Court Regulation No. 5 of 2019, which governs the adjudication of marriage dispensation petitions. Consequently, on February 23, 2024, the Madiun Religious Court judge granted the petition, authorizing ACN to marry AHP.³³

The second case concerned a romantic relationship between ACA and RRBF that had persisted for approximately two years prior to being presented before the Madiun Religious Court on January 30, 2024. ACA, aged 18 years and 5 months, was a high school graduate and currently unemployed. RRBF, aged 19 years and 9 months, had also completed high school and was employed as a driver. Their relationship was characterized as emotionally close and relatively stable, with both families expressing their approval. Furthermore, the relationship received religious recognition, as evidenced by a formal marriage proposal from RRBF’s family, which ACA’s family accepted. The couple encountered no religious, kinship, or legal obstacles, and their relationship was regarded as socially acceptable within the local community.³⁴

The relationship progressed to a new stage upon confirmation that ACA was eight months pregnant, as evidenced by a medical certificate dated January 24, 2024. Since the couple had not yet formalized their union under either Islamic law or state law, the pregnancy constituted unequivocal evidence of *zinā*. This moral transgression elicited significant concern from both families, particularly ACA’s mother. Consequently, they concurred that marriage was imperative to prevent further actions prohibited by Islamic teachings and state regulations. However, their attempt to register the marriage was denied by the KUA of Kebonsari on January 29, 2024, due to ACA’s failure to meet the minimum age requirement under Article 7(2)

³¹ AC, “Head of the Dolopo Subdistrict Religious Affairs Office,” June 2024.

³² “Decision of the Madiun Religious Court No. 31/Pdt.P/2024/PA.Kab.Mn,” 1–8.

³³ “Decision of the Madiun Religious Court No. 31/Pdt.P/2024/PA.Kab.Mn,” 8–17.

³⁴ “Decision of the Madiun Religious Court No. 24/Pdt.P/2024/PA.Kab.Mn,” February 5, 2024, 1–6.

of Law No. 16 of 2019.³⁵ This rejection necessitated that the families pursue a legal remedy by petitioning for a marriage dispensation.³⁶

The petition was submitted by ACA's mother, who contended that the longstanding relationship, mutual consent of both families, and ACA's advanced pregnancy necessitated an immediate legal resolution through marriage. During the hearing, both ACA and RRBF demonstrated psychological and material readiness to marry, and their families affirmed their commitment to supporting the union. However, the Muslim judge concluded that the circumstances did not meet the statutory requirement of "urgent grounds," particularly with respect to child protection considerations and the minimum legal age for marriage. Consequently, on February 5, 2024, the Muslim judge denied the petition, thereby preventing the marriage from proceeding via the dispensation mechanism.³⁷

Muslim Judges' Legal Argumentations: Juridical, Theological, and Psychosocial Dimensions

An analysis of two marriage-dispensation decisions concerning pregnancies resulting from *zinā* reveals that Muslim judges employed a combination of juridical, theological, and psychosocial arguments to justify their respective decisions. In both cases, the Muslim judges referenced Article 7(1) and (2) of Law No. 16 of 2019.³⁸ These provisions were invoked to establish that the two girls had not attained the statutory minimum marriage age of nineteen, thereby permitting parents to petition the Madiun Religious Court for a dispensation upon demonstrating "urgent grounds" with sufficient evidence.³⁹ Although the same juridical basis was cited in both instances, differences in the testimonial evidence and the demeanor of the parties led the Muslim judges to apply theological and psychosocial reasoning to support their interpretations of the "urgent grounds" criterion. It is precisely these divergent lines of reasoning that resulted in opposite outcomes in the two petitions.

In the Madiun Religious Court Decision No. 31/Pdt.P/2024/PA.Kab.Mn, the Muslim judge based its theological reasoning on *fiqh* norms, Sūrah al-Isrā' verse 32, and a pertinent Islamic legal maxim. The Muslim judge specifically referenced the perspective of Sālim bin Sumayr al-Ḥaḍramī as presented in *Matn Safīnah al-Najāh*, which defines a person as *bāligh* if any one of the following three criteria is satisfied: (1) a girl has reached the age of nine and has commenced menstruation; (2) either sex has reached the age of nine and experienced a nocturnal emission (a sexual dream accompanied by ejaculation); or (3) either sex has reached the age of fifteen without fulfilling the first two criteria. Upon attaining *bāligh* status, an individual is considered morally and legally responsible and acquires the autonomy to make life

³⁵ AC, "Head of the Dolopo Subdistrict Religious Affairs Office," June 2024.

³⁶ "Decision of the Madiun Religious Court No. 24/Pdt.P/2024/PA.Kab.Mn," 1-6.

³⁷ "Decision of the Madiun Religious Court No. 24/Pdt.P/2024/PA.Kab.Mn," 6-12.

³⁸ See: "Decision of the Madiun Religious Court No. 31/Pdt.P/2024/PA.Kab.Mn," 9; "Decision of the Madiun Religious Court No. 24/Pdt.P/2024/PA.Kab.Mn," 8.

³⁹ "Law No. 16 of 2019 on Amendments to Marriage Law No. 1 of 1974," Article 7(2).

decisions.⁴⁰ In the case at hand, the Muslim judge determined that the girl, who was under nineteen years of age, met the criteria for *bāligh*—she was cognizant of the consequences of the extramarital sexual act and was therefore held accountable.⁴¹

Table 2

Muslim Judges' Legal Argumentation in the Two Dispensation Cases Involving *Zinā*

No.	Type of Argument	Decision No. 31/Pdt.P/2024/PA.Kab.Mn (Granted)	Decision No. 24/Pdt.P/2024/PA.Kab.Mn (Denied)
1.	Juridical	Contextual interpretation of Article 7(2) of Law No. 16 of 2019: pregnancy construed as an urgent circumstance. Provisions of Marriage Law No. 1 of 1974 and the KHI were invoked to confirm the absence of statutory impediments.	Restrictive interpretation of Article 7(2) of Law No. 16 of 2019: “urgent grounds” not proven. Article 26 of Law No. 35 of 2014 was invoked to underscore parents’ duty to prevent child marriage.
2.	Theological	Affirmative use of <i>fiqh</i> norms: <i>bāligh</i> criteria from <i>Safīnah al-Najāh</i> , prohibition of <i>zinā</i> (Sūrah al-Isrā’ verse 32), and an Islamic legal maxim justifying marriage to avert harm.	Sūrah al-Rūm verse 21 cited to emphasize marital aims of emotional and spiritual maturity—criteria deemed unmet.
3.	Psychosocial	Girl assessed as physically and emotionally ready; relationship consensual and understood; robust family support pledged.	Girl assessed as not yet emotionally mature; relationship lacks sufficient demonstrable responsibility; family support deemed insufficient to mitigate risks of early marriage.
4.	Conclusion	A two-month pregnancy is positioned as a moral-social emergency warranting immediate marriage.	An eight-month pregnancy is not regarded as an “urgent ground” because of psychological immaturity and inadequate family support.

Source: Data processed by the authors, 2025.

The Muslim judge also referenced Sūrah al-Isrā’ verse 32, which characterizes *zinā* as a condemnable act that undermines both worldly and religious well-being, humiliates the perpetrator, and precipitates additional social harms. Based on this interpretation, the Muslim judge acknowledged parental concerns regarding the religious and social risks associated with the act and considered marriage an urgent remedy, particularly because the girl was two months pregnant (as confirmed by a medical certificate dated February 6, 2024). Furthermore, the Muslim judge invoked the Islamic legal maxim “*dar’ al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ*” (averting harm takes precedence over securing benefits) to justify the necessity of immediate marriage to prevent further harm.⁴² This theological rationale was supported by

⁴⁰ Sālim bin Sumayr al-Ḥaḍramī, *Matn Safīnah al-Najāh* (Dār al-Minhāj, 2009), 17.

⁴¹ “Decision of the Madiun Religious Court No. 31/Pdt.P/2024/PA.Kab.Mn,” 9–12.

⁴² Al-‘Uthaymīn, *Al-Qawā’id al-Fiqhiyyah*, 20–21.

psychosocial evidence presented during the hearing, including witness testimony and observations of the parties' physical, behavioral, and emotional states.⁴³ By integrating these juridical, theological, and psychosocial factors, the Muslim judge determined that the statutory criteria for “urgent grounds” were satisfied and consequently granted the dispensation on February 23, 2024.⁴⁴

To substantiate this conclusion, the Muslim judge articulated a juridical argument. He cited Articles 6, 8, and 9 of Marriage Law No. 1 of 1974 to demonstrate that the couple had met all legal requirements for marriage, were not in any of the prohibited categories under state law, and had obtained parental consent from both parties. Additionally, the Muslim judge cited Articles 39 through 44 of the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI) to confirm that the proposed marriage did not contravene any Islamic law prohibitions. Drawing upon this integration of juridical, theological, and psychosocial considerations, the Muslim judge approved the petition for a marriage dispensation for the girl, who was two months pregnant as a result of *zinā*.⁴⁵

In contrast, the Madiun Religious Court Decision No. 24/Pdt.P/2024/PA.Kab.Mn featured a Muslim judge who integrated juridical, theological, and psychosocial considerations to reject a petition concerning an eight-month pregnancy. The Muslim judge cited Sūrah al-Rūm verse 21, which characterizes marriage as a source of tranquility, love, and compassion; the Muslim judge employed this verse to emphasize that marriage presupposes emotional and spiritual maturity—conditions that the Muslim judge determined were absent despite the relationship's religious legitimization. The Muslim judge's conclusion that marriage was not a last resort was based on testimonies from the parties and their parents, as well as the Muslim judge's psychosocial evaluation. The Muslim judge found that the couple had previously exhibited restraint and that their behavior did not, in itself, warrant immediate marital resolution. Accordingly, the Muslim judge determined that the statutory threshold for “urgent grounds,” as stipulated in Article 7(2) of Law No. 16 of 2019, had not been met.⁴⁶

The same decision notably invoked juridical norms to underscore parental responsibilities. The Muslim judge referenced Article 26 of Law No. 35 of 2014, an amendment to the Child Protection Law No. 23 of 2003, which delineates four primary parental obligations: nurturing, maintaining, educating, and protecting the child; fostering the child's talents and abilities; preventing child marriage; and instilling moral character. By emphasizing parental duties alongside psychosocial considerations, the Muslim judge concluded that the petition should be denied. Consequently, a distinctive integration of theological interpretation, psychosocial assessment, and statutory analysis resulted in a decision that prioritized child protection obligations over the alleged urgency of the pregnancy.⁴⁷

⁴³ “Decision of the Madiun Religious Court No. 31/Pdt.P/2024/PA.Kab.Mn,” 9–12.

⁴⁴ “Marriage Law No. 1 of 1974,” Articles 31 and 34.

⁴⁵ “Decision of the Madiun Religious Court No. 31/Pdt.P/2024/PA.Kab.Mn,” 9–12.

⁴⁶ “Decision of the Madiun Religious Court No. 24/Pdt.P/2024/PA.Kab.Mn,” 6–12.

⁴⁷ “Decision of the Madiun Religious Court No. 24/Pdt.P/2024/PA.Kab.Mn,” 6–12.

Judicial Interpretation of the “Urgent Grounds” Requirement: Between Justification and Prevention of Child Marriage

The divergent outcomes in the two dispensation cases adjudicated by the Religious Court of Madiun demonstrate that the statutory requirement of “urgent grounds” functions not as a definitive normative category but as an interpretive domain. Muslim judges exercise evaluative judgment to construct their meaning based on the specific configuration of facts, moral values, and psychosocial considerations they regard as pertinent.⁴⁸ In both cases, the Muslim judges referenced the same legal provisions—most notably Article 7(1) and (2) of Law No. 16 of 2019—yet the statutory text did not operate automatically. Instead, it necessitated interpretive judgment that connects formal legal provisions to the concrete circumstances of the pregnant minor.⁴⁹ Consequently, pregnancy itself does not constitute conclusive evidence of an emergency; rather, it is subject to interpretation that may either substantiate or negate the presence of an urgent ground, contingent upon the Muslim judges’ meaning-making process.⁵⁰

In the Madiun Religious Court Decision No. 31/Pdt.P/2024/PA.Kab.Mn, the Muslim judge employed an affirmative and contextual interpretation. From a theological perspective, he determined that the girl met the *bāligh* criteria as defined by al-Ḥaḍramī in *Matn Safīnah al-Najāh*,⁵¹ thereby rendering her morally accountable for the sexual act. The Muslim judge further cited Sūrah al-Isrā’, verse 32, to underscore that *zinā* constitutes moral corruption that necessitates immediate intervention. Additionally, the Islamic legal maxim “*dar’ al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ*”⁵² was invoked to justify prioritizing the prevention of further harm over postponing marriage to achieve an ideal marriageable age. This theological rationale was integrated with a psychosocial assessment affirming the girl’s emotional readiness, the consistency of witness testimonies, and strong family support. Legally, these factors were connected to Articles 6, 8, and 9 of the Marriage Law No. 1 of 1974 and Articles 39–44 of the KHI, confirming the absence of normative impediments.⁵³ This synthesis led to a legal construction recognizing a two-month

⁴⁸ See: Rohman et al., “Preventing Violations of Religious and Social Norms,” 218–36; Ishom, “The Loose Interpretation of Dominus Litis Principle in Marriage Dispensation for Underage Marriage in Banten,” 329–50; Haniah Ilhami et al., “Child Protection Post the New Marriage Law: How Indonesian Religious Court Interpreting the Urgency in Child-Age Marriage,” *Jurnal IUS Kajian Hukum dan Keadilan* 11, no. 1 (2023): 75–95.

⁴⁹ See: Rohman et al., “Preventing Violations of Religious and Social Norms,” 218–36; Ilhami et al., “Child Protection Post the New Marriage Law,” 75–95.

⁵⁰ See: Yuni, “Analysis of the Emergency Reasons in the Application of Marriage Dispensation at the Tenggara Religious Court,” 976–1002; Ashabul Fadhlī et al., “Out-of-Court Assistance Based on the Principle of the Best Interests of the Child: Study on Examination Process of Marriage Dispensation Cases,” *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (2024): 75–95; Rohmadi, “Preventing Child Marriage in Lampung,” 165–76.

⁵¹ Al-Ḥaḍramī, *Matn Safīnah al-Najāh*, 17.

⁵² Al-‘Uthaymīn, *Al-Qawā’id al-Fiqhiyyah*, 20–21.

⁵³ “Decision of the Madiun Religious Court No. 31/Pdt.P/2024/PA.Kab.Mn,” 9–12.

pregnancy as a moral and social emergency and treating the dispensation as a restorative measure consistent with the principle of *maṣlahah* (public welfare).⁵⁴

In contrast, the Madiun Religious Court Decision No. 24/Pdt.P/2024/PA.Kab.Mn reflects a restrictive and protective interpretation of the term “urgent grounds.” The Muslim judge invoked Sūrah al-Rūm verse 21 to argue that the purposes of marriage require emotional and spiritual maturity—criteria that the Muslim judge determined the girl had not attained despite her eight-month pregnancy. The psychosocial analysis presented in the decision further supported this conclusion, as the judge found that the parties lacked sufficient emotional maturity and responsibility to meet the ideals of marital life. In this context, pregnancy was not regarded as an emergency but rather as an indicator of the child’s vulnerability. Legally, this interpretive approach was grounded in Article 26 of Law No. 35 of 2014, which mandates that parents prevent marriage during childhood. Consequently, the Muslim judge employed the child-protection norm as a hermeneutic framework to determine that early marriage would exacerbate, rather than alleviate, psychosocial risks.⁵⁵ Thus, the law was interpreted as prioritizing the prevention of harm over the legalization of an already existing sexual relationship.⁵⁶

These divergent interpretive orientations demonstrate that Muslim judges engage in more than the mechanical application of legal norms. Instead, they interpret the law through the lens of values embedded within their social context. On one hand, pregnancy may be framed as an emergency necessitating the legalization of the relationship to prevent moral decline. Conversely, pregnancy may be understood as emphasizing the imperative of child protection, thereby rendering marriage inadvisable. As one Muslim judge from the Madiun Religious Court, SM, noted: “*The reason for the dispensation petition may be the same, but under different conditions it can be rejected. Not all dispensation petitions are granted; it depends on the strength of the evidence. The robustness or weakness of that evidence can become a decisive consideration for a Muslim judge in granting or denying a dispensation case.*”⁵⁷ This observation suggests that the “urgent grounds” requirement serves as an interpretive space wherein Muslim judges negotiate statutory text, religious values, and their own evaluations of emotional maturity and social risk.⁵⁸ Within this framework, Islamic law and state law do not function as mutually exclusive systems but rather as interwoven sources of legitimacy that

⁵⁴ See: Rohmadi, “Preventing Child Marriage in Lampung,” 165–76; Asmuni Asmuni and Rezha Nur Adikara Rezha Nur Adikara, “Application of Very Urgent Criteria in the Marriage Dispensation Norms for the Protection of Children: Analysis of Jasser Auda’s Theory,” *Jurnal Hukum Islam* 22, no. 1 (2024): 25–56.

⁵⁵ “Decision of the Madiun Religious Court No. 24/Pdt.P/2024/PA.Kab.Mn,” 6–12.

⁵⁶ See: Syufa’at, “Marriage Dispensation in Underage Marriage,” 91–102; Purwanti and Natalis, “Law as Text, Culture as Context.”

⁵⁷ SM, “Judge of the Madiun Religious Court,” June 2024.

⁵⁸ See: Ishom, “The Loose Interpretation of Dominus Litis Principle in Marriage Dispensation for Underage Marriage in Banten,” 329–50; Fadhli et al., “Out-of-Court Assistance Based on the Principle of the Best Interests of the Child,” 75–95.

inform decisions responsive to prevailing value structures and local social dynamics.⁵⁹

These findings suggest that the adjudication of child marriage dispensations represents a dynamic and context-dependent process of legal interpretation. Muslim judges do not base their decisions solely on formal legal principles; instead, they formulate the “urgent grounds” criterion through reasoning that incorporates moral judgment, contextual analysis of the parties’ conduct, and evaluations of public interest or vulnerability. Ilhami et al. argue that inconsistencies in judicial interpretations of “urgent grounds” are primarily shaped by two factors: the formal regulatory framework and the degree of judicial independence.⁶⁰ Rohman et al. contend that judicial interpretations should prioritize the best interests of the child rather than narrowly emphasizing potential violations of religious and social norms.⁶¹ In summary, legal interpretation within judicial practice extends beyond mere application of statutory text, constituting a social process that reflects the interplay among religious and cultural values, state law, international child rights standards, and evolving conceptions of welfare amid contemporary challenges.⁶²

Conclusion

The examination of two child marriage dispensation decisions issued by judges of the Madiun Religious Court demonstrates that the statutory criterion of “urgent grounds” operates as a flexible, interpretively contingent category. Although both cases involved similar factual circumstances—pregnancies resulting from *zinā* (adultery) involving underage girls—the Muslim judges attributed divergent meanings through distinct combinations of juridical, theological, and psychosocial reasoning. In the decision that granted the petition, a two-month pregnancy was characterized as a moral and social emergency requiring immediate resolution to prevent further harm, supported by references to Qur’ānic verses, Islamic legal maxims, and the psychosocial conditions of the parties involved. Conversely, the decision that denied the petition construed an eight-month pregnancy not as an emergency but as an indicator of vulnerability warranting child protection rather than the legalization of the relationship. These findings illustrate that “urgent grounds” is neither a singular nor self-evident criterion. Instead, it emerges from a negotiation among state legal norms, Islamic moral values, psychosocial assessments, and the evidentiary considerations presented in court.

The findings of this study offer significant insights into the interaction among state law, Islamic law, and socio-cultural values within the context of Indonesian religious court practices. Theoretically, the study reveals that the dispensation of

⁵⁹ Wardatun Nabilah et al., “Between Protection and Permissiveness: A Fiqh Siyasah Reexamination of Marriage Dispensation in Indonesia,” *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (2025): 137–51.

⁶⁰ Ilhami et al., “Child Protection Post the New Marriage Law,” 75–95.

⁶¹ Rohman et al., “Preventing Violations of Religious and Social Norms,” 218–36.

⁶² See: Nawawi et al., “Harmonization of Islam and Human Rights,” 117–34; Purwanti and Natalis, “Law as Text, Culture as Context”; Ishom, “The Loose Interpretation of Dominus Litis Principle in Marriage Dispensation for Underage Marriage in Banten,” 329–50.

child marriage operates not merely as a mechanism for the textual application of law but as a socio-legal arena in which Muslim judges construct legal meaning through contextual, moral, and interpretive reasoning that frequently transcends the confines of juridical formalism. In practice, the results underscore the need for more clearly defined judicial guidelines to interpret the “urgent grounds” criterion, thereby promoting a more consistent application of the principle of the best interests of the child. Nonetheless, this study has certain limitations: it analyzes only two cases from a single court and does not account for geographic variation, broader judicial perspectives, or the children’s lived experiences. Future research should address these limitations by expanding the scope of investigation and incorporating a wider array of empirical perspectives.

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