

## DISPENSATION OF MARRIAGE ON THE GROUNDS OF DATING: A CASE STUDY AT THE SUNGAI PENUH RELIGIOUS COURT IN 2023

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### Abstract

*This study examines the judicial considerations in granting marriage dispensation at the Sungai Penuh Religious Court, particularly focusing on cases where applicants cited dating as a primary reason. The research aims to analyze the factors influencing judicial decisions beyond legal certainty, emphasizing the role of social and religious considerations. A qualitative case study approach was employed to provide an in-depth understanding of judicial decision-making. Data collection involved interviews with court clerks and an analysis of court decision documents to identify the key determinants shaping judges' rulings. The findings reveal that judges' decisions are not solely based on legal certainty but are influenced by multiple factors, including the physical and mental readiness of the prospective spouses, the duration of their relationship, and the urgency of the social context. The application of fiqh principles and maqāṣid shari'ah played a crucial role in ensuring that rulings prioritized the protection of children's lineage (nasab) and the prevention of adultery. This study offers a unique perspective on marriage dispensation by highlighting the intersection of legal, social, and religious considerations in judicial decision-making. It contributes to the broader discourse on Islamic family law in Indonesia and the evolving role of judges in applying fiqh-based principles to contemporary issues. The findings provide valuable insights for legal practitioners, policymakers, and scholars in understanding the dynamics of marriage dispensation cases. This research can serve as a reference for future studies on judicial discretion and the implementation of Islamic legal principles in Indonesia's religious courts.*

**Keywords:** Marriage Dispensation, Judge's Consideration, Religious Court, Islamic law

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### INTRODUCTION

The marriage law in Indonesia sets a minimum age for marriage to protect children from the negative impacts of early marriage.<sup>1</sup> However, in reality, many couples who

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<sup>1</sup> habibah nurul Umah, "Fenomena Pernikahan Dini Di Indonesia Perspektif Hukum-Keluarga-Islam," *Jurnal Al Wasith: Jurnal Studi Hukum Islam* 5, no. 2 (2020): 107–25, <https://jurnal.unugha.ac.id/index.php/wst/article/view/11>.

have not yet reached this age wish to marry on the grounds that they have been in a serious romantic relationship.<sup>2</sup> This phenomenon sparks a debate on whether marriage dispensation should be granted for dating-related reasons and how it affects legal protection for couples who have not yet reached the minimum age. On one hand, marriage dispensation can be a solution to prevent adultery or other social problems, but on the other hand, early marriage can have negative consequences on children's education, health, and mental readiness.<sup>3</sup> Therefore, in-depth research is needed on the factors influencing judges' decisions to grant marriage dispensation requests based on dating reasons at the Sungai Penuh Religious Court.

In recent years, the Sungai Penuh Religious Court has seen a significant increase in marriage dispensation applications. More young couples are choosing to marry before reaching the legal age.<sup>4</sup> Data shows that in 2023, the Sungai Penuh Religious Court received dozens of marriage dispensation requests, totaling 34 applications from the people of Kerinci Regency and Sungai Penuh City. An analysis of nineteen decisions from the Sungai Penuh Religious Court, including six complete rulings, with case numbers 115/Ptd.P/2023/PA.Spn, 129/Ptd.P/2023/PA.Spn, 133/Ptd.P/2023/PA.Spn, 163/Ptd.P/2023/PA.Spn, 164/Ptd.P/2023/PA.Spn, and 182/Ptd.P/2023/PA.Spn, reveals that all were granted based on similar considerations by the judges. Overall, the main reason for marriage dispensation applications was long-term dating. This indicates that dating is a significant factor in marriage dispensation requests at the Sungai Penuh Religious Court. This study is important because the rate of early marriage in Sungai Penuh remains high, previous research on marriage dispensation in Sungai Penuh is still limited, and the findings of this study can provide crucial information for more effective policymaking in preventing early marriages.

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<sup>2</sup> Brigita Simanjorang, "Kajian Hukum Perkawinan Anak Dibawah Umur Menurut Undang Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974. Tentang Perkawinan," *Lex Crimen* 11, no. 6 (2022).

<sup>3</sup> Achmad Bahroni et al., "Dispensasi Kawin Dalam Tinjauan Undang-Undang Nomor 23 Tahun 2002 Juncto Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak," *Transparansi Hukum* 2, no. 2 (2019).

<sup>4</sup> Halim Setiawan, "Pernikahan Usia Dini Menurut Pandangan Hukum Islam," *Borneo: Journal Of Islamic Studies* 3, no. 2 (2020): 59-74.

Several previous studies on marriage dispensation have been conducted, such as Fadilatus Saidah's research, "Analysis of Marriage Dispensation and Its Relation to the High Rate of Divorce Claims at the Jepara Religious Court." This study focused on the relationship between marriage dispensation and the rate of divorce claims at the Jepara Religious Court, revealing that marriage dispensation could be a contributing factor to high divorce rates.<sup>5</sup> Another study by Khoiri, "Marriage Dispensation Due to Long-Term Dating from the Perspective of Maqāṣid Sharī'ah," examined judges' considerations from the standpoint of Maqāṣid Sharī'ah. This study found that judges took into account factors such as protecting lineage (*ḥifẓ al-nasl*) and preventing adultery (*ḥifẓ al-ʿird*).<sup>6</sup> A third study by Bahrul Ulum and Ahmad Muzawwir, "Analysis of Judges' Considerations on Long-Term Dating as an Urgent Reason for Granting Early Marriage Dispensation – A Study of Decision No. 354/Pdt.P/2022/PA Bangkalan," focused on the approval of marriage dispensation applications based on long-term dating considerations by judges at the Bangkalan Religious Court. This study revealed that judges considered the duration of dating as an urgent factor to prevent adultery.<sup>7</sup>

Meanwhile, this study differs from previous research as it focuses on the perspectives and considerations of judges at the Sungai Penuh Religious Court in granting marriage dispensation based on dating reasons, particularly in the context of 2023. This study will conduct an in-depth analysis of the factual, legal, and socio-psychological considerations used by judges in their decision-making. Therefore, the aim of this research is to analyze the factors influencing judges' decisions in granting marriage dispensation requests based on dating reasons at the Sungai Penuh Religious Court in 2023.

## **METHOD**

This study employs a qualitative approach with a case study design, as this approach allows for an in-depth analysis of the phenomenon of marriage dispensation based on

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<sup>5</sup> Fadilatus Saidah, "Analisis Dispensasi Nikah Dan Kaitannya Dengan Tingginya Angka Cerai Gugat Di Pengadilan Agama Jepara," *ISTI'DAL; Jurnal Studi Hukum Islam* 6, no. 2 (2019): 171-80.

<sup>6</sup> khoiri Khoiri, "Dispensasi Nikah Dengan Alasan Pacaran Terlalu Lama Ditinjau Menurut Maqashid Syariah," *Al-Syakhshiyah* 3, no. 1 (n.d.): 363467.

<sup>7</sup> Bahrul Ulum and Ahmad Muzawwir, "Analisis Pertimbangan Hakim Lama Pacaran Sebagai Alasan Mendesak Mengabulkan Permohonan Dispensasi Nikah Dini Study Putusan Nomor: 354/Pdt. P/2022/Pa Bangkalan," *Al-Ibrah: Jurnal Pendidikan Dan Keilmuan Islam* 8, no. 2 (2023): 92-111.

dating reasons at the Sungai Penuh Religious Court. This approach is considered appropriate because it enables a deeper understanding of the factors influencing judges' decisions. The object of this study consists of marriage dispensation rulings issued by the Sungai Penuh Religious Court in 2023. Data collection techniques include interviews and documentation.<sup>8</sup> The researcher conducted interviews with the court registrar of the Sungai Penuh Religious Court to gather information on the judges' decision-making process in marriage dispensation cases. Additionally, documentation was used as supplementary data to support the information obtained from interviews, consisting of official records issued by the Sungai Penuh Religious Court in 2023.

The data obtained from interviews and documentation were analyzed using the Miles and Huberman model. The data analysis process consisted of three stages: data reduction, which involved selecting relevant data and eliminating unnecessary information; data presentation, in which the researcher organized the reduced data into a systematic and comprehensible format; and conclusion drawing, where findings were derived based on a systematic analysis of the data. This study is limited to the data used, specifically the decisions of the Sungai Penuh Religious Court and interviews with the court registrar, thus excluding the perspectives of marriage dispensation applicants. The primary challenge faced in this study is the limited number of court rulings available and restricted access to judges, which makes it difficult to generalize the research findings.

## RESULT AND DISCUSSION

Marriage dispensation is a request submitted to the Religious Court to permit the marriage of a minor who has not yet reached the age of 19.<sup>9</sup> This is because the law establishes 19 as the minimum legal marriage age for both males and females. The request for a marriage dispensation is crucial to accommodate special circumstances in which child marriage is deemed necessary and urgent.<sup>10</sup> The primary purpose of granting a marriage dispensation is to facilitate the marriage of individuals under 19 while

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<sup>8</sup> Sugiyono Sugiyono, "Metode Penelitian Kuantitatif Dan Kualitatif Dan R&D," *Alfabeta Bandung*, 2010, 170-82.

<sup>9</sup> Umi Habibah, "Tinjauan Kompilasi Hukum Islam Terhadap Permohonan Dispensasi Nikah Di Bawah Umur," *El-Mal: Jurnal Kajian Ekonomi & Bisnis Islam* 4, no. 3 (2023): 646-61.

<sup>10</sup> Silva Farida Apriliandy, Nova Monaya, and Hidayat Rumatiga, "Pemenuhan Hak Anak Dalam Perkara Dispensasi Kawin Berdasarkan Undang-Undang Perkawinan Nomor 16 Tahun 2019," *Karimah Tauhid* 3, no. 4 (2024): 4822-37.

considering pressing factors.<sup>11</sup> The judges at the Religious Court take various aspects into account, such as the closeness of the relationship between the prospective spouses, the potential negative consequences if the marriage is delayed, and strong evidence that the marriage is the best solution for both parties.

To apply for a marriage dispensation, applicants must provide several documents, including a birth certificate, family card, and a health examination report covering physical, psychological, and mental aspects. To verify the authenticity of the evidence, the judge will examine whether the submitted documents correspond to the originals.<sup>12</sup> Typically, the parents of the minor seeking to marry apply for the marriage dispensation after their request for marriage is rejected by the local Office of Religious Affairs (KUA). If both prospective spouses are under 19, then both parents must file the marriage dispensation request.<sup>13</sup>

Data from the Sungai Penuh Religious Court recorded 34 marriage dispensation requests in 2023. Among these cases, six court rulings analyzed by the researcher highlight the main criteria considered by judges. First, the closeness of the relationship between the prospective spouses and their inability to separate. Second, the urgency of the situation, such as pregnancy outside of marriage and concerns about the risk of adultery. Third, the physical and mental readiness of the prospective spouses for marriage. The following are examples of court rulings that reflect these judicial considerations:

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<sup>11</sup> Teguh Surya Putra, "Dispensasi Umur Perkawinan (Studi Implementasi Pasal 7 Ayat 2 Undang-Undang Nomor 1 Tahun 1974 Di Pengadilan Agama Kota Malang)" (Brawijaya University, 2013).

<sup>12</sup> Devina Puspita Sari, "Kekuatan Pembuktian Fotokopi Surat Yang Tidak Dapat Dicocokkan Dengan Aslinya Dalam Perkara Perdata," *Undang: Jurnal Hukum* 2, no. 2 (2019): 323–52.

<sup>13</sup> Haris Hidayatulloh and Miftakhul Janah, "Dispensasi Nikah Di Bawah Umur Dalam Hukum Islam," *Jurnal Hukum Keluarga Islam* 5, no. 1 (2020): 34–61.

<b>Case</b>	<b>Male</b>	<b>Female</b>	<b>Reason</b>
115/Ptd.P/2023/ PA.Spn	21 years old	18 years and 8 months old, declared physically and mentally ready for	The couple has been in a relationship for two years, loves each other, and has engaged in a physical relationship.
129/Ptd.P/2023/ PA.Spn	24 years old	18 years old, declared physically and mentally ready for	The couple has been in a relationship for two years and loves each other
133/Ptd.P/2023/ PA.Spn	23 years old	18 years and 3 months old, declared physically and mentally ready for	The couple has been in a relationship for two years and loves each other
163/Ptd.P/2023/ PA.Spn	23 years old	18 years and 10 months old, declared physically and mentally ready for marriage	The couple has been in a relationship for two years and loves each other
164/Ptd.P/2023/ PA.Spn	23 years old	18 years and 6 months old, declared physically and mentally ready for marriage	The couple has been in a relationship for one year, loves each other, and has engaged in a physical relationship.

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182/Ptd.P/2023/ PA.Spn	23 years old	18 years and 6 months old, declared physically and mentally ready for marriage	The couple has been in a relationship for one year, loves each other, and has engaged in a physical relationship.
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Based on the data, it can be observed that the dominant reason for filing marriage dispensation requests at the Sungai Penuh Religious Court in 2023 was due to romantic relationships. However, some cases involved relationships that had already exceeded the boundaries of what is acceptable, resembling those of a married couple. The judge's considerations in these marriage dispensation cases heavily depend on the trial process, which reflects the facts presented in court.<sup>14</sup>

The factors considered by the judge include the strong bond between the child seeking marriage and their partner, making separation impossible, as well as the urgency of the situation. Additionally, the prospective bride's physical and mental readiness to become a wife is taken into account. If the marriage is not immediately conducted, there is concern that greater social harm (*fitnah*) may arise, potentially leading to undesirable consequences such as elopement.<sup>15</sup> This consideration aligns with circumstances in which no viable alternative exists, making marriage the necessary solution in accordance with Law No. 16 of 2019 on Marriage, which stipulates the minimum legal marriage age as 19 years for both men and women.<sup>16</sup>

The judge bases their decision on Islamic legal principles and *Maqāṣid al-Sharī'ah* (the objectives of Islamic law). *Maqāṣid al-Sharī'ah* represents the fundamental purpose behind the establishment of legal rulings.<sup>17</sup> Within the category of *Ḍarūriyyāt* (essential

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<sup>14</sup> Rizal Arif Fitria, Ahmadi Hasan, and Masyithah Umar, "Dispensasi Kawin Dan Pemenuhan Hak Anak: Studi Pengaruh Terhadap Hak-Hak Anak Dalam Konteks Hukum Dan Sosial," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1, no. 4 (2023): 749–67.

<sup>15</sup> Tania Ariska Putri, "Pemaknaan Disparitas Perkawinan Pada Usia Anak Undang-Undang Nomor 16 Tahun 2019 Dan Undang-Undang Nomor 35 Tahun 2014," 2023.

<sup>16</sup> Sekretariat Negara Republik Indonesia, "Undang-Undang Republik Indonesia No 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Undang-Undang Republik Indonesia*, no. 006265 (2019): 2–6, <https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019>.

<sup>17</sup> Ahmad Al-Mursi Husain Jauhar, *Maqashid Syariah* (Amzah, 2023).

needs), there are five key elements that must be preserved: religion (*Hifẓ al-Dīn*), life (*Hifẓ al-Nafs*), intellect (*Hifẓ al-ʿAql*), lineage (*Hifẓ al-Nasl*), and wealth (*Hifẓ al-Māl*).<sup>18</sup> In this context, the judge applies the principle of *Hifẓ al-Nasl* to safeguard lineage, especially in cases where couples have engaged in premarital sexual relations. The judge views marriage as a solution to protect the legitimacy of the child born from such relationships. This consideration is also aimed at preventing acts of *zinā* (fornication), which is strictly prohibited in Islam. In some cases, the judge deems marriage as a means to prevent fornication, which could otherwise lead to social harm and negative consequences for the community.<sup>19</sup> Therefore, the judge's decision to grant marriage dispensations under the framework of *Maqāṣid al-Sharīʿah* is in accordance with the objective of preserving and protecting lineage.

In ruling on marriage dispensation cases, the judge does not solely rely on Law No. 16 of 2019, which amends Law No. 1 of 1974 on Marriage, but also refers to Supreme Court Regulation (PERMA) No. 5 of 2019 on Guidelines for Adjudicating Marriage Dispensation Requests.<sup>20</sup> This PERMA serves as procedural law that regulates the examination process for marriage dispensation cases, ensuring that judges have clear guidelines in carrying out their duties.<sup>21</sup> The PERMA on Marriage Dispensation emphasizes the importance of assessing the child's physical and psychological condition and directly hearing their statement to ascertain their willingness and maturity in filing a marriage dispensation request.<sup>22</sup>

Furthermore, the judge is also required to investigate the possibility of coercion, ensuring that the applicant is physically and psychologically ready for marriage,

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<sup>18</sup> Nurul Huda, "Kawin Hamil Dalam Kompilasi Hukum Islam (Tinjauan Maqashid Syariah)," 2009.

<sup>19</sup> Hamzah Hamzah, "Telaah Maqasid Syariah Terhadap Putusan Mk No. 22/Puu-Xv/2017 Tentang Batas Usia Nikah," *AL-SYAKHSHIYYAH Jurnal Hukum Keluarga Islam Dan Kemanusiaan* 1, No. 1 (2019): 61–84.

<sup>20</sup> 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.

<sup>21</sup> Alfian Syafi'i and Fuji Astuti, "Dispensasi Pernikahan Remaja Dalam Hukum Islam Dan Hukum Positif," *El 'Aailah: Jurnal Kajian Hukum Keluarga* 2, no. 2 (2023): 69–85, <https://doi.org/10.59270/aailah.v2i2.179>.

<sup>22</sup> Levana Safira, Sonny Dewi Judiasih, and Deviana Yuanitasari, "Perlindungan Hukum Terhadap Anak Yang Melakukan Perkawinan Bawah Umur Tanpa Dispensasi Kawin Dari Pengadilan," *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan* 4, no. 2 (2021): 210–25.



mentally prepared to become a wife to her prospective husband, and not influenced by parental pressure in making the decision to apply for a marriage dispensation.<sup>23</sup>

The judge also refers to the context of Islamic law, following the views of several scholars who state that if two equally urgent issues arise, marriage becomes obligatory to prevent adultery.<sup>24</sup> The judge's considerations in deciding marriage dispensation cases also align with the principles of fiqh.<sup>25</sup> Additionally, the granted marriage dispensation takes into account the physical health, psychological well-being, and mental readiness of the prospective spouses in establishing a household..<sup>26</sup> This legal consideration is also based on the fiqh principle, which states that when faced with two harmful situations (*mafsadat*), the lesser of the two should be chosen.<sup>27</sup> This is explained in the following legal maxim:

إِذَا تَعَارَضَتِ الْمَفْسَدَتَانِ رُغِيَ أَعْظَمُهُمَا ضَرَرًا بِأَرْثَكَابٍ أَخَفَّهُمَا

“When two harmful situations arise, the greater harm should be avoided by committing the lesser harm”

However, not all marriage dispensation requests based on dating relationships at the Sungai Penuh Religious Court are approved. For instance, in case number 118/Pdt.P/2023/PA.Spn, the judge's consideration was based on the facts presented in court. The judge found no strong justification to permit the applicant to marry immediately, as there was no urgent or compelling reason. The relationship was deemed normal, and there were no significant concerns. In this case, the marriage was postponed until the applicant reached the legal marriage age of 19 years before proceeding with the wedding.<sup>28</sup>

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<sup>23</sup> Fadhilah Fadhilah, “Dispensasi Kawin Di Mahkamah Syariahy Pasca Lahirnya Perma No 5 Tahun 2019,” *Shibghah: Journal of Muslim Societies* 3, no. 1 (2021): 64–83.

<sup>24</sup> Ahmad Atabik and Khoridatul Mudhiyah, “Pernikahan Dan Hikmahnya Perspektif Hukum Islam,” *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 5, no. 2 (2016).

<sup>25</sup> M Hasbi Umar, Muhammad Muhammad, and Warfian Saputra, “Penerapan Mashlahah Mursalah Sebagai Pertimbangan Hakim Dalam Memutus Perkara Di Pengadilan Agama,” *Wajah Hukum* 4, no. 2 (2020): 303–10.

<sup>26</sup> Mansari Mansari and Rizkal Rizkal, “Peranan Hakim Dalam Upaya Pencegahan Perkawinan Anak: Antara Kemaslahatan dan Kemudharatan,” *El-USRAH: Jurnal Hukum Keluarga* 4, no. 2 (2021): 328–56.

<sup>27</sup> Sukanan and Khairudin, “Ushul Fiqh Terjemahan Maba>di> ‘Awwaliyah Fi> Usju>l Al-Fiqh Wa Al-Qawa>’id Al-Fiqhiyah,” 2020, 1–65, <https://tinyurl.com/3ekh8s4e>.

<sup>28</sup> Hidayatulloh and Janah, “Dispensasi Nikah Di Bawah Umur Dalam Hukum Islam.”

In the context of rejecting marriage dispensation requests based on dating as a reason, the Religious Court of Sungai Penuh demonstrates that dating alone is not a sufficient justification for granting such requests. If there are strong reasons that validate the marriage, then the request for a marriage dispensation may be approved. Each case is carefully examined, and the decision depends on the fulfillment of the necessary requirements.<sup>29</sup> Based on an analysis of judicial considerations in granting marriage dispensations, it can be seen that a dispensation request based solely on dating is usually not approved unless there are urgent factors supporting it. This is done to safeguard the well-being and future interests of the child.<sup>30</sup> A marriage dispensation may be granted if there is a deeply bonded relationship that cannot be separated and if the situation is extremely urgent. Rejections or court rulings that deny marriage dispensations frequently occur when the necessary requirements are not met, as proceeding with the marriage under such circumstances could lead to even greater issues.<sup>31</sup>

In the adjudication process of marriage dispensation cases at the Religious Court of Sungai Penuh, judges base their decisions on three legal values: justice, legal certainty, and benefit. An analysis of six marriage dispensation cases in this court indicates that judges have issued fair rulings by granting marriage dispensations to the applicants' children. In all six cases, justice was reflected in the approval of marriage dispensation requests based on dating, with similar considerations applied in each case. The court's decision to grant a marriage dispensation also provides legal certainty for the applicants. The principle of legal certainty is evident in the case numbers mentioned, emphasizing the application of law in accordance with its substance and intent, based on relevant facts presented during the trial. Additionally, the approval of marriage dispensations offers tangible benefits to applicants.

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<sup>29</sup> Muharrom Ainul Yaqin, "Konsep Small Claim Procedure Untuk Menyelesaikan Perkara Perdata Permohonan (Volunter) Di Pengadilan Agama" (Universitas Islam Negeri Maulana Malik Ibrahim, 2015).

<sup>30</sup> Ashabul Fadhli and Arifki Budia Warman, "'Alasan Khawatir' Pada Penetapan Hukum Dispensasi Kawin Di Pengadilan Agama Batusangkar 'Reasons for Concern' on Marriage Dispensation Decisions in Batusangkar Religious Court," *Al-Ahwal* 14, no. 2 (2021): 146–58, <https://doi.org/10.14421/ahwal.2021.14203>.

<sup>31</sup> Widihartati Setiasih, "Analisis Putusan Dispensasi Nikah Dibawah Umur Dalam Perspektif Perlindungan Perempuan," *Jurnal Penelitian Dan Pengabdian Kepada Masyarakat UNSIQ* 4, no. 3 (2017): 235–45.

For instance, in cases 115/Ptd.P/2023/PA.Spn, 164/Ptd.P/2023/PA.Spn, and 182/Ptd.P/2023/PA.Spn, the legal benefit was to protect children who had engaged in marital-like relationships and to safeguard the legitimacy of their lineage. If the request was denied, parents would feel ashamed seeing their children involved in extramarital relations, potentially leading to public gossip, especially given that the children were still underage. In cases 129/Ptd.P/2023/PA.Spn, 133/Ptd.P/2023/PA.Spn, and 163/Ptd.P/2023/PA.Spn, the legal benefit was to prevent further undesirable consequences, such as the risk of falling into adultery and other acts prohibited by religious teachings.

Judges tend to uphold the consistency of written legal norms within positive law to ensure legal certainty. Additionally, they consider sociological and psychological factors in their pursuit of justice.<sup>32</sup> On the other hand, judges emphasize the principle of *maṣlaḥah* (public interest) when determining legal benefits, aiming to prevent adultery, protect children's lineage, and reject applications that are solely based on parental concerns without strong justification. By considering these three legal values, judges at the Religious Court of Sungai Penuh strive to maintain a balance between justice, legal certainty, and public benefit in deciding marriage dispensation cases, ensuring rulings that are firmly grounded in legal principles and fairness.

Regarding marriage dispensation requests filed at the Religious Court of Sungai Penuh, one of the underlying factors is parental concern for their children. The phenomenon of free social interactions, including dating, has become commonplace among teenagers and even underage children.<sup>33</sup> Long-term romantic relationships involving intensive interaction between young couples raise concerns about the potential for deviant behavior.<sup>34</sup> This risky behavior is further exacerbated by permissive parental attitudes, such as allowing children to stay overnight at their partner's house. Such conditions can trigger various negative consequences, including the emergence of social stigma and rumors within both family and community circles.

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<sup>32</sup> Bambang Waluyo, *Penegakan Hukum Di Indonesia* (Sinar Grafika, 2022).

<sup>33</sup> Akhmad Syahri and Lailia Anis Afifah, "Fenomena Hamil Di Luar Nikah Di Kalangan Remaja Ditinjau Dalam Perspektif Pendidikan Islam," *Attarbiyah* 27 (2017): 1–18.

<sup>34</sup> Sitti Nadirah, "Peranan Pendidikan Dalam Menghindari Pergaulan Bebas Anak Usia Remaja," *Musawa: Journal for Gender Studies* 9, no. 2 (2017): 309–51.

Marriage dispensations based on dating are the most dominant reason for such requests at the Religious Court of Sungai Penuh compared to other grounds. This is partly due to a lack of awareness among parents and local communities regarding the legal minimum marriage age of 19 years for both males and females.<sup>35</sup> Additionally, cultural and traditional values in Kerinci Regency and Sungai Penuh City play a role, as many believe that children who have completed high school are already eligible for marriage and considered mature enough to start a household. This perspective was confirmed in an interview with the court registrar of the Religious Court of Sungai Penuh.

## CONCLUSION

The judge's considerations in marriage dispensation cases are heavily dependent on the facts presented during the trial. Not all marriage dispensation requests are granted, as seen in case 118/Pdt.P/2023/PA.Spn, where the court denied the request due to insufficient justification. The Religious Court of Sungai Penuh rejects marriage dispensation requests when the reasons provided fail to meet the necessary legal and procedural requirements. In 2023, judges' decisions on marriage dispensations based on dating were influenced by several key factors, including the proven close relationship between the prospective spouses, the presence of urgent circumstances, the physical, psychological, and mental readiness of the couple, and considerations of Islamic law and *maqāṣid shari'ah*, particularly in safeguarding lineage and preventing *zinā* (adultery). This research provides a comprehensive analysis of judicial considerations in marriage dispensation cases at the Religious Court of Sungai Penuh, offering valuable insights into how judges balance legal, social, and religious factors. By examining multiple cases, the study highlights the consistency in judicial reasoning and the application of Islamic legal principles in contemporary family law issues. The integration of *maqāṣid shari'ah* perspectives adds depth to the analysis, demonstrating how Islamic jurisprudence is applied to address modern social concerns. Furthermore, the study emphasizes the role of judicial discretion in ensuring that marriage dispensation requests are granted only when truly necessary, reinforcing the importance of legal certainty and child protection.

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<sup>35</sup> Henry Arianto, "Peran Orang Tua Dalam Upaya Pencegahan Pernikahan Dini," *Lex Jurnalica* 16, no. 1 (2019): 38.

Despite its contributions, this study has certain limitations. The analysis is limited to cases from the Religious Court of Sungai Penuh in 2023, which may not fully represent broader judicial trends in other regions of Indonesia. Additionally, the study primarily relies on case documentation and judicial rulings, without incorporating perspectives from judges, applicants, or legal experts through interviews or field observations. Future research could expand the scope by comparing similar cases in different jurisdictions or integrating qualitative data to provide a more holistic understanding of marriage dispensation decisions within Indonesia's religious court system.

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