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Hybrid Legal Governance and Fragmented Child Protection: Normative Pluralism, Cultural Brokerage, and the Politics of Marriage Dispensation in East Java

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Hybrid Legal Governance and Fragmented Child Protection: Normative Pluralism, Cultural Brokerage, and the Politics of Marriage Dispensation in East Java

Zakiyatul Ulya

Abstract

Despite the legislative advancement represented by Law No. 16 of 2019—which equalised the minimum marriage age at nineteen years for both sexes—child marriage continues to constitute a pressing legal and social problem across East Java province. This article interrogates the structural ambiguities that undermine the effective implementation of child marriage prevention policy within the province. Employing a socio-legal methodology that integrates normative analysis with empirical field inquiry, the study draws on two complementary theoretical frameworks: Clifford Geertz's concept of cultural brokerage, to illuminate how religious elites and community leaders mediate and localise national legal norms, and Boaventura de Sousa Santos's theory of interlegality, to map the overlapping jurisdictional claims of state law, Islamic jurisprudence, and customary practice that together produce a hybrid normative order. The research finds that the persistence of child marriage in East Java is not reducible to isolated legal failures but instead reflects a structural fragmentation of child protection rooted in competing normative authorities. This fragmentation is compounded by the absence of operationally binding local regulations, the limited institutional coordination among relevant agencies, and the state's constrained capacity to intervene in religious discourse that sustains the social legitimacy of early marriage. The article proposes a framework of legal glocalisation as a corrective strategy, one that combines proactive regulatory reform with integrated multi-stakeholder collaboration encompassing local governments, the Ministry of Religious Affairs, health practitioners, peer educators, civil society organisations, and Islamic scholarly bodies including the Indonesian Ulema Council (MUI) and local pesantren networks.

Keywords: Child marriage; marriage dispensation; legal pluralism; cultural brokerage; interlegality.

Introduction

Indonesian family law has undergone substantive normative reinforcement through successive legislative instruments, yet the prevalence of child marriage remains a deeply entrenched social phenomenon. The most significant recent reform—Law No. 16 of 2019, which amended the foundational Marriage Law of 1974—elevated the minimum permissible age of marriage to nineteen years for both male and female parties.[1] This statutory change, widely regarded as a milestone in national child protection policy, has nonetheless failed to generate proportionate change in social practice. National survey data indicate that approximately 8.06 percent of Indonesian women aged twenty to twenty-four were married

[1] Republic of Indonesia, Law No. 16 of 2019 on Amendments to Law No. 1 of 1974 on Marriage, Article 7(1).

before reaching eighteen years of age, underscoring the endurance of child marriage as a structural phenomenon rather than an anomalous deviation.[2]

Central to understanding this persistence is the disproportionate authority exercised by religious leaders in defining community norms. In Indonesia's profoundly religious social landscape, the moral guidance of clerics—particularly *kiai* and *ustaz*—frequently carries greater practical force than state legal prescriptions.[3] Religious discourses that frame early marriage as a prophylactic against moral transgression, notably the prevention of premarital sexual relations, confer social legitimacy upon a practice that formal law seeks to suppress.[4] This legitimating function is reinforced by the interpretive ambiguity inherent in classical Islamic jurisprudence, which furnishes no explicit chronological threshold for marriage and instead treats puberty as the operative index of marital readiness.[5] The Indonesian Ulema Council has itself issued authoritative pronouncements affirming that biological and psychological maturity, rather than any fixed chronological age, constitute the primary criteria of readiness for marriage—a position that community actors regularly invoke to justify the marriage of minors.

Within this socio-religious context, the legal provision for judicial dispensation has emerged as a critical site of contestation. Article 7(2) of Law No. 16 of 2019 preserves the possibility of below-age marriage through court-granted exemptions justified by "urgent circumstances," while PERMA No. 5 of 2019 endeavours to discipline this mechanism through the principle of the best interests of the child.[6] In practice, however, these safeguards have proven inadequate. The preponderance of dispensation applications granted by religious courts in East Java cite premarital pregnancy, social pressure, or economic hardship—grounds that reflect the priorities of families and communities rather than the rights and interests of the child.[7] This pattern transforms the dispensation mechanism from an exceptional safety valve into a routinised channel for the legalisation of child marriage, thereby undermining the very legislative reforms it was designed to serve.[8]

The scale of this phenomenon in East Java is considerable. Data from the Directorate General of Religious Courts (Dirjen Badilag) document that more than fifteen thousand marriage dispensation applications were approved in the province in 2022, constituting approximately twenty percent of the national total, with the figure rising to twenty-four

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2 Badan Pusat Statistik (Central Statistics Agency), *Statistik Indonesia 2023* (Jakarta: BPS, 2023), 47. The data indicate that 8.06 percent of women aged 20–24 in Indonesia were married before the age of 18.

3 John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003), 134–152.

4 Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts* (Amsterdam: Amsterdam University Press, 2010), 112–119.

5 MUI (Indonesian Ulema Council), Fatwa No. 11 of 2012 on the Status of Children Born Out of Adultery and Their Treatment.

6 Supreme Court of Indonesia, Regulation (PERMA) No. 5 of 2019 on Guidelines for Adjudicating Marriage Dispensation Applications, Articles 4–9.

7 I. M. D. Fajriyah, S. Marhamah, and S. Anggriani, "The Pitfall of Child Marriage Dispensation: A Study of Court Judgments in East Java," *The Indonesian Journal of Socio-Legal Studies* 2, no. 2 (2023).

8 R. S. Shahrullah et al., "Dilemmas Faced by Judges when Granting Marriage Dispensations for Child Marriages in West Java, Indonesia," *International Journal of Law, Policy and the Family* 37, no. 1 (2023): ebad035.

thousand approved cases by 2024.[9] Certain districts—including Ponorogo, Bangkalan, and Jember—recorded near-universal rates of approval. The dominant justifications reported across these jurisdictions were premarital pregnancy and the imperative to preserve family dignity, reflecting social and moral prerogatives that operate in tension with child protection norms.

A further dimension of the problem concerns the legal paradox generated by the marriage of minors under existing statutory frameworks. Under Article 1 of Law No. 35 of 2014 on Child Protection, a child is any person below the age of eighteen years.[10] Upon marriage, however, a minor acquires the formal legal status of an adult, thereby forfeiting the suite of protections afforded by child protection legislation. This statutory displacement is rendered more acute by the documented vulnerability of early-married girls to domestic violence, economic exploitation, educational deprivation, and adverse reproductive health outcomes, in contravention of constitutional guarantees articulated in Articles 28B and 28C of the 1945 Constitution.[11]

Prior scholarship on child marriage in Indonesia has generated substantial insights into its socio-economic drivers, judicial dilemmas, cultural determinants, and gendered consequences. However, most existing studies address these dimensions in relative analytical isolation, examining legal norms, cultural practices, or human rights concerns as largely discrete explanatory domains.[12] Comparatively few investigations have explored the simultaneous and mutually constitutive interaction among state law, religious authority, and customary practice as it unfolds within the everyday operations of family law institutions—particularly in East Java, a province characterised by distinctive socio-religious configurations. This analytical gap is consequential: without understanding how multiple normative systems converge, compete, and mutually transform one another within the same institutional arena, policy interventions are likely to address symptoms rather than structural causes.

This article addresses that gap by examining child marriage prevention in East Java through the dual lenses of Geertz's cultural brokerage theory and Santos's theory of interlegality. The analytical value of this combination lies in the complementary insights each framework contributes and in what their conjunction makes visible that neither can illuminate alone. Cultural brokerage theory attends to the agentive and interpretive work of specific actors—kiai, court judges, village officials—through whom legal norms are translated and often transformed; interlegality provides the structural account of why such brokerage is both necessary and consequential, by mapping the overlapping normative orders within which these actors operate. Unlike Griffiths's classical legal pluralism, which describes the co-existence of multiple normative systems at the societal level, the cultural brokerage–interlegality dyad deployed here focuses on the micro-dynamics of norm translation within institutional

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[9] Directorate General of Religious Courts (Dirjen Badilag), *Annual Report on Marriage Dispensation* (Jakarta: Mahkamah Agung, 2022); see also W. Pratama, "24 Ribu Anak di Jatim Menikah dengan Dispensasi," *Jawa Pos*, April 2024.

[10] Republic of Indonesia, Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, Articles 3 and 59A.

[11] Republic of Indonesia, Law No. 23 of 2004 on the Elimination of Domestic Violence; Republic of Indonesia, Constitution of 1945, Articles 28B and 28C.

[12] Dian Latifiani, "The Darkest Phase for Family: Child Marriage Prevention and Its Complexity in Indonesia," *Journal of Indonesian Legal Studies* 4, no. 2 (2019): 241–258.

arenas—specifically, the religious court and the Office of Religious Affairs—where multiple normative orders converge in individual decisions. This focus yields insights into the mechanisms of legal fragmentation that neither framework alone can generate. It argues that the fragmented state of child protection in the province is structurally produced by the coexistence of overlapping and sometimes antagonistic normative authorities, and that sustainable reform requires not merely stronger legal texts but a reconfiguration of the relational terrain on which law is socially enacted.

This study employs a qualitative research design anchored in a socio-legal approach that integrates normative legal analysis with empirical investigation of actual legal practices and social dynamics in the field. This methodological orientation reflects the recognition that legal norms cannot be understood in abstraction from the social, cultural, and institutional contexts in which they are interpreted and enacted.

Primary data were generated through purposive semi-structured interviews with a range of institutional and community stakeholders in five research sites: Ponorogo, Pacitan, Madiun, Malang, and Gresik. Interview participants included officials of the Office of Religious Affairs (KUA), judges of religious courts, heads of social services offices, community religious leaders, academic researchers, women's rights activists, young adults, and civil society practitioners. Informants were selected for their direct relevance to and practical experience with child marriage cases and prevention efforts.

A total of fourteen informants participated in the study, distributed across the five research sites as follows: five informants in Ponorogo (the heads of KUA Slahung and KUA Ngrayun subdistricts, the head of the Ponorogo Religious Court, the head of Women's Empowerment and Child Protection at Ponorogo Social Services, and one community figure); two in Pacitan (the heads of KUA Pacitan and KUA Pacitan Subdistrict); two in Madiun (the heads of KUA Balerejo and KUA Mejayan subdistricts); three in Malang (a state university academic, a student activist, and a women's rights activist); and two in Gresik (the head of the Gresik Religious Court and a pesantren-affiliated women's organisation activist). This distribution reflects the purposive sampling logic that guided informant selection: participants were chosen for their direct institutional roles in, or community experience of, child marriage prevention and marriage dispensation processes. Data saturation was reached within each site after two to three interviews, and no substantially new categories of response emerged in the final rounds of data collection.

Interview transcripts were subjected to thematic analysis following the six-phase procedure described by Braun and Clarke: familiarisation with the data, generation of initial codes, search for themes, review of themes, definition and naming of themes, and production of the final report. This inductive process generated four primary thematic clusters—normative competition between state and religious law, the brokerage role of religious and administrative actors, the regulatory landscape and its institutional gaps, and community perceptions of child marriage—which correspond to the organisational structure of the Results and Discussion section. Data triangulation was conducted across three sources: semi-structured interviews, systematic review of legal and regulatory documents (national legislation, regional regulations, PERMA, and judicial decisions), and quantitative dispensation data drawn from Badilag (the Directorate General of Religious Courts) annual

reports. Convergences and divergences across these sources were explicitly noted and are reflected in the interpretation of field findings.

The research was conducted in accordance with established ethical standards for qualitative socio-legal inquiry. Informed consent was obtained from all participants prior to data collection; participants were assured of the voluntary nature of their involvement and of their right to withdraw at any time without consequence. To protect the identities of informants, individuals in potentially sensitive roles are identified in the footnotes by their institutional title and location (e.g., "Head of KUA Slahung Subdistrict, Ponorogo") rather than by personal name, except in cases where participants explicitly consented to named attribution. Interview data are stored securely and accessed only by the members of the research team.

Secondary data were assembled through systematic review of legal documents including national legislation, regional regulations, Supreme Court regulations, and judicial decisions pertaining to marriage dispensation applications, as well as published academic literature on child marriage, legal pluralism, and family law reform in Indonesia. All materials were subjected to descriptive and critical analysis that proceeded across three stages: identifying normative-empirical gaps between written law and social practice; interpreting the effectiveness of regional legal frameworks; and assessing the socio-cultural and institutional factors that mediate legal implementation in each research site.

Cultural Brokerage, Interlegality, and Hybrid Legal Orders

Law as Symbolic Power and Contested Discourse

Family law occupies a distinctive position within national legal systems: it does not merely regulate formal interpersonal relations but reproduces and transmits the moral architecture and value commitments of the society in which it operates.[13] In the Indonesian context, family law is constituted at the intersection of three normative orders—state law, Islamic jurisprudence (fiqh), and customary law (adat)—whose relationship is characterised less by hierarchical subordination than by continuous negotiation and mutual interpenetration.[14]

Pierre Bourdieu's treatment of law as a form of symbolic power offers a productive analytical entry point. In Bourdieu's account, law derives its social force not exclusively from state coercion but from its capacity to universalise particular interests and present contested normative choices as natural or inevitable.[15] In the domain of child marriage, the state deploys the discourse of "child protection" to invest its legislative prescriptions with moral authority, while religious establishments mobilise the discourse of "marital sanctity" and the imperatives of Islamic moral order to legitimate competing practices. The collision of these discourses within judicial and social arenas renders family law an arena of symbolic contestation—a field

[13] Franz von Benda-Beckmann et al., *Hukum yang Bergerak: Tinjauan Antropologi Hukum* (Jakarta: Yayasan Pustaka Obor Indonesia, 2009), 24–38.

[14] M. B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Singapore: ISEAS, 2008), 89–103.

[15] Pierre Bourdieu, "The Force of Law: Toward a Sociology of the Juridical Field," *UC Law Journal* 38, no. 5 (1987): 814.

in which different actors vie to impose their definition of legitimate conduct.[16] This Bourdieusian framing serves as a diagnostic lens throughout the field analysis in Section 4: the doxa of family honour, moral emergency, and religious duty that animate dispensation practices are understood here as forms of symbolic power that sustain the social legitimacy of early marriage even against the formal prescriptions of state law, and that cultural brokers reproduce through their interpretive authority within the juridical field.

Cultural Brokerage and the Localisation of Law

Clifford Geertz's concept of the cultural broker furnishes a theoretically rich framework for understanding how legal norms are translated, adapted, and sometimes subverted as they traverse the distance between national institutions and local communities.[17] Geertz conceives of culture as a "web of significance"—a system of shared meanings through which human beings interpret and act upon the world. Law, religion, and custom within this framework are not autonomous or self-executing normative systems but dynamic constructions of meaning that are continuously negotiated by social actors embedded in particular relations of power and authority.[18]

In a legally and culturally plural society such as Indonesia, certain individuals and institutions occupy the strategic position of mediators between divergent normative worlds. Religious leaders, Islamic boarding school directors (*kiai*), village officials, and religious court judges routinely function as cultural brokers: actors whose social capital and moral authority enable them to translate national legal values into the idiom of local communities and, conversely, to represent local needs and expectations to state institutions.

The mediating role of these actors is inherently ambivalent. On the one hand, cultural brokers can serve as conduits for progressive legal change by restating child protection norms in religious or communal terms that resonate locally. On the other hand, their interpretive authority enables them to reformulate or attenuate the substance of state law to preserve existing social arrangements. In the context of child marriage in East Java, this ambivalence is manifest when the minimum age for marriage is recast not as a non-negotiable child protection standard but as an administrative formality amenable to negotiation in the name of family honour or moral emergency.

Interlegality and Hybrid Legal Practice

Boaventura de Sousa Santos's theory of interlegality extends and enriches the analysis by mapping the structural conditions within which this brokerage operates.[19] Santos rejects the positivist conception of law as a closed, hierarchically unified system and contends that contemporary societies are characterised by legal pluralism: the simultaneous coexistence and mutual influence of multiple normative orders—state law, religious law, and customary

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[16] Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans* (Chicago: University of Chicago Press, 1990), 8–12.

[17] Clifford Geertz, *"The Javanese Kijaji: the Changing Role of a Cultural Broker," Comparative Studies in Society and History* 2, no. 2 (1960): 228–249.

[18] Geertz, "The Javanese Kijaji," 235. Geertz uses "cultural broker" to denote actors who mediate between national-level values and local community frameworks.

[19] Boaventura de Sousa Santos, *Toward a New Legal Common Sense* (London: Butterworths, 2002), 85–89.

norms—that operate within the same social spaces and claim jurisdiction over the same persons and conduct.[20]

In conditions of interlegality, state law does not function in isolation but is continuously shaped by its interaction with other normative systems. The result of these interactions is not a uniform legal order but what Santos terms a "hybrid legal space"—a practical domain of legal action in which formal legal prescriptions, religious norms, and customary expectations are simultaneously invoked, selectively applied, and creatively combined.[21] In the Indonesian religious court setting, this hybridity is evident in judicial decisions that must formally comply with Law No. 16 of 2019 while implicitly accommodating Islamic jurisprudential frameworks and local customary expectations regarding family honour and moral propriety.

The combined application of cultural brokerage theory and interlegality generates four working hypotheses that guide this study's empirical inquiry and that are subsequently tested against the field data presented in Section 4. First, family law in the Indonesian context is hypothesised to constitute an interlegal space in which the plurality of normative authorities is expected to produce fragmentation rather than coherent child protection. Second, religious brokerage is hypothesised to be the key mechanism through which state legal norms are localised—and frequently diluted—in the operational contexts of religious courts and administrative offices. Third, the discursive competition between child rights frameworks and community morality frameworks is expected to substantially determine the trajectory of social change in specific jurisdictions. Fourth, effective legal reform in this domain is hypothesised to require an integrative strategy that incorporates religious leaders, customary authorities, and civil society as co-architects rather than targets of change. These hypotheses are not assumed conclusions but provisional orientations that the empirical analysis in Section 4 either confirms, qualifies, or refines.

Normative Problems of Child Marriage: A Legal-Analytical Overview

Child marriage in East Java constitutes a site of acute normative tension between the formal prescriptions of state law and the practical operation of religious and customary authority. Table 1 below maps the principal legal problems identified through this analysis, presenting for each problem its legal implications, the applicable normative instruments, and the theoretical perspective through which it can be explained.

Table 1. Legal Problems of Child Marriage in East Java: A Normative-Theoretical Map

Normative Problem	Legal Implications	Applicable Legal Norms	Theoretical Perspective
Contradiction between statutory norms and social practices	High dispensation rates; weak normative effectiveness	Art. 7(1)(2) Law No. 16/2019; Art. 2(1) Law No. 23/2002 jo. Law No. 35/2014	Cultural brokers reinterpret state norms to align with local morality. Interlegality produces a hybrid dispensation practice that

[20] Boaventura de Sousa Santos, "The Heterogeneous State and Legal Pluralism in Mozambique," *Law & Society Review* 40, no. 1 (2006): 39–76.

[21] Santos, *Toward a New Legal Common Sense*, 437–447. Santos defines interlegality as the dynamic and sometimes contradictory co-existence of multiple legal orders experienced simultaneously.

Normative Problem	Legal Implications	Applicable Legal Norms	Theoretical Perspective
			retains formal legality while serving socio-religious logics.
Abuse and inconsistency of marriage dispensation mechanisms	Dispensation as loophole; weakening of substantive child protection	PERMA No. 5/2019, Arts. 4–9; Arts. 3 and 59A Law No. 35/2014	Judges, parents, and religious leaders jointly broker interpretations that prioritise family values over child rights. Interlegality: PERMA guidelines operate alongside social norms of family dignity, producing hybrid judicial decisions.
Inadequate supervision of unregistered (siri) marriages	Loss of legal rights for women and children; erosion of state authority	Art. 2(2) Law No. 1/1974; Law No. 23/2006 on Population Administration	Religious leaders who solemnise siri marriages function as authoritative brokers legitimising practices outside state law. Two normative systems—religious and state—operate in parallel and in conflict.
Conflict between state law, Islamic jurisprudence, and customary norms	Legal dualism; officials unable to enforce positive law without appearing to contradict religion	Principle of legal pluralism; Art. 7 Marriage Law	Kiai, ustaz, and customary elders mediate between competing normative systems. Interlegality produces hybrid legal practices that selectively combine formal and local normative elements.
Withdrawal of child protection status upon marriage	Vulnerability to domestic violence, exploitation, and neglect; exclusion from protection mechanisms	Art. 1(1)(3) Law No. 35/2014; Law No. 23/2004; Arts. 28B & 28C Constitution 1945	Local actors normalise the "adult" status of married children, neutralising their protection. Interlegality reveals a paradox: legal recognition of marriage simultaneously extinguishes child protection.

Source: Compiled and analysed by the authors based on field interviews, regional regulations, and court documentation, 2025.

Regional Regulatory Architecture and Its Limitations

A systematic review of regulatory instruments across East Java's twenty-nine districts and nine municipalities reveals a markedly uneven normative landscape. Approximately forty percent of these jurisdictions—fifteen regions in total—possess specific formal regulations addressing child marriage prevention. The remainder rely on national legislation supplemented by non-binding provincial guidelines, including ministerial circulars, gubernatorial instructions, and mayoral or regent letters of recommendation that lack the coercive force of duly enacted local ordinances.[22]

[22] Bojonegoro Regency, Regent Regulation No. 19 of 2023 on Child Marriage Prevention Incentives; Gresik Regency, Regent Regulation No. 23 of 2025 on the Prevention and Handling of Child Marriage; Ponorogo Regency, Regent Regulation No. 66 of 2024 on the Prevention of Child Marriage.

Three distinct regulatory typologies can be identified across the province. The first encompasses jurisdictions that have enacted specific local regulations with defined implementation mechanisms. Bojonegoro Regency exemplifies this model through Regent Regulation No. 19 of 2023, which provides material incentives for prospective spouses who marry at or above the legal minimum age, supplemented by inter-agency coordination structures linking the Women's Empowerment Office, the Office of Religious Affairs, religious courts, and village administrations.[23] Gresik Regency has similarly promulgated Regent Regulation No. 23 of 2025 on the Prevention and Handling of Child Marriage, and Ponorogo Regency has issued Regent Regulation No. 66 of 2024 specifically addressing child marriage prevention.

The second typology consists of jurisdictions that lack dedicated regulations but integrate child marriage prevention into broader thematic programmes. Surabaya, Malang, and Trenggalek embed such prevention within Child-Friendly City (KLA) frameworks, adolescent reproductive health education initiatives, and children's participatory forums at the school and village levels. While these programmes represent meaningful institutional engagement, their non-binding character limits their disciplinary efficacy.

The third typology—prevalent in rural areas of Sumenep, Bangkalan, Bondowoso, and Situbondo—is characterised by the absence of both dedicated regulations and structured programmatic intervention. Prevention efforts in these jurisdictions rely primarily on informal collaboration with religious community leaders and on village-level protection commissions (KPAD), within social environments where traditional norms exert considerable normative authority.

The distributional consequences of this regulatory disparity are empirically observable. Jurisdictions with dedicated formal regulations exhibit a discernible downward trend in dispensation applications: Bojonegoro, for example, recorded a reduction from 608 dispensation cases in 2021 to 395 in 2024, a decline attributable in part to the combined effect of formal regulation and material incentives.[24] By contrast, districts without binding regulatory frameworks—concentrated disproportionately in the Tapal Kuda and Madura sub-regions—continue to report high and in some cases increasing rates of child marriage.

Field Findings: Child Marriage and the Limits of Legal Intervention

Ponorogo. Ponorogo is widely associated with a dense network of Islamic boarding schools whose religious leaders exercise significant normative authority over community behaviour. Badilag data document more than 1,200 dispensations granted by the Ponorogo Religious Court in 2022 alone, representing a caseload that encompasses children who have not yet completed compulsory education. Despite the existence of local regulatory instruments—including Regency Regulation No. 10 of 2017 on Child Protection and Regent Regulation No. 66 of 2024 on Child Marriage Prevention—these measures lack adequate sanction mechanisms, effective inter-institutional coordination, and sustained public awareness campaigns.

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[23] P. H. Erika, S. Wulandari, and M. Musta'ana, "Collaborative Governance Dalam Pencegahan Pernikahan Usia Anak Di Kabupaten Bojonegoro," *Sawala: Jurnal Administrasi Negara* 11, no. 2 (2023): 333–352.

[24] D. Safitri, "Ironis, Anak Usia 12 Tahun di Bojonegoro Ajukan Dispensasi Kawin," *Radar Bojonegoro*, 2025.

The head of KUA Slahung Subdistrict characterised the situation as follows: in several villages within his jurisdiction, religious leaders continue to hold that early marriage is religiously permissible, a position that creates persistent normative competition with state law. He further observed that the phenomenon of mass marriage validation (*isbat nikah* massal) has had the paradoxical effect of incentivising siri (unregistered) marriages, as families anticipate the possibility of subsequent official recognition as a legitimating pathway.[25]

The head of KUA Ngrayun confirmed a parallel dynamic, noting that the community tends to frame early marriage as a socially desirable event rather than a risk, viewing it as an index of social maturity and a safeguard against familial disgrace. He further identified the practice of siri marriage as a frequently adopted interim arrangement—whereby couples marry outside state registration frameworks until the younger party reaches the legally prescribed age—enabled in some cases by religious functionaries who do not observe state administrative requirements.[26]

The head of the Ponorogo Religious Court acknowledged that the majority of dispensation applications before his court involved premarital pregnancy as the primary precipitating factor, though he emphasised that judges are guided by the principle that marriage does not constitute an adequate response to social pressure and that child rights must be foregrounded in adjudication.[27] The head of Women's Empowerment and Child Protection at Ponorogo Social Services noted that approximately seventy-five percent of referrals for pre-dispensation counselling involved pregnancy, and expressed concern that post-counselling monitoring—critical for assessing the welfare impacts of early marriage—is insufficiently institutionalised.[28]

Pacitan. Pacitan presents a more acute regulatory deficit. The absence of specific local legislation leaves the district dependent on regent circulars and sporadic outreach programmes. More than eight hundred dispensations were granted in 2022, against a background of structural poverty, limited legal literacy, and entrenched patriarchal norms that render early marriage an accepted solution to economic and social vulnerabilities.

The head of KUA Pacitan acknowledged that premarital pregnancy accounts for the overwhelming majority of dispensation applications in his jurisdiction, but also highlighted economic pressures and family coercion as contributing factors.[29] His colleague at Pacitan Subdistrict KUA argued for the integration of comprehensive sexuality and reproductive health education—grounded in Islamic ethical frameworks emphasising personal dignity and bodily responsibility—as a preventive intervention capable of addressing the knowledge deficits that contribute to adolescent pregnancy and subsequent child marriage.[30]

Madiun. Madiun, as an urban centre, benefits from comparatively stronger legal infrastructure and educational access. Yet more than five hundred dispensations were granted in 2022, and most cases did not involve psychological assessment or structured premarital

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[25] Fachurizal Ahzani, Head of KUA Slahung Subdistrict, Ponorogo, personal communication, August 2025.

[26] Misbahul Munir, Head of KUA Ngrayun Subdistrict, Ponorogo, personal communication, August 2025.

[27] Muhammad Jati Muharramsyah, Head of the Ponorogo Religious Court, personal communication, August 2025.

[28] Aida Fitriana, Head of Women's Empowerment and Child Protection, Ponorogo Social Services, personal communication, October 2025.

[29] Pendi, Head of Religious Affairs Office (KUA), Pacitan, personal communication, October 2025.

[30] Muhammad Rofiq Fauzi, Head of KUA Pacitan Subdistrict, personal communication, October 2025.

counselling. The head of KUA Balerejo observed that family-level factors—including inadequate parental supervision and negative peer-group influences—constitute the primary behavioural drivers of adolescent risk-taking leading to pregnancy and subsequent early marriage.[31] He cautioned that external programmatic interventions will prove insufficient unless directed towards transforming the relational contexts of family and peer community in which adolescent behaviour is formed.

The head of KUA Mejayan drew attention to the pivotal but ambivalent role of village-level religious officials (*kyai* desa) in shaping community dispositions toward early marriage. He noted that such officials are frequently consulted when families face decisions about early marriage, and that while some are well-informed regarding regulatory requirements and actively support prevention efforts, others continue to recommend early marriage in response to moral concerns about unmarried relationships.[32]

Malang. Greater Malang presents a paradox of educational modernity: despite having one of the province's most developed educational infrastructures, the region records a high volume of marriage dispensation applications. In rural Malang districts, strong religious norms and social stigma associated with premarital pregnancy continue to drive families toward early marriage as a face-saving resolution.

An academic at a state university in Malang identified the proliferation of unmediated digital content consumption as an emerging structural driver of adolescent sexual risk behaviour, arguing that smartphones have created social spaces beyond effective parental or institutional oversight, thereby increasing the incidence of early pregnancy and subsequent marriage.[33] A student activist at the same institution corroborated this analysis while also highlighting the role of stigma—the social perception that unresolved premarital relationships constitute a familial dishonour—as a structural factor that transforms pregnancy into a trigger for early marriage regardless of the parties' readiness.[34]

A women's rights activist in Malang observed that religious leaders who adopt contextual and rights-sensitive interpretations of Islamic jurisprudence represent a critical resource for accelerating the decline of child marriage, given that their moral authority often exceeds that of state institutions in shaping community behaviour. She further underscored the broader human capital costs of early marriage, which curtails girls' access to higher education and forecloses developmental opportunities that would benefit both individuals and communities.[35]

Gresik. Gresik's local government has responded to persistently elevated dispensation figures—201 applications in 2023, declining to 135 in 2024—with the promulgation of Regent Regulation No. 23 of 2025 on the Prevention and Handling of Child Marriage, alongside the mobilisation of a collaborative network involving Islamic boarding schools, the Indonesian Ulema Council, the Gresik Religious Court, and the District Health Office.

The head of the Gresik Religious Court offered a particularly searching account of the normative tensions that structure judicial decision-making in child marriage cases. He

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[31] Syamsul Hadi, Head of KUA Balerejo Subdistrict, Madiun, personal communication, October 2025.

[32] Suhartono, Head of KUA Mejayan Subdistrict, Madiun, personal communication, October 2025.

[33] Rama, academician, Malang, personal communication, September 2025.

[34] Nur Syifa, student, state university, Malang, personal communication, September 2025.

[35] Rohma Bahro, community member and women's activist, Malang, personal communication, October 2025.

characterised the religious court as "a practical arena where discourses of state law, religious authority, and civil society meet, test each other, and sometimes conflict," and argued that judges must navigate these tensions with reference not only to positive law but also to psychological, medical, and social considerations.[36] He described the dispensation mechanism as an "emergency door"—a provision that should remain exceptional and operationally stringent rather than becoming a routinised administrative pathway—and indicated that his court had developed collaborative assessment protocols involving multiple external agencies to ensure substantive rather than merely formal compliance with child protection principles.

Women's organisations and Islamic boarding school networks in Gresik were identified as emerging partners in community-based prevention, combining reproductive health education with religious reinterpretation framed around the *maqashid al-shariah* (objectives of Islamic law) to construct a theologically grounded case for child protection.[37]

Cross-Site Analysis: Structural Fragmentation and Its Determinants

Comparative analysis across the five research sites reveals a consistent pattern: child marriage in East Java is sustained by the structural interaction of at least three mutually reinforcing mechanisms. First, the discursive authority of religious leaders over community norms frequently overrides the prescriptive force of state law, creating a normative hierarchy in which Islamic jurisprudence functions as the primary moral reference even where it conflicts with national legislation. Second, the absence of operationally binding local regulations in the majority of jurisdictions produces implementation gaps that are filled by informal social norms and religious practices rather than state-directed child protection measures. Third, inter-institutional fragmentation—particularly the limited coordination between religious courts, the Office of Religious Affairs, social services, health centres, and educational authorities—prevents the emergence of a coherent, multi-dimensional prevention architecture.[38]

These findings are consistent with and extend the existing scholarship on child marriage in Indonesia. Prior research by Shahrullah et al. identified the dilemmatic position of judges in West Java who must arbitrate between positive law and culturally embedded practices that tolerate child marriage.[39] Idrus's work in South Sulawesi demonstrated that state legal authority is practically circumscribed when community understandings of adulthood diverge fundamentally from the chronological framework of national legislation.[40] The present study builds upon these findings by demonstrating that such phenomena are not products of discrete cultural or institutional failures but emerge from the structurally hybrid character of legal governance itself in regions where multiple normative systems claim simultaneous authority.

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[36] Ahmad Zainal Fanani, Head of the Gresik Religious Court, personal communication, September 2025.

[37] Faizah, Nyai Pesantren and women's organisation activist, Gresik, personal communication, October 2025; Wathoni, youth, Gresik, personal communication, October 2025.

[38] A. A. Azni et al., "Pseudo-Maṣlaḥah and Epistemological Failure in Marriage Dispensation at Indonesian Religious Courts," *Jurnal Ilmiah Peuradeun* 13, no. 2 (2025): 1399–1420.

The theoretical frameworks of cultural brokerage and interlegality are not deployed here as parallel descriptors but as mutually reinforcing analytical tools that together illuminate what neither can reveal alone. Consider the dispensation hearing as an illustrative case: from the interlegality perspective, the religious court constitutes a hybrid legal space in which state law (Law No. 16 of 2019 and PERMA No. 5 of 2019), Islamic jurisprudential norms, and community expectations of family honour simultaneously claim operative authority over the same decision. But interlegality alone cannot explain why a particular normative order prevails in a given case. This is where cultural brokerage theory provides the missing mechanism: the kiai who accompanies a family to the court, the judge who was educated in a pesantren, or the KUA official who informally counsels families toward or away from early marriage—each of these actors exercises the interpretive agency of a cultural broker, selecting and translating normative frameworks in ways that either reinforce or attenuate the legislative intent of child protection law. The evidence from Ponorogo—where kiai authority sustains the social legitimacy of early marriage even in the face of local regulatory instruments—confirms the first and second working hypotheses: the religious court is an interlegal space, and brokerage by religious leaders is the primary mechanism through which state norms are locally diluted. The evidence from Gresik—where the same brokerage mechanism has been redirected toward child protection through collaborative engagement with pesantren networks and the MUI—confirms that brokerage is not inherently conservative but structurally available for progressive reorientation. This confirms the fourth working hypothesis and demonstrates the synergistic explanatory power of the dual theoretical framework.

Table 2. Best Practices and Glocalisation Models of Child Marriage Prevention in East Java

Region	Primary Approach	Key Instruments and Programmes	Distinctive Features	Glocalisation Model
Surabaya	Digital governance and modern public services	Integrated civil registry–KUA–religious court data system; automatic rejection of underage applications; premarital counselling at community health centres	Closes administrative gaps through digital governance and reproductive health education	Legal-formalist (technology-driven governance)
Banyuwangi	Youth participation and child-friendly schools	Peer educators; Child Marriage Prevention Ambassadors; psychological assessment in dispensation proceedings; school–health centre collaboration	Empowers young people as active prevention subjects through community-based peer education	Participatory-social
Gresik	Socio-religious engagement through	Pesantren–MUI–Religious Court–Health Office	Redirects religious legitimacy	Legal-formalist +

Region	Primary Approach	Key Instruments and Programmes	Distinctive Features	Glocalisation Model
	pesantren and Religious Court	collaboration; Bahtsul Masail forum; maqashid shariah-based child protection reframing	toward child rights protection	cultural-religious
Trenggalek	Child-friendly villages and participatory community governance	Children's Forum in local regulation drafting; village-level child-friendly ordinances; reproductive health education; community reporting mechanisms	Decentralised, community-driven, participatory normative governance	Participatory-social
Bojonegoro	Formal regulation combined with material incentives	Regent Regulation No. 19/2023; inter-sectoral coordination (DP3A–KUA–court–villages); financial incentives for legal-age marriage; awards for child-friendly villages	Combines enforceable regulation with economic incentives and collective motivation	Legal-formalist (regulation + rational incentives)
Ponorogo	University, pesantren, and local government collaboration	Integration into Islamic university and pesantren curricula; Bahtsul Masail and local religious forums; religious and community leaders in youth counselling	Religious-educational synergy grounded in maqashid al-shariah framework	Cultural-religious

Source: Compiled and analysed by the authors based on regional regulations, official documents, and field interviews, 2025.

Toward a Legal Glocalisation Framework for Child Marriage Prevention

The evidence assembled in this study points toward the need for what we term a legal glocalisation framework: a strategic orientation that neither subordinates local normative authority to centrally mandated legal prescriptions nor capitulates to the status quo of customary practice, but instead constructs a negotiated alignment between state law and local normative systems in the service of substantive child protection. Legal glocalisation, as we employ the term, designates a mode of legal governance that simultaneously operates at the national (global) and community (local) levels of normative production—not by imposing universal legal standards on local social fields, but by constructing negotiated normative alignments that preserve the social legitimacy of local authority while channelling it toward the protection of internationally recognised rights. This concept is analytically distinct from, and advances beyond, three related concepts in the socio-legal literature. It differs from legal transplants (Watson) in that it does not envision the one-directional import of legal norms

from one jurisdiction to another but rather a bidirectional process of negotiation between state and community normative systems. It differs from legal hybridity (Santos) in that it does not merely describe the empirical co-existence of multiple normative orders but prescribes a deliberate strategy for their alignment in the service of substantive rights. And it differs from vernacularisation (Merry) in that it is not limited to the adaptation of global human rights norms into local idioms but encompasses the structural transformation of the institutional architecture through which those norms are enacted. The added analytical value of the legal glocalisation framework lies precisely in its capacity to integrate these dimensions into a single strategic orientation that is both descriptively accurate—capturing what already works in sites such as Gresik and Bojonegoro—and normatively prescriptive for policy reform across the province.

Such a framework entails at minimum three mutually reinforcing strategic orientations. The first is proactive regulatory architecture: the formulation and promulgation of specific, operationally binding local regulations in all districts and municipalities of the province, equipped with clear sanction mechanisms, standard operating procedures for inter-agency coordination, and structured monitoring and evaluation protocols. The experience of Bojonegoro demonstrates that the combination of formal regulation and material incentives can produce measurable reductions in dispensation applications.

The second strategic orientation is integrated institutional empowerment: the systematic integration of educational, health, and social services agencies into child marriage prevention processes, including dispensation proceedings, rather than their current marginalisation from these processes. Psychological assessment, reproductive health counselling, and educational impact assessment should become mandatory components of dispensation adjudication rather than optional supplements.[41]

The third and perhaps most consequential orientation is multi-stakeholder normative coalition-building, centred on the transformative mobilisation of religious authority in the service of child protection. The experience of Gresik, where collaborative engagement between religious courts, pesantren networks, and the MUI has begun to construct a theologically grounded child rights discourse within the *maqashid al-shariah* tradition, offers a model for how religious authority can be redirected rather than simply overridden. The Nahdlatul Ulama Bahtsul Masail tradition and the Muhammadiyah Tarjih Council's progressive position on minimum marriage age provide additional institutional resources for this normative reorientation.[42]

Conclusion

This article has argued that the persistence of child marriage in East Java cannot be adequately explained by reference to economic vulnerability, cultural tradition, or legal weakness in isolation. Rather, it must be understood as a structurally produced outcome of hybrid legal governance: a condition in which state law, Islamic jurisprudence, and customary

[41] O. B. C. Putri, L. Santoso, and I. Saujan, "Why Pregnancy Is Not Enough: Judicial Interpretation of 'Urgent Grounds' in Child Marriage Dispensation Cases at the Madiun Religious Court," *Indonesian Journal of Sharia and Socio-Legal Studies* 1, no. 2 (2025): 174–192.

[42] N. Susfita, Darmini, and L. Santoso, "Breaking Through Customary Domination for Child Protection," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 12, no. 2 (2025): 448–468.

norms coexist within the same normative arena, each claiming legitimacy over the same social practices, and in which the outcomes of their interaction are shaped by the interpretive labour of cultural brokers whose mediating role is simultaneously integrative and potentially subversive of legislative intent.

By applying the theoretical resources of Geertz's cultural brokerage theory and Santos's theory of interlegality, the study has demonstrated that fragmented child protection in East Java is not simply a failure of legal enforcement but a structural product of overlapping normative authorities whose competing claims generate inconsistent, hybrid, and sometimes contradictory legal practices. Marriage dispensations, nominally exceptional and child-protection-oriented, in practice function as routinised pathways for the legalisation of early marriage, reflecting the accommodation of socio-religious logic within formally compliant judicial frameworks.

Effective and sustainable reform in this domain requires moving beyond the logic of regulatory promulgation toward a logic of normative coalition-building—one that engages religious leaders, customary authorities, civil society organisations, and affected communities as co-architects of child protection norms rather than as targets of top-down legal intervention. The legal glocalisation framework proposed in this article offers one such strategic orientation, combining proactive formal regulation, integrated institutional coordination, and multi-stakeholder normative dialogue within a framework that is sensitive to the socio-religious textures of local legal life.

The present study is subject to several limitations that open productive avenues for future research. Its qualitative and site-specific focus limits the generalisability of its findings to other provinces or regional contexts. Future investigations might fruitfully employ comparative regional designs, longitudinal policy assessment methodologies, or in-depth qualitative exploration of the perspectives of judges, religious leaders, and—critically—the young women most directly affected by early marriage, whose voices remain insufficiently centred in existing scholarship.

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