



## The Controversy of Unregistered Marriage Trends from the Perspective of *Maqa'sid Mukhallaf*: Preventing Underage Marriage in Wajo Regency

Sapriadi <sup>a,1,\*</sup>, Hannani <sup>b,2</sup>, Fikri <sup>c,3</sup>

<sup>a</sup> Institut Agama Islam Negeri Parepare, Sulawesi Selatan, Indonesia

<sup>b</sup> Institut Agama Islam Negeri Parepare, Sulawesi Selatan, Indonesia

<sup>c</sup> Institut Agama Islam Negeri Parepare, Sulawesi Selatan, Indonesia

<sup>1</sup> [Ikotosiasn@gmail.com](mailto:Ikotosiasn@gmail.com); <sup>2</sup> [hannani@stainparepare.ac.id](mailto:hannani@stainparepare.ac.id);

\* corresponding author

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### ABSTRACT

*This study investigates the phenomenon of unregistered marriage and efforts to prevent underage marriage in Wajo Regency. The research aims to examine the motivations behind unregistered underage marriages through the lens of Maqāṣid Mukallaḥ and evaluate the effectiveness of local legal interventions. Wajo Regent Regulation No. 64 of 2022 serves as a key policy instrument aimed at curbing underage marriage and promoting legally recognized unions. Using a qualitative juridical approach, data were collected through in-depth interviews with marriage officials, parents, community leaders, and underage couples, supported by observation and document analysis. The study integrates Maqāṣid Mukallaḥ theory to assess the legality and ethical validity of marriage motives, alongside Ibn Qayyim al-Jawziyyah's theory of legal change and Weber's bureaucratic management theory to evaluate policy responsiveness and implementation. Findings indicate that although unregistered marriages involving underage couples may fulfill internal aspects such as personal capability and social support from parents and family, they are often driven by defensive motives such as avoiding complex legal procedures or social stigma which ultimately fail to meet the criteria of valid Maqāṣid Mukallaḥ. Such acts are legally and morally untenable when they cause harm to others, particularly to children. This study highlights the importance of aligning legal frameworks with religious principles and community engagement to protect children's rights and foster sustainable social change.*

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## 1. Introduction

Marriage registration data in Indonesia has shown a declining trend in recent years. According to reports issued by the national statistics agency, the number of officially recorded marriages decreased between 2020 and 2022. In 2020, the number of registered marriages was recorded at 1.79 million cases. This figure declined to 1.74 million in 2021 and continued to fall in 2022, reaching 1.71 million cases. Overall, the percentage decrease in marriage registration during this period amounted to 2.11%. This downward trend is further corroborated by data from the Office of Islamic Community Guidance (Bimas Islam) at the regency level, which also reported a significant decline in the number of prospective couples registering their marriages at the Office of Religious Affairs (Kantor Urusan Agama). These figures suggest a growing tendency among couples, particularly in certain regions, to opt out of formal marriage registration processes, which may reflect a complex interplay of legal, cultural, and socio-economic factors.<sup>1</sup>

Child marriage and unregistered marriage have long occupied a prominent place in the discourse of Islamic family law in Indonesia. as explored in the studies of M. Bahrum,<sup>2</sup> Haryanto, Eko at.al,<sup>3</sup> and E. Fajriani.<sup>4</sup> These issues, however, are not limited to the Indonesian context; they have also attracted global attention, as highlighted by the works of Maaïke Voorhoeve,<sup>5</sup> A B Warman and others,<sup>6</sup> various legal frameworks—from national laws and government regulations to provincial and regency-level bylaws—have been enacted to protect children’s rights and well-being by preventing underage marriage.<sup>7</sup> On the other hand, unregistered marriage remains prevalent and is often perceived as a legal loophole by those seeking to bypass age restrictions without engaging formal legal mechanisms. This contradiction illustrates the complex interplay of social, cultural, and legal factors that influence the intentions and motivations behind underage marriage through unofficial channels. At the regional level, numerous subnational regulations have been introduced to address this concern. A key example is Wajo Regency Regulation

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<sup>1</sup> Mardiana, ‘Data Pencatatan Pernikahan Kabupaten Wajo’ (Bimas Islam Kementerian Agama Kabupaten Wajo, 2022).

<sup>2</sup> Mukhtaruddin Bahrum, ‘PROBLEMATIKA ISBAT NIKAH POLIGAMI SIRRI’, *Al-Adalah: Jurnal Hukum Dan Politik Islam*, 4.2 (2019), 194–213 <<https://doi.org/10.35673/ajmpi.v4i2.434>>.

<sup>3</sup> Eko Haryanto and others, ‘He Yokal Himago: A Sociological Review of Law on Nikah Siri in The Dani Muslim Community, Papua’, *Al-Adalah: Jurnal Hukum Dan Politik Islam*, 9.1 (2024), 40–52 <<https://doi.org/10.30863/ajmpi.v9i1.4814>>.

<sup>4</sup> Eka Fajriani and Nur Fadhyatul Fajra, ‘Pelaksanaan Legislasi Hukum Islam Bidang Hukum Keluarga Di Indonesia’, *Constitutional Law Review*, 2.1 (2023), 58–72 <<https://doi.org/10.30863/clr.v2i1.5246>>.

<sup>5</sup> Maaïke Voorhoeve, ‘Law and Social Change in Tunisia: The Case of Unregistered Marriage’, *Oxford Journal of Law and Religion*, 7.3 (2018), 479–97 <<https://doi.org/10.1093/ojlr/rwy027>>.

<sup>6</sup> A B Warman and others, ‘Reforming Marriage Registration Policies in Malaysia and Indonesia’, *BESTUUR*, 2023 <<https://jurnal.uns.ac.id/bestuur/article/view/66320>>.

<sup>7</sup> Mohammad Fajar Abdjul, Nur Mohamad Kasim, and Dian Ekawaty Ismail, ‘Underage Marriage Review Post Latest Marriage Law’, *Damhil Law Journal*, 3.1 (2023), 1 <<https://doi.org/10.56591/dlj.v3i1.1856>>.

No. 64 of 2022, which was specifically formulated to serve as a preventive measure against child marriage within its jurisdiction.

To date, efforts to prevent underage marriage and promote marriage registration have attracted considerable scholarly attention. First, the study by Agus Muchsin et al. (2019), titled *The Legality of Unregistered Marriages among the Pinrang Community*, reveals that only a small portion of the population utilizes the formal marriage registration system.<sup>8</sup> This indicates that unregistered marriages remain common, reflecting an underdeveloped legal culture within the community. Second, Third, the master's thesis by Tnatri Indar Pratiwi, entitled *An Analysis of the Rise in Child Marriage in Tempe Sub district, Wajo Regency from the Perspective of Maqāṣid al-Sharī'ah*, aims to examine the increasing trend of child marriage in that area. The study identifies several contributing factors: low levels of education, economic hardship, entrenched local customs, prevailing mindsets within society, and premarital pregnancy. From a Maqāṣid al-Sharī'ah perspective, the practice of child marriage results in more harm (mafsadah) than benefit (maṣlahah), and thus, it is deemed impermissible in Islam. The study recommends several solutions, including optimizing administrative marriage services through the Office of Religious Affairs (KUA), conducting outreach on the Marriage Law, and strengthening family resilience programs such as the *Sakinah* family initiative<sup>9</sup>. These studies reflect the multifaceted nature of the problem and the urgent need for holistic and integrative policy interventions.

Although previous studies have identified key factors contributing to the rise of child marriage, they have yet to explore in depth the model of community intention (niyyah) underlying such practices. In fact, understanding this dimension is essential for developing targeted and contextually appropriate solutions. The recommendations provided thus far remain general in nature, with no comprehensive evaluation of the effectiveness of their implementation in preventing underage marriage particularly in Tempe Subdistrict, Wajo Regency. Moreover, the scope of the research is limited to a single subdistrict, rendering the findings less generalizable to other regions with different socio-cultural characteristics. A broader, macro-level analysis is therefore necessary. A qualitative approach employing in-depth interviews with individuals involved in such marriages may offer a more comprehensive understanding of the phenomenon from the actors' perspectives. Therefore, this study seeks to address two gaps not yet explored in existing literature by examining the intersection between efforts to prevent child marriage and the persistent tendency toward unregistered marriage, through the lens of *Maqāṣid Mukallaf*. Specifically, this research aims to (i) analyze the underlying intentions (niyyah) motivating unregistered

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<sup>8</sup>Agus Muchsin, Rukiah, and Muhammad Sabir, 'Legalitas Perkawinan Yang Tidak Tercatat Pada Masyarakat Pinrang ( Analisis Perma Nomor 1 Tahun 2015 Tentang Pelayanan Terpadu Pencatatan Nikah)', *DIKTUM: Jurnal Syariah Dan Hukum*, 17.1 (2019), 31–48 <<https://doi.org/10.35905/diktum.v17i1.653>>.

<sup>9</sup>Tantri Indar Pratiwi, 'Analisis Peningkatan Perkawinan Usia Anak Di Kecamatan Tempe Kabupaten Wajo Perfektif Maqashd Syar'iah', 2022, 2022.

underage marriages, and (ii) assess the regulatory effectiveness of Wajo Regency Regulation No. 64 of 2022 in preventing child marriage.

## 2. Legal Material and Methods

This study is a work of Islamic Family Law research employing an empirical legal research method, as previously described. It adopts a qualitative research approach grounded in the philosophy of positivism.<sup>10</sup> This research type was selected with the aim of gaining a deep and holistic understanding of social phenomena from multiple participant (informant) perspectives. Qualitative research is typically conducted in natural settings and is descriptive in nature. Data are primarily collected in the form of words rather than numerical figures, focusing on naturally occurring phenomena. This method is particularly suitable for investigating individuals, organizations, events, social activities, and other contexts where in-depth interpretation is necessary. Through this qualitative approach, the study explores the controversy surrounding the trend of unregistered marriages and the preventive efforts against child marriage.

This study employs both primary and secondary data.<sup>11</sup> Primary data were collected through interviews and observations involving marriage registrars, community leaders, underage marriage actors, and affected individuals, as well as legal, sociological, and psychological experts. Secondary data include books, academic journals, legal documents, official statistics, and previous research on child marriage.<sup>12</sup> These sources provide contextual support and reinforce primary findings. All data were analyzed using qualitative methods, including coding, categorization, and interpretation, to explore the contradictions and dynamics surrounding unregistered and underage marriage, and to better understand the factors influencing policy implementation and social behavior.

The data collected through interviews, observations, and documentation were subsequently processed and analyzed qualitatively. The qualitative data analysis followed the interactive model introduced by Miles and Huberman,<sup>13</sup> which includes data reduction, data display, and conclusion drawing and verification. Data reduction involves selecting, focusing, simplifying, and transforming raw data into meaningful information. Data display refers to organizing the data into a structured format that allows for a comprehensive view of the findings. In addition, a triangulation process involving multiple data sources such as interviews, observations, and document analysis was conducted to ensure the validity and reliability of the information gathered. Finally, conclusions are

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<sup>10</sup> H P Garfes, 'Law Enforcement of Unregistered Marriage Practices in Indonesia Lawrence Meir Friedman's Legal Effective Perspective', *Jurnal Ilmiah Kebijakan Hukum*, 2022 <<https://ejournal.balitbangham.go.id/index.php/kebijakan/article/view/2653>>.

<sup>11</sup> J. W. Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*, 4th ed. (Thousand Oaks, California: Sage Publication, 2014).

<sup>12</sup> P.M Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media, 2005).

<sup>13</sup> A. M. Miles, M. B., & Huberman, *Qualitative Data Analysis: An Expanded Sourcebook* (California: Sage Publications. Thousand Oaks, 1994).

drawn and verified based on the described data. Through this interactive analysis model, the research data were systematically processed to answer the research questions and produce substantial findings related to the case or phenomenon under investigation.

### 3. Results and Discussion

#### 3.1. The Tendency Toward Unregistered Marriage

The finding of this studies reveal that the primary motives or behavioral tendencies influencing unregistered and underage marriages stem from a combination of personal and social dynamics. These include perceived personal readiness and family support, religious motivations, psychological and social pressures, low levels of education, financial protection for the child, and a desire on the part of parents and couples to avoid the rigid and complex legal procedures required for formal marriage registration. The researcher classifies these dominant tendencies into two categories: internal tendencies, which originate from within the *mukallaf* (legally responsible individual), and external tendencies, which are triggered by external stimuli acting upon the *mukallaf*. This classification provides a conceptual framework for understanding the multidimensional drivers of such marital practices.

To synthesize the major findings regarding the behavioral tendencies that underlie unregistered and underage marriages, the following table organizes the identified motives into two primary clusters internal and external along with specific sub-factors and illustrative field evidence. This visual representation serves to reinforce the complexity and interrelatedness of the personal, cultural, and structural elements discussed in the preceding sections.

**Table 1:**  
**Summary of Motive Clusters, Sub-Factors, and Field Evidence**

Motive Cluster	Sub-Factors Identified	Illustrative Evidence / Example
Internal Tendencies (arise within the <i>mukallaf</i> )	<ul style="list-style-type: none"> <li>- <i>Self-efficacy</i> (personal readiness to assume marital roles)</li> <li>- Religious motivation (“marriage as worship”; QS 24:32)</li> <li>- Psychological pressure from norms such as “cannot refuse &gt;2 proposals”</li> </ul>	Couples state they “feel ready” and cite divine provision; families fear stigma if proposals are declined.
External Tendencies (stimuli acting upon the <i>mukallaf</i> )	<ul style="list-style-type: none"> <li>- Family &amp; social support legitimising early union</li> <li>- Low education / school drop-out (Spiel et al.)</li> <li>- Economic motives (financial protection, dowry)</li> <li>- Avoidance of court procedures (costly, distant)</li> </ul>	Parents arrange <i>nikah siri</i> after child leaves school; perceive court dispensation as “too bureaucratic.”
Cross-cutting Observation	Internal readiness + family approval do not suffice if <i>maqāsid</i> perlindungan jiwa, akal, nasab, & `ird are unmet.	Unregistered marriages leave girls without inheritance rights, legal identity for children, or domestic-violence safeguards.

Sources : Author’s synthesis from field data and selected theories (e.g., Bandura, Coleman, Spiel et al.).

This table highlights how various motives both internally and externally driven intersect to shape the decision-making process of couples and families. The findings confirm that while some of these tendencies stem from personal conviction or cultural norms, others arise from structural limitations such as legal inaccessibility or educational disengagement, warranting a more context-sensitive policy response.

First, internal motivation is one of the key factors influencing the decision of underage couples to enter into unregistered marriage. In the context of this study, internal motivation encompasses three primary aspects: personal capability, religious motivation, and psychological pressure stemming from social expectations. Motivation derived from personal capability refers to an individual's belief in their own ability to fulfill the roles of husband or wife, and potentially father or mother, reflecting emotional and psychological readiness to enter married life. This confidence plays a significant role in determining the stability and well-being of the household, as individuals who trust in their own capacities are generally more prepared to face the challenges inherent in assuming such new roles. This optimism toward the future may also help couples navigate potential difficulties in marriage. This notion aligns with Bandura's theory of self-efficacy, which posits that an individual's belief in their ability to succeed in specific tasks has a major impact on their behavior and outcomes. Individuals with high self-efficacy tend to demonstrate greater persistence and optimism when facing challenges, including those encountered in marital roles.<sup>14</sup> Additionally, Schlossberg's role transition theory supports the view that a strong sense of personal readiness is a crucial factor in successful transitions into new roles, such as marriage and parenthood.<sup>15</sup>

Religious motivation, grounded in the belief that marriage does not contradict Islamic law, reflects a strong sense of religious understanding. For individuals who make this decision, marriage is perceived as an act of worship and a means to attain virtue in life. This belief serves as an emotional and spiritual foundation, reinforcing the perception that the decision to marry is correct and aligned with religious teachings. Religious motivation thus constitutes a significant dimension of internal motivation. Some individuals refer to the Qur'anic verse in Surah An-Nūr (24:32),<sup>16</sup> which states, "If they are poor, Allah will enrich them out of His bounty." This verse provides spiritual legitimacy for the belief that readiness for marriage is not contingent upon financial stability, but rather upon sincere intention and faith in divine provision.

Psychological pressure stemming from the social environment refers to stress rooted in the cultural values and customary norms that prevail within a community. In this context, local traditions often generate strong social expectations concerning the

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<sup>14</sup> Albert Bandura, *Social Foundations of Thought and Action: A Social Cognitive Theory* (Englewood Cliffs, NJ: Prentice Hall, 1986).

<sup>15</sup> Nancy K Schlossberg, 'A Model for Analyzing Human Adaptation to Transition', *The Counseling Psychologist*, 9.2 (1981), 2-18.

<sup>16</sup> RI Departemen Agama, *Al-Qur'an Dan Tafsirnya Jilid 4 Juz 10-12*, Widya Cahaya, Jakarta, 2011.

appropriate age and circumstances for marriage, particularly for girls. For example, the belief that it is inappropriate to refuse more than two marriage proposals has become a social construct that places psychological pressure on both children and their parents. A common sentiment is that rejecting a third proposal may result in the absence of future suitors. This pressure does not necessarily arise from direct coercion, but rather from fear of stigma, social gossip, and the perceived loss of family honor. Such dynamics create significant emotional tension, leading individuals or families to feel that they have no alternative but to consent to marriage even if the union is unregistered and the child has not yet reached emotional or psychological maturity. This phenomenon illustrates how cultural norms can suppress personal autonomy and replace it with adherence to collective social values.

In this context, Social Exchange Theory, as proposed by George Homans, can be applied to explain how individuals weigh the perceived benefits and costs within their social relationships.<sup>17</sup> The decision to marry is often viewed as a means of achieving emotional stability, social acceptance, and fulfilling religious motivations. However, this theoretical approach has its limitations, as it assumes that individual's act based on rational decision-making processes, whereas in reality, cultural pressures and emotional influences frequently distort such rational considerations. Therefore, it is crucial to critically examine the dominant role of social norms and cultural expectations in shaping what may appear to be a "personal" decision. The integration of Self-Determination Theory, Social Exchange Theory, and the framework of *Maqāsid Mukallaf* in this research must be contextualized within a social environment that is deeply embedded in traditional values. Such an approach enables a more holistic analysis of the motives and tendencies underlying underage marriage.

Consistent with this theoretical framework, findings from previous studies such as those by N. Layli et al. indicate that one of the key factors contributing to underage marriage is personal agency, particularly when individuals have developed emotional attachment and mutual affection, leading them to agree to formalize the relationship through marriage. Additionally, environmental influences play a role, especially in communities where underage marriage is still socially accepted as normative.<sup>18</sup> F. Octaviani further identifies psychological factors as a significant motivation for marriage.<sup>19</sup> In this context, the research suggests that personal factors such as the prospective husband's sense of responsibility, psychological pressure originating from the social environment, prevailing customs, societal beliefs, and religious convictions form the foundational elements underlying the decision to marry. These findings highlight the importance of

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<sup>17</sup> George C Homans, 'Social Behavior as Exchange', *American Journal of Sociology*, 63.6 (1958), 597–606.

<sup>18</sup> Nadiratul Layli and Muhammad Suwignyo Prayogo, 'Fenomena Sosial Pernikahan Dini Di Desa Pace Kecamatan Silo Kabupaten Jember', *An-Nisa Journal of Gender Studies*, 14.2 (2021), 171–84.

<sup>19</sup> Fachria Octaviani and Nunung Nurwati, 'Dampak Pernikahan Usia Dini Terhadap Perceraian Di Indonesia', *Jurnal Ilmu Kesejahteraan Sosial HUMANITAS*, 2.2 (2020), 33–52.

integrating religious values and social dynamics in understanding and evaluating marital decision-making processes.

Second, external motivation refers to the influences or tendencies that arise from parental and familial social support, low levels of education, the desire to provide financial protection for the child, and the inclination of parents and couples to avoid rigid and complex legal procedures. Social support from parents and family plays a significant role in the decision to marry, particularly in socio-cultural contexts that uphold strong family values. Direct parental involvement in the marriage process not only grants formal approval but also lends social legitimacy to the decision. Such support reinforces the couple's position within the community, ensures initial stability in their marital life, and strengthens family social bonds. This aligns with Coleman's theory of social capital, which posits that family support constitutes a form of social capital that contributes to an individual's success in assuming new social roles, including marriage.<sup>20</sup> Social capital, in the form of trust and parental support, creates a sense of security and legitimacy for the couple, thereby reinforcing the foundation of their marriage.

In addition to Coleman's theory of social capital, Bowen's Family Systems Theory is also relevant. Bowen posits that the family functions as an emotional system that significantly influences the decisions and well-being of its members.<sup>21</sup> In this context, family support plays a vital role in maintaining emotional balance and providing a stable foundation for couples to face the challenges of marriage. Furthermore, Bengtson's Intergenerational Solidarity Theory adds that intergenerational support within families fosters solidarity, which in turn strengthens social relationships and facilitates smoother transitions into new life roles, such as marriage.<sup>22</sup>

External pressure is also influenced by low levels of education and the perceived need to provide financial protection for children. In many cases, this is due to school dropout, leading parents to accept marriage proposals on the grounds that their child is no longer in school. As like as S. Putra at.al said that there are reasons for children who are forced to marry or children who still want to continue their education.<sup>23</sup> In this context, C. Spiel at.al Explore that education plays a central role not only as a means of enhancing intellectual capacity but also as a critical instrument of social protection.<sup>24</sup> Children who

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<sup>20</sup> James S Coleman, 'Social Capital in the Creation of Human Capital', *American Journal of Sociology*, 94 (1988), S95–120.

<sup>21</sup> J Bowen, 'Social Progress and Cultural Change', *Century: Report of the International Panel on Social Progress: Volume 3: Transformations in Values, Norms, Cultures*, 2018, 611–40 <<https://doi.org/10.1017/9781108399661.002>>.

<sup>22</sup> B E Hayes and C A Franklin, 'Community Effects on Women's Help-Seeking Behaviour for Intimate Partner Violence in India: Gender Disparity, Feminist Theory, and Empowerment', *Violence against Women in India*, 2019 <<https://doi.org/10.4324/9781351167925-7>>.

<sup>23</sup> Sandio Abid Aurian Putra and Mas Anienda Tien Fitriyah, 'Implementation of the Marriage Dispensation: Exploring the Legal and Social Complexities in Preventing Early Marriage', *Al-Adalah: Jurnal Hukum Dan Politik Islam*, 9.1 (2024), 24–39 <<https://doi.org/10.30863/ajmpi.v9i1.4592>>.

<sup>24</sup> Christiane Spiel and others, 'The Contribution of Education to Social Progress', 2018.

are no longer engaged in formal education often face a void in daily activities, diminished social oversight from educational institutions, and limited access to information regarding their rights and the risks associated with underage marriage.

The last external motive or tendency is the decision by parents and prospective spouses to avoid the formal legal procedures, which are often perceived as complex, rigid, and unsuited to the socio-cultural realities of rural communities. Rahmaniar et al. found that many people do not register their marriages because the court is far away and they view the dispensation process as complicated and difficult to navigate.<sup>25</sup> This becomes a key reason for arranging underage marriages and foregoing official marriage registration. In Indonesia's positive legal system, marriage involving minors is only permitted through a formal dispensation process in the Religious Court, which requires a series of strict administrative and legal considerations. Although these procedures are intended to protect the interests of the child, they are often viewed as bureaucratic and technically burdensome. As a result, many parents choose informal routes, such as religious, customary, or belief-based marriage ceremonies, without state registration. This practice reflects a dichotomy between state legal norms and more accessible socio-religious norms.<sup>26</sup> Within the framework of Legal Compliance Theory, this phenomenon indicates a low level of instrumental compliance with state law. Compliance is weakened when the legal process is perceived as costly, time-consuming, and disproportionate to the perceived benefits of legal recognition. Furthermore, from the perspective of rational choice theory,<sup>27</sup> the decision to avoid formal legal procedures can be understood as a rational choice made within the constraints of limited access to information, economic resources, and time. Communities often opt for faster alternatives that are religiously recognized, even if they lack formal legal standing. As a consequence, children and women involved in such unregistered marriages frequently lose access to legal protections, including inheritance rights, legal identity for their children, and safeguards against domestic violence.

### ***3.2. An Analysis of Unregistered Marriage from the Perspective of Maqāṣid Mukallaf***

Within the framework of Maqāṣid Mukallaf, the underlying motive (niyyah) or inner disposition of a mukallaf (legally accountable individual) serves as the starting point for assessing the legality of an action.<sup>28</sup> In the context of this study, intentions stemming from personal capability, psychological pressure originating from social expectations, or a desire for social legitimacy must be examined critically. If such motivations are driven solely by fear of social stigma or temporary emotional impulses, then the act of marrying off a child

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<sup>25</sup> A Rahmaniar and others, 'Analisis Yuridis Empiris Pencatatan Nikah Siri Pasangan Di Bawah Umur', *Constitutional Law Review*, 1.2 (2022), 78–91 <<https://doi.org/10.30863/clr.v1i2.3995>>.

<sup>26</sup> Netta Barak-Corren, 'Beyond Dissent and Compliance: Religious Decision Makers and Secular Law', *Oxford Journal of Law and Religion*, 6.2 (2017), 293–322.

<sup>27</sup> Derek B Cornish and Ronald V Clarke, 'The Rational Choice Perspective', in *Environmental Criminology and Crime Analysis* (Routledge, 2016), pp. 48–80.

<sup>28</sup> Muhammad Ali Rusdi Bedong, *Maqāṣid Al-Mukallaf (Solusi Aplikatif Menuju Fatwa Komprehensif)*, Cet.1 (Depok: Rajawali Pers, 2022).

cannot be justified according to Islamic law, even if the marriage formally satisfies the pillars and conditions of a valid contract. This is because the *niyyah* of the *mukallaf* does not reflect true *maqāṣid*, namely the attainment of benefit (*maṣlaḥah*) and the protection of life, intellect, dignity, and lineage core objectives of the Sharia. In the present study, unregistered and underage marriages arise from a combination of personal capability (self-perceived readiness), social encouragement from family, and religious motivation. Individuals may feel personally prepared to marry, understand their roles, and believe that underage marriage serves as a means to preserve honor and attain divine blessing, as reflected in Qur'ān 24:32. Nevertheless, such social encouragement often transforms into psychological pressure, particularly when parents experience shame or anxiety due to their child dropping out of school or repeatedly declining marriage proposals.

Psychological pressure from the social environment often drives individuals to choose unregistered marriage as a means of avoiding formal legal procedures perceived as burdensome. In such cases, the decision to marry is not entirely derived from a pure or autonomous intention, but rather emerges as a response to social and structural constraints. Within the framework of *Maqāṣid Mukallaf*, this contradicts the fundamental principle that the intention (*niyyah*) of the *mukallaf* must align with the objectives of Islamic law (*maqāṣid al-sharī'ah*), which seek to protect life, intellect, lineage, dignity, and property. When marriage results in disrupted education, economic dependency, or increased risk of domestic violence, such intentions cannot be deemed consistent with legitimate *maqāṣid*. Another principle of *Maqāṣid Mukallaf* states that the act of a *mukallaf* becomes invalid when it causes harm to others, even if it brings personal benefit. In the context of this study, underage and unregistered marriage is often pursued to attain personal tranquility, religious reassurance, or emotional support from family. However, such actions may have serious consequences for others—particularly for young girls who become child brides. These consequences include the loss of educational rights, lack of legal protection, and early pregnancy, which can negatively affect both physical and psychological health. Furthermore, underage marriage may perpetuate cycles of poverty and gender inequality within broader family dynamics, thereby resulting in greater social harm (*maḍarrah*).

Another important principle within the framework of *Maqāṣid Mukallaf* states that any intention which brings benefit to the *mukallaf* must be fulfilled only if it also yields benefit to others. In this context, the desire of parents or prospective spouses to proceed with marriage may be perceived as spiritually or economically advantageous such as “securing the future” of a child who has dropped out of school. However, if such intentions are not accompanied by psychological, economic, and legal readiness, the perceived benefit remains superficial and unsustainable. The legitimacy of such an intention is valid only when it also produces tangible and enduring benefits for the spouse, the future children, and the surrounding community.

Unregistered marriage involving underage couples represents a complex and multilayered social reality that cannot be assessed solely through the lens of formal legal requirements and the fulfillment of contractual elements. In this context, the *Maqāṣid Mukallaf* theory serves as a strategic analytical tool, as it places the intention and motive

(niyyah) of the *mukallaf* (legal subject) at the center of evaluating the legality and moral soundness (*maṣlahah*) of an action. According to this theory, intention is not assessed merely through verbal statements but must be evaluated using five core indicators: (1) verbal acknowledgment (*iqrār*), (2) body language and demeanor, (3) behavioral history or motivational pattern, (4) psychological condition, and (5) the influence of local customs or cultural norms. The first principle asserts that the quality of an action is rooted in the internal motive; if *iqrār* and nonverbal expressions indicate coercion such as a child marrying due to having dropped out of school then the intention is fundamentally flawed. The second principle requires that intention must align with the aims of the Sharia, namely the protection of life, intellect, lineage, dignity, and property. Thus, an intention to “preserve” family honor through child marriage fails to meet *maqāṣid* standards, as it amplifies the risk of harm to the child. The third principle is even more explicit: any act that provides superficial benefit to the actor but causes harm to others evident in the victim’s psychological state, history of neglect, or oppressive cultural practices is deemed invalid in Sharia. The fourth principle states that a personally beneficial intention may only be acted upon if it also yields real benefit for others. Therefore, if marriage terminates a child’s education and reduces the quality of life for future generations, then the obligation to fulfill such an intention is nullified.

Thus, the application of the five indicators for assessing the motive or intention of the *mukallaf* enables researchers and Islamic legal practitioners to evaluate intentions comprehensively not merely through verbal declarations or the fulfillment of formal marriage requirements, but through their alignment with the *maqāṣid* and their broader social and psychological impact. This analysis affirms that unregistered marriage involving underage couples driven by cultural pressure, emotional instability, or short-term economic strategy cannot be justified under the principles of *Maqāṣid Mukallaf*, as it fails to produce holistic benefit and instead results in long-term harm across generations. Moreover, the *maqāṣid mukallaf* perspective provides a legitimate framework for interpreting legal rulings universally, thereby dissolving the dichotomy between state law and religious norms. This includes reinforcing the obligation of marriage registration and the fulfillment of essential legal and religious elements of marriage.

### ***3.3. Preventive Measures Against Underage Married in Wajo Regency***

This study presents three key findings concerning efforts to prevent underage marriage in Wajo Regency. First, the research finding of the implementation of Wajo Regent Regulation No. 64 of 2022 highlights the strategic role of village officials in underage marriage prevention, emphasizing collaborative synergy to strengthen public awareness regarding the risks of early marriage. One of the key findings is that budgetary challenges have been addressed through the mobilization of local resources. The strategic involvement of village-level government and related stakeholders has proven essential in developing preventive efforts in Wajo Regency. The regulation serves as a primary framework guiding policy formulation, public outreach, and community-based collaboration. Despite certain limitations such as the absence of a dedicated budget preventive measures continue through cooperation with religious leaders, local Islamic

study groups (majelis taklim), and civil society organizations. Initiatives such as updating village profiles and establishing Child Forums represent critical steps in strengthening the protection of children's rights. The challenges identified underscore the need for further institutional reinforcement to ensure that policy implementation remains effective and sustainable.

These findings are consistent with Max Weber's Bureaucratic Management Theory, which emphasizes the importance of bureaucratic structures in executing policies efficiently and in an organized manner. Weber highlighted that an effective bureaucracy is characterized by a clear hierarchical structure, formalized rules, and a defined division of labor.<sup>29</sup> In this context, government officials, as integral components of the bureaucratic system, play a vital role in enforcing regulations, ensuring consistent policy implementation, and achieving local government objectives, such as reducing the prevalence of underage marriage. In line with this, a study by Maharini et al. on the effectiveness of bureaucratic management implementation demonstrates that the success of policy initiatives is highly dependent on the capacity of local officials to fulfill their roles. The study found that adequate training, institutional support, and sufficient resources significantly enhance the ability of local actors to implement policies effectively.<sup>30</sup>

Second, socialization and early warning system, Public awareness campaigns led by village officials and key stakeholders have proven to be a central strategy in preventing child marriage in Wajo Regency. These efforts aim to educate the public about the legal, social, and health-related consequences of underage marriage, while promoting positive attitudes toward child protection. Drawing on Ajzen's Theory of Planned Behavior, these initiatives influence community behavior by reshaping attitudes, social norms, and perceptions of control. Studies by McGonagle et al.<sup>31</sup> and Warner et al.<sup>32</sup> support this approach, showing that education, targeted outreach, and inter-institutional collaboration are effective in shifting cultural perceptions and reducing child marriage prevalence.

In parallel, early detection through the identification of school dropouts enables timely interventions for at-risk children. Grounded in Bronfenbrenner's Ecological Systems Theory, this approach emphasizes the role of supportive environments such as families, schools, and local governments in child development. Village governments are mandated to allocate budgets, develop policy, and integrate data into the Village Profile

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<sup>29</sup> Max Weber, *The Theory of Social and Economic Organization* (Simon and Schuster, 2009).

<sup>30</sup> Silvia Tri Maharani Maharani and Emy Kholifah, 'Implementasi Kebijakan Pemerintah Daerah Dalam Menangani Pernikahan Dini Di Kecamatan Kalisat Kabupaten Jember', *Triwikrama: Jurnal Ilmu Sosial*, 4.6 (2024), 11–20.

<sup>31</sup> Allison McGonagle Glinski Susan Lee-Rife, Anju Malhotra, Ann Warner, 'What Works to Prevent Child Marriage: A Review of the Evidence', 43.4 (2012) <<https://doi.org/10.1111/j.1728-4465.2012.00327.x>>.

<sup>32</sup> E E Werner and R S Smith, *Overcoming the Odds: High Risk Children from Birth to Adulthood* (books.google.com, 2019) <<https://books.google.com/books?hl=en&lr=&id=lf6tDwAAQBAJ&oi=fnd&pg=PP1&dq=abuse+early+married&ots=VbqsCQ-ki1&sig=CUG10ocrYharRIEZLRQ1lpR5sh8>>.

and SDGs frameworks to institutionalize prevention. Research by Indawani Pohan affirms that multi-stakeholder collaboration between government bodies, families, and community institutions is critical for effectively reducing child marriage.<sup>33</sup> Together, these efforts form a comprehensive and context-sensitive response to the problem.

Third, Interventions prior to married dispensation and following dispensation rejection. Local authorities play an active role in preventing underage marriage by implementing policies such as the refusal to issue marriage registration forms including Forms N1, N2, and related documents to couples who have not met the legal minimum age for marriage. Research by Latief, Hamzah measured aims to ensure that marriage is permitted only for individuals who have reached legal adulthood, in accordance with existing laws.<sup>34</sup> By withholding such documentation, local authorities reinforce child protection efforts and raise public awareness regarding the importance of delaying marriage until an appropriate age, thereby supporting children's holistic development and well-being. In the context of this study, these practices demonstrate how local officials take an active stance in underage marriage prevention. The policy of refusing to issue Forms N1, N2, and others reflects not only administrative enforcement but also ethical and social considerations. Similarly, the absence of government officials from wedding ceremonies following the rejection of a marriage dispensation serves as a preventive strategy, in line with Article 5 of Wajo Regent Regulation No. 64 of 2022. This approach underscores that child protection is a primary concern, even when confronted with social pressure or legal challenges. Such policies are particularly relevant in regions with high rates of marriage dispensations, aiming to shift public attitudes and cultural practices that often tolerate or even promote underage marriage. This initiative by local authorities can be analyzed through the lens of Travis Hirschi's Social Control Theory, which posits that social institutions play a critical role in regulating individual behavior to conform with societal norms and legal standards. By denying official documents to underage couples, local authorities act as a social control mechanism that discourages legal violations related to child marriage. This approach not only reduces the prevalence of underage marriage but also strengthens the legal norms embedded within the community.

#### 4. Conclusion

The practice of unregistered marriage involving underage couples is incompatible with the fundamental principles of *Maqāsid Mukallaf* when assessed through the core legal evaluation framework of a *mukallaf* (legally accountable subject). The motives or intentions of the couples and their parents, often rooted in social pressure, economic

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<sup>33</sup> Asmun W Wantu and others, 'Pencegahan Perkawinan Anak Dibawah Umur Pada Remaja Desa Lion Kecamatan Psigadang Kabupaten Bolaang Mongodo Selatan', *Jurnal Abdimas Terapan*, 1.2 (2022), 36–38 <<https://doi.org/10.56190/jat.v1i2.8>>.

<sup>34</sup> Hamzah Latief, 'TELAH MAQASID SYARIAH TERHADAP PUTUSAN MK NO. 22/PUU-XV/2017 TENTANG BATAS USIA NIKAH', *AL-SYAKHSHIYYAH Jurnal Hukum Keluarga Islam Dan Kemanusiaan*, 1.1 (2019), 61–84 <<https://doi.org/10.35673/asyakhshiyah.v1i1.210>>.

hardship, and a desire to circumvent complex legal procedures, do not reflect valid *maqāṣid*. Based on five key evaluative indicators verbal acknowledgment, behavioral expression and body language, motivational history, psychological condition, and the influence of local customs it becomes evident that the decision to marry without legal registration is frequently driven by defensive motives rather than a conscious commitment to sharia-based responsibility. Consequently, when such intentions fail to produce genuine *maṣlaḥah* (benefit) and instead result in *maḍarrah* (harm) to others, the act of the *mukallaf* is deemed invalid or impermissible. Furthermore, an action is only justified when it yields collective benefit not only for the individual but also for their partner and future generations. Accordingly, unregistered marriage conducted outside the *Maqāṣid Mukallaf* framework not only deviates from the objectives of Islamic law but also gives rise to social, legal, and moral consequences that harm vulnerable parties, and therefore cannot be regarded as a legitimate legal act from a *maqāṣid*-based perspective.

The implementation of Wajo Regent Regulation No. 64 of 2022 has had a significant impact in reducing the rate of underage marriage registrations, particularly in the Religious Affairs Offices (KUA) of Pammana and Bola. Community outreach and awareness campaigns have been key strategies in raising public understanding of the risks associated with underage marriage. This approach has proven effective, as evidenced by the substantial decline in marriage dispensation requests only one recorded case at KUA Pammana in 2024 and no *isbat* (marriage legalization) petitions submitted at KUA Bola. However, a new challenge has emerged with the rise of unregistered marriages, which pose serious risks in terms of the legal protection of both spouses and their children. Early detection efforts, such as tracking school dropouts and conducting follow-up interventions after dispensation rejections, are increasingly relevant as preventive measures to address underage marriage moving forward.

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