

Reforming Legal Protection for Children through Pre-Marriage Counselling Services to Prevent Child Marriage at the Office of Religious Affairs

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Article	Abstract
How to cite: Busriyanti, et.al., 'Reforming Legal Protection for Children through Pre-Marriage Counselling Services to Prevent Child Marriage at the Office of Religious Affairs' (2026) Vol. 7 No. 2 Rechtenstudent Journal, Sharia Faculty of KH Achmad Siddiq Jember State Islamic University. DOI: 10.35719/rch.v7i2 Article History: Submitted: 15/06/2026 Reviewed: 18/07/2026 Revised: 30/07/2026 Accepted: 31/07/2026 ISSN: 2723-0406 (printed) E-ISSN: 2775-5304 (online)	Child marriage remains a persistent legal and social challenge in Indonesia, despite legal reforms that have raised the minimum age for marriage. The Office of Religious Affairs (KUA) plays a strategic role in preventing child marriage through the provision of pre-marital counselling, particularly through the Marriage Counselling (Bimwin) and School-Age Youth Counselling (BRUS) programmes. This study aims to critically analyse legal protection for children through the model of pre-marital counselling service management in the context of child marriage, as well as the extent to which pre-marital counselling functions as a legal protection tool for children when evaluated through the framework of Islamic family law. The research method employed was descriptive qualitative analysis based on a socio-legal approach, with data selected from the KUA offices in Ajung, Pakusari, and Summersari in Jember Regency through observation, in-depth interviews, and documentary analysis. The research findings indicate that the model of pre-marital course practices at the KUA in cases of child marriage is not yet optimal in helping to fulfil children's rights, as the substance of the material and the service management model remain general in nature and are insufficient in integrating issues of children's rights and the protection of offspring into programmes for school-age youth guidance and marriage counselling. From the perspective of Islamic family law, this situation indicates that the realisation of the objectives of <i>maqāṣid al-syarī'ah</i>, particularly <i>ḥifẓ al-nafs</i> and <i>ḥifẓ al-nasl</i>, has not been optimal. This article emphasises the need to reformulate the management of pre-marital courses so that they are preventive, contextual, and in line with the principles of child protection in Islamic family law. Keywords: <i>child marriage, Office of Religious Affairs (KUA), pre-marital counselling, maqāṣid al-syarī'ah, islamic family law.</i> Abstrak Perkawinan anak tetap menjadi tantangan hukum dan sosial yang persisten di Indonesia, meskipun telah dilakukan reformasi hukum yang menaikkan batas usia minimum untuk menikah. Kantor Urusan Agama (KUA) memiliki peran strategis dalam mencegah perkawinan anak melalui pengelolaan bimbingan pra-nikah, khususnya dalam program Bimbingan Pernikahan (Bimwin) dan Bimbingan Remaja Usia Sekolah (BRUS). Penelitian ini bertujuan untuk menganalisis secara kritis perlindungan hukum bagi anak melalui model pengelolaan layanan bimbingan pra-nikah dalam konteks pernikahan anak, serta sejauh mana bimbingan pra-nikah

berfungsi sebagai alat perlindungan hukum bagi anak ketika dievaluasi melalui kerangka hukum keluarga Islam. Metode penelitian yang digunakan adalah analisis kualitatif deskriptif berdasarkan pendekatan sosiologis-hukum, dengan data dipilih dari KUA Ajung, Pakusari, dan Summersari di Kabupaten Jember melalui observasi, wawancara mendalam, dan studi dokumentasi. Hasil penelitian menunjukkan bahwa model praktik kursus pra-nikah di KUA dalam kasus pernikahan anak belum optimal dalam membantu memenuhi hak-hak anak karena substansi materi dan model pengelolaan layanan masih bersifat umum dan belum memadai dalam mengintegrasikan isu-isu hak anak dan perlindungan keturunan dalam program bimbingan remaja usia sekolah dan bimbingan pernikahan. Dari perspektif hukum keluarga Islam, kondisi ini menunjukkan bahwa realisasi tujuan *maqāṣid al-syarī'ah*, khususnya *ḥifẓ al-nafs* dan *ḥifẓ al-nasl*, belum optimal. Artikel ini menekankan perlunya mereformulasi pengelolaan kursus pra-pernikahan agar bersifat preventif, kontekstual, dan sesuai dengan prinsip-prinsip perlindungan anak dalam hukum keluarga Islam.

Kata kunci: pernikahan anak, Kantor Urusan Agama (KUA), konseling pranikah, *maqāṣid al-syarī'ah*, hukum keluarga islam.

Introduction

Child marriage remains a serious legal and social issue in Indonesia, particularly in areas characterised by strong sociocultural pressures, economic vulnerability, and limited access for young people to ongoing legal education (UNICEF 2020). Although Law No. 16 of 2019 amended the previous Marriage Law, namely Law No. 1 of 1974 on marriage, by setting the minimum marriage age for both men and women at nineteen years, this change reflects a legal orientation aimed at ensuring the maturity of prospective spouses and preventing the negative impacts of child marriage. However, the normative strengthening of the age limit has not yet fully resolved the practice of child marriage, as marriages can still take place through marriage dispensations or unregistered marriages. This situation highlights a gap between the protective objectives intended by the law and the social reality, which still places children in marital relationships before they are physically, psychologically, socially and economically ready.

This disparity is evident in Jember Regency, where the Religious Court has recorded that, in recent years, the number of marriage dispensations involving school-age adolescents has remained high, reaching more than 1,000 cases in 2023. The number of marriage dispensations fell by 512 cases in 2024 and by 151 cases in 2025.¹ Recent studies show that a decline in the number of marriage licences does not mean that the incidence of child marriage is low; rather, such cases continue to rise due to unregistered marriages caused by cultural factors, with engagement being the main reason. Once a couple has been matched, they usually marry immediately in an

¹ Mega Silvia and Bilal Ramadhan, *Unwanted Pregnancies as a Factor in the High Rate of Child Marriage in Jember* (2025), <https://surabaya.kompas.com/read/2025/08/18/104956378/kehamilan-tak-diinginkan-jadi-faktor-tingginya-perkawinan-anak-di-jember>.

unregistered ceremony to avoid adultery.² In a literature review, Dian Latifani states that this situation places child marriages at high risk of divorce, for the following reasons: Firstly, children's education is disrupted by early marriage, causing them to drop out of school, which results in lower levels of knowledge and access to information among children. Secondly, couples tend to have low incomes or are even unemployed, making them vulnerable to poverty. Thirdly, unstable psychological conditions lead to emotional bias that can result in domestic violence.³

This perspective clearly demonstrates that the issue of child marriage cannot be adequately addressed through age restrictions and stricter administrative measures alone. Legal protection must include preventive interventions that equip children with knowledge regarding the consequences of marriage, rights within the family, reproductive health, emotional management, and the ability to make informed and responsible decisions.. This is reinforced by research by Sufina Anugerah Ramadhani and her colleagues, which highlights the need for structured preventive interventions, particularly from institutions with direct authority over marriage registration and pre-marital education, namely the Office of Religious Affairs (KUA) as the implementing body of government policy, which functions not only as the body registering marriages but also provides guidance and education to the public, particularly in reducing the prevalence of early marriage. According to her, this procedure aims to ensure that marriage decisions are not made hastily whilst allowing families time to reconsider their plans.⁴

In an effort to reduce child marriage, the Office of Religious Affairs has been conducting pre-marital counselling through specific content and delivery methods known as the marriage guidance module or 'Bimwin', focusing primarily on the purpose of marriage, the rights and obligations of husbands and wives, building a harmonious family, and reproductive health in general. However, this material does not adequately address the specific vulnerabilities of underage couples, such as psychological immaturity, family pressure, the risks of teenage pregnancy, dropping out of school, economic dependence, domestic violence, child-rearing, and the consequences of unregistered marriages. The absence of thematic modules and specialised services means that children are forced to adapt to material that is essentially designed for adult couples. This situation indicates that premarital services have not yet implemented a differentiated approach based on the age, capacity and level of vulnerability of service recipients.

In a previous study, Leila Nisya Ayuanda and her colleagues strengthened their theoretical framework by developing a specific thematic model on the prevention

² Silvia dan Bilal Ramadhan.

³ Dian Latifiani, *The Darkest Phase for Family: Child Marriage Prevention and Its Complexity in Indonesia*, 4, no. 2 (2019): 209.

⁴ Sufina Anugerah Ramadhani dkk., *Efforts of the Office of Religious Affairs in Reducing Underage Marriage Rates*, 7, no. 1 (2025): 106.

of child marriage in the form of a module that emphasises the multidimensional risks associated with child marriage, such as enhancing understanding of the minimum marriage age and its legal basis, the medical consequences of pregnancy in children, psychological risks such as emotional immaturity and the potential for domestic violence, and social consequences such as dropping out of school and intergenerational poverty. This material serves to improve knowledge of reproductive health, which will influence their perceptions regarding the postponement of pregnancy, thereby equipping prospective brides and grooms with the knowledge and insights necessary to bring forth a healthy generation free from stunting.⁵

These studies have made a significant contribution to understanding the efforts of Religious Affairs Offices (KUA) to minimise child marriage through the provision of pre-marital counselling; however, the majority still focus on the doctrinal analysis of pre-marital counselling and the implementation of pre-marital counselling modules. consequently, they have not explicitly linked these to the framework of Islamic legal principles applied through the administration of premarital counselling at the KUA, particularly in the context of child rights protection. For instance, regarding standardised thematic modules specifically for underage couples that are in line with the principles of contemporary Islamic family law, emphasising the protection of children's rights, namely *hifz al-nafs* and *hifz al-nasl*. This is where the uniqueness of this research lies, as it seeks to view marriage not merely as a contractual agreement, but as a moral and social institution aimed at safeguarding the common good (*maslahah*) and preventing harm (*mafsadah*).

It is this very issue that underlies the urgency of this research: the dynamics of digitalisation demand governance mechanisms that apply the principle of the best interests of the child, so that the interests of the child become an integral part of Sharia objectives. Therefore, integrating a child rights protection approach into premarital counselling is not merely a doctrinal debate regarding the validity of child marriage, but rather an effort to understand how the provision of premarital counselling services by the KUA, as a representative of the state, can improve services related to the prevention of child marriage. Consequently, the primary focus of this study is to highlight legal protection for children in preventing cases of child marriage through the model of premarital counselling service management practices in several KUA offices, specifically those located in Jember Regency, namely the KUA offices in Ajung, Pakusari and Summersari. Meanwhile, the second focus is to analyse the Islamic legal perspective on premarital counselling as a mechanism for protecting children's rights from the viewpoint of *maqāṣid al-syarī'ah*, particularly in relation to the Islamic legal principles of *hifz al-nafs* and *hifz al-nasl*. This study aims to provide legal protection for children within premarital counselling services by seeking to reconstruct them

⁵ Leila Nisya Ayuanda, Nur Intan Kusuma, dan Amin Aji Budiman, *Pre-Marital Education (PME) Program for Marriage Readiness and Stunting Prevention to Women of Childbearing Age*, 6, no. 7 (2024): 522.

through strategies for managing premarital counselling modules and the perspective of Islamic family law.

Based on the two main focuses of this study, it is hoped, firstly, that this research can address gaps in regulations concerning child marriage by linking them to the legal protection of children as a macro-level concept within the study of premarital counselling services—a field that has, to date, been discussed primarily within a normative framework. Secondly, this study introduces the frameworks of *hifz al-nafs* and *hifz al-nasl* as analytical tools to offer a new perspective on the socio-legal framework that emphasises the principles of *maqāṣid al-syarī'ah* in relation to the premarital counselling system in Indonesia.

Research Method

This study employs a descriptive qualitative approach within a socio-legal paradigm and is classified as socio-legal research, in which case studies of child marriage are analysed through the collection of primary data by engaging directly with research subjects to test the effectiveness of the law within society. Furthermore, this primary data was analysed through: Firstly, the legislative aspect, by examining all laws and regulations relating to the legal issues under discussion.⁶ In this context, the author examines the suitability of legislation concerning the implementation of premarital counselling, specifically the Ministry of Religious Affairs Regulation on premarital counselling services organised by the KUA. Secondly, a conceptual framework drawing on concepts identified in the academic literature serves as the theoretical foundation for explaining the phenomena under investigation.⁷ The application of legislation relating to the issue under investigation will be interpreted from a socio-legal perspective and in accordance with the principle of *maslahah* in Islamic family law. Meanwhile, the research locations were selected from several Religious Affairs Offices (KUA) in Jember Regency, namely the KUA in the sub-districts of Ajung, Pakusari and Summersari, based on their relevance due to the high number of child marriages registered at these offices; it is hoped that this will identify challenges in their implementation, thereby providing recommendations to improve services related to the prevention of child marriage.

This research was conducted at the data source locations, namely the Religious Affairs Offices of Jember Regency, specifically the KUA in Ajung, Pakusari, and Summersari, as representative organisations authorised to manage or conduct premarital counselling in the prevention of child marriage. The study employed qualitative discussion with descriptive analysis, depicting the actual conditions regarding the management practices of pre-marital courses, which, in their

⁶ Gareth Davies, 'The Relationship between Empirical Legal Studies and Doctrinal Legal Research', 13, no. 2 (2020): 5.

⁷ John Kulesa et al., *Conceptual Framework: A Practical Guide*, 14, no. 11 (2024): 504.

implementation, exhibit variations in policies concerning the prevention of child marriage. The Ajung Sub-district KUA focuses on the BRUS programme, the Pakusari Sub-district KUA focuses more on strict administrative requirements and counselling services in the implementation of Bimwin, whilst the Summersari Sub-district KUA focuses on intensive traditional marriage counselling as the main strategy to prevent child marriage.

The main subjects of this study were officials from the Religious Affairs Office (KUA) of Jember Regency who were directly involved in the administration of pre-marriage courses, particularly in the implementation of the School-Age Youth Guidance Programme (BRUS) and Marriage Guidance (Bimwin) as measures to prevent child marriage. Meanwhile, children or underage couples are positioned as the objects of policy protection, analysed indirectly through the practices of KUA services. Therefore, five informants were selected based on their roles as KUA counsellors, pre-marriage course officers, and KUA Heads overseeing the administration of pre-marriage course participant requirements, which remain relevant to the focus of the research. Data were obtained from primary and secondary sources. Primary data was obtained through observation and in-depth interviews with the selected informants, whilst secondary data consisted of official documents from the respective KUA offices in the sub-districts of Ajung, Summersari and Pakusari, as well as official documents published by the Directorate of Islamic Guidance of the Ministry of Religious Affairs of the Republic of Indonesia, namely the 'Foundations of a Sakinah Family' booklet, relevant legal documents, and supporting literature such as books and academic journals.

Data analysis was carried out by reducing the data to focus on findings relevant to the research objectives; the data was thus classified and verified, and subsequently analysed from a socio-legal perspective by comparing service practices at the KUA offices in Ajung, Pakusari, and Summersari as empirical realities (*das sein*) against legal provisions concerning the minimum age for marriage, marriage registration, BRUS, and Bimwin as normative provisions (*das (sollen)*). The results of the comparison are then interpreted in accordance with the principles of child protection to assess the fulfilment of children's rights, their vulnerability, and their best interests. The analysis continues using the *maqāṣid al-syarī'ah*, specifically *ḥifẓ al-nafs* to assess protection of the child's safety, reproductive health and psychological well-being, and *ḥifẓ al-nasl* to assess protection of lineage, parenting readiness, legal identity and the quality of future generations. The results of all these stages were used to formulate conclusions regarding the effectiveness of premarital services as an instrument of legal protection for children.

Results and Discussion

The Concept of Child Marriage in National Law

Age is a crucial factor in preparing for marriage. This is because a person's age serves as a measure of whether they are sufficiently mature in their attitudes and actions. Therefore, taking maturity into account is a preventive measure to safeguard marriage, not only after the couple has begun their life as husband and wife, but also before the prospective spouses enter into the marital bond. In explaining the concept of maturity as a requirement for marriage under Indonesian marriage law, there are two main sources used as parameters, namely Law No. 1 of 1974 on Marriage in conjunction with Law No. 16 of 2019 and Presidential Instruction No. 1 of 1991 on the Implementation of the Compilation of Islamic Law (KHI).

Provisions regarding the minimum age for marriage are set out in Article 6(2), which states: "To marry, a person who has not yet reached the age of 21 must obtain parental consent". Article 7(1) of the Marriage Act stipulates that: Marriage is only permitted if the man has reached the age of 19 and the woman has reached the age of 16. This is also regulated in the Compilation of Islamic Law, Article 15(1), which states: For the sake of the family and household, marriage may only be contracted by prospective spouses who have reached the age specified in Article 7 of Law No. 1 of 1974, namely that the prospective husband must be at least 19 years of age and the prospective wife must be at least 16 years of age. Article 15(2): Prospective spouses who have not yet reached the age of 21 must obtain permission as stipulated in Article 6(2), (3), (4) and (5) of Law No. 1 of 1974.

With the enactment of Law No. 16 of 2019, the minimum age for marriage for women is 19 years, which is the same as the minimum age for marriage for men, as stipulated in the Marriage Law. In accordance with these provisions, a marriage entered into at an age that does not meet the legal requirements is referred to as a marriage involving a minor or a child marriage. In marriage, a mature attitude is required from each partner. Therefore, a prerequisite for a marriage aimed at creating a happy, prosperous and lasting family is that both parties are of legal age. The age limits set out in the Marriage Act No. 1 of 1974, in conjunction with Act No. 16 of 2019 and the Compilation of Islamic Law (KHI), are crucial in preventing the practice of underage marriage. Consequently, the purpose of marriage as stipulated in Indonesia's marriage legislation must be thoroughly instilled in them. This also means that prospective spouses must be sufficiently mature, both mentally and physically, to enter into marriage so that it ends in happiness.

The provision regarding the minimum age for marriage in Indonesian marriage law also aims to avoid the negative consequences that would arise if the prospective spouses were still too young. The minimum age for marriage is also based on Constitutional Court Decision No. 22/PUU-XV/2017, in which one of the Constitutional Court's considerations was that the difference in the minimum age for marriage under the Marriage Law, which results in different treatment of men and

women, affects or hinders the fulfilment of citizens' fundamental or constitutional rights—whether falling under civil and political rights or economic, educational, social and cultural rights which must not be distinguished solely on the basis of gender; thus, such a distinction clearly constitutes discrimination.

Legal Protection and Issues Relating to Children's Rights in Pre-Marital Counselling Services at the KUA in Jember Regency.

The protection of human dignity is a key element closely linked to human rights. Jack Donnelly defines human rights as protection based on the rights inherent to human beings, rather than on positive law or society.⁸ This view suggests that safeguarding human dignity is a key aspect of the protection of human rights, including the rights of children in child marriages, who are particularly vulnerable to discriminatory treatment. Consequently, pre-marital counselling services (marriage counselling) provided by government agencies also constitute a form of social service that offers guidance, advice, input and support to couples intending to marry, to help them lead a harmonious and prosperous married life.⁹

As a form of social service, pre-marital counselling is not only aimed at teenage couples who have reached marriageable age, but also at underage couples or those involved in child marriages who wish to get married, with the aim of helping to educate the prospective spouses, given that they have very limited knowledge and preparation, particularly regarding the rights and obligations of husbands and wives within the family.¹⁰ Key aspects that must be studied and understood when providing pre-marital counselling for child marriages include:

- a. Mental and social counselling for each prospective couple, conducted in accordance with established procedures, with services provided in stages;
- b. The provision of reproductive health education concerning knowledge and information regarding the reproductive process and its implications for underage couples;
- c. Guidance on emotional maturity for prospective couples in family life, using lectures as a means to help underage couples deal with their own inner conflicts, particularly regarding spirituality and fostering social relationships within the local community.

The provision of reproductive health education and psychological preparation is essential as problems within the marriages of underage couples increase, leading to disharmonious family life, such as financial difficulties, the dominance of each partner's ego, and difficulties in raising children.¹¹ In practice, pre-marital counselling

⁸ Rhona K.M. Smith dkk., *Hukum Hak Asasi Manusia* (Yogyakarta: PUSHAM UII, 2008), 11.

⁹ Irma Yuni, *Urgensi Bimbingan Pranikah Terhadap Pasangan Di Bawah Umur*, 9, no. 2 (2020): 24.

¹⁰ Said, Zainal dan M Ali Rusdi, *Implementasi Keputusan Dirjen Bimas Islam Nomor 379 Tahun 2018 Dalam Pembentukan Keluarga Sakinah (Studi Di Kua Kecamatan Barru Kabupaten Baru)*, 3, no. 3 (2023): 8512.

¹¹ Yuni, *Urgensi Bimbingan Pranikah Terhadap Pasangan Di Bawah Umur*, 21.

services at the Office of Religious Affairs (KUA) can be categorised as follows: Firstly, pre-marital counselling for school-age adolescents, aimed at those under the age of 19; Second, marriage counselling aimed at those who have reached marriageable age or underage couples who have obtained a marriage dispensation, through the provision of knowledge regarding marriage preparation or entering into a marital relationship.

Several Religious Affairs Offices (KUA) in Jember Regency, such as the KUA in Ajung Sub-district, have developed a preventive and progressive model for pre-marriage counselling services to prevent child marriage. One such initiative is the School-Age Youth Guidance Programme (BRUS), a guidance tool aimed at secondary school students (SMU/SMK/Madrasah Aliyah) designed to strengthen their legal, religious and psychological awareness before entering into marriage.¹² This is a measure taken by the Ministry of Religious Affairs to prevent early marriage by equipping school-age youths with the necessary skills before they marry, through innovative guidance programmes implemented directly at school level pursuant to Decision No. 1012 of 2022 of the Director General of Islamic Community Guidance on guidelines for the implementation of pre-marital guidance for school-age youths, which it is hoped will eventually lead to school-age teenagers developing a more critical understanding of the social view that regards early marriage as a solution or a way out of the problems they face.¹³

In practice, the BRUS programme is not intended as a substitute for marriage registration procedures, which involve strict administrative requirements, but rather as a means of reinforcing a proper understanding of the consequences and risks of early marriage. It serves as an initial layer of protection (primary prevention) in instilling legal and social awareness from an early age, so that children have the ability to reject the practice of child marriage, including unregistered marriages and the misuse of marriage dispensations. This was conveyed in the author's interview with Ajung KUA counsellor, who acts as an agent of education and legal awareness transformation for school-age adolescents: "The BRUS programme is implemented as an effort to prevent early marriage, much like the use of drugs among adolescents. The KUA explains the dangers of early marriage in religious terms and then links them to these factors. For example, when a child takes pills or drugs, their mind becomes unstable, leading to promiscuous behaviour, and if caught, they will marry unofficially because they are not yet of legal age to marry. Once the marriage has taken place unofficially, the status of the child and his wife becomes unclear."¹⁴

¹² Fatiya Nadhrah, Abd Mukhsin, dan Shoaleh Hashemi, *etween Religious Guidance and Shariah Legal Reform: Rethinking Indonesia's Premarital Guidance for School-Age Adolescents (BRUS) Program.*, 23, no. 2 (2025): 150.

¹³ Felira Nispadia Sabilla, Ike Rachmawati, dan Rizki Hegia Sampurna, *he Influence of the Effectiveness of the School-Age Adolescent Guidance Program (BRUS) on Adolescent Perceptions Regarding Early Marriage in Sukabumi Districts*, 2, no. 1 (2025): 206.

¹⁴ Edi Zubaidi, "Counsellor at Ajung Religious Affairs Office," 2025.

This demonstrates that the Office of Religious Affairs (KUA) plays a vital role not only in overseeing the administration of the minimum marriage age, but also as a key institution within the state's broader strategy to prevent child marriage, and must actively promote legal awareness and behavioural change among school-age adolescents.¹⁵ Although BRUS is an important prevention initiative, the programme operates separately from marriage counselling (Bimwin) for underage couples who have obtained a court dispensation. Consequently, there is no systematic link between BRUS activities and the Bimwin programme. Therefore, the fulfilment of children's rights within the BRUS programme has not yet been able to strengthen their rights to develop critical awareness, enabling them to reject early marriage that could potentially harm them. In fact, the delivery of core content within the BRUS programme has the potential to foster awareness of children's rights, particularly the healthy development of adolescents based on Islamic values. This material consists of, firstly, an in-depth exploration of the concept of a healthy adolescent self based on the character of the Qur'an, namely being religious, moderate, and responsible (Directorate of KUA Development and Sakinah Families, Directorate General of Islamic Guidance, Ministry of Religious Affairs, Guide for School-Age Adolescents, 2019); Secondly, life skills relating to decision-making—not based solely on emotional factors but also on healthy communication skills; Thirdly, supporting materials relevant to issues commonly faced by school pupils, such as the dangers of early and unregistered marriage, the dangers of drugs, reproductive health, and promiscuous behaviour.

By providing educational materials on healthy youth based on Islamic values that foster wisdom, moderation, religiosity, responsibility and self-worth, this will reinforce the need for and model of pre-marital guidance that explicitly recognises that child marriage constitutes a form of legal vulnerability and a potential violation of children's rights, particularly for those unable to resist the cultural norm of unregistered marriage due to family and societal pressure to date or engage in romantic relationships. The same point was made by Abdullah, an instructor and head of the Pakusari KUA, who revealed that one reason for the high rate of child marriage is the cultural view of children dating. He said, "For example, if a child has been dating for too long, their parents will certainly ask about the child's readiness to introduce their partner to the family, as such dating habits are considered inappropriate in that area. Then, if the male party proposes, there are customs or traditions regarding the proposal ceremony and unregistered marriage, leading to the assumption that through unregistered marriage, they are free to have a relationship like husband and wife".¹⁶

¹⁵ Fatiya Nadhrah, Abd Mukhsin, dan Shoaleh Hashemi, *Between Religious Guidance and Shariah Legal Reform: Rethinking Indonesia's Premarital Guidance for School-Age Adolescents (BRUS) Program.*, 23, no. 2 (2025): 157.

¹⁶ Abdullah, "Head of Pakusari Religious Affairs Office," 2025.

As a result of such unregistered marriages, children will be trapped in marital relationships that offer no legal guarantees or social protection, meaning they cannot participate in Marriage Guidance (Bimwin), which is established as an integral part of the management of marriage registration services pursuant to Ministry of Religious Affairs Regulation No. 30/2024, thereby giving Bimwin legally binding authority in the administrative control of marriage registration as a form of marriage prevention. The same point was also made by Choirul Anwar in his explanation as Head of the KUA (Religious Affairs Office) for Jember Regency, Summersari Sub-district, who stated, "The KUA will refuse to register marriages for couples under the age of 19 and will also refuse their participation in Bimwin, meaning that such couples must first apply for a marriage dispensation from the religious court".¹⁷

This model shows that the KUA is very strict in enforcing the regulations on the minimum age for marriage, based on several key considerations, including the following. Firstly, there is an awareness of the need to respect gender differences by avoiding behaviour that could potentially harm one party, which could lead to discrimination and gender inequality.¹⁸ *Kedua*, Decisions regarding early marriage should not be made in haste, but families may wish to reconsider their plans in light of the risks associated with early marriage.¹⁹ *Ketiga*, Administrative controls on age verification for children serve not only as a technical procedure, but also as a form of state protection of children's rights.

For legal positivists, administrative screening is regarded as a form of child rights protection. Nevertheless, this mechanism ensures that only prospective spouses who have passed age verification are legally entitled to attend pre-marital counselling, which serves as a tool to help couples strengthen their awareness and readiness to build a household after completing the administrative procedures. This fragmentation actually undermines the continuity of preventive education and limits the long-term impact of early intervention efforts, as adolescents who marry unofficially or underage are effectively outside the scope of pre-marital courses (bimwin). This is what causes pre-marital courses to shift to a reactive service management model, where pre-marital courses only come into play once administrative procedures have begun. Consequently, adolescents or underage couples do not receive legal protection or psychosocial guidance.

In cases of child marriage, underage couples only receive pre-marriage courses (Bimwin) after obtaining a court dispensation. Bimwin is usually provided in the form of individual or couple counselling with a multidisciplinary approach, including medical, psychological and religious support, which plays a vital role in preparing

¹⁷ Choirul Anwar, "Head of Summersari Religious Affairs Office," 2025.

¹⁸ Indra Gunawan, Rr. Rina Antasari, dan Zuraidah Azkia, *Pemahaman Sensivitas Gender Pegawai Kantor*, 8, no. 2 (2024): 116.

¹⁹ Silvia dan Bilal Ramadhan, *Kehamilan Tak Diinginkan Jadi Faktor Tingginya Perkawinan Anak Di Jember*, 106.

prospective spouses for a happy and healthy marriage.²⁰ However, the content of counselling sessions depends heavily on the capacity and initiative of individual KUA counsellors, as there is no specific curriculum for underage couples. For example, the KUA in Pakusari Sub-district does not have specific material on the consequences of early marriage, but counselling sessions do cover the adverse effects of early marriage on reproductive health. Abdullah, a KUA counsellor in Pakusari, said, "Couples who are about to marry will also be given an understanding of reproductive health education and access to information, where the DP3AKB will ask the teenagers about their suitability and readiness for marriage. If this happens to underage couples who are forced into an unwanted pregnancy, it will have an impact on their harmony."²¹

There are no thematic modules or long-term plans specifically designed for counselling underage couples; consequently, the delivery of Bimwin material focuses more on general aspects, such as the purpose of marriage, the rights and obligations of husbands and wives, reproductive health, and efforts to build a harmonious family, as outlined in a book published by the Directorate General of Islamic Guidance of the Ministry of Religious Affairs in 2017 on the of a Harmonious Family. Meanwhile, discussions on the health, psychological and economic impacts, as well as topics that assume a certain level of maturity, remain very limited. Mrs Imla'ul Hasanah, a counsellor at the Summersari Sub-district KUA, revealed that the implementation of the self-directed Bimwin programme does not explicitly cover in-depth material on the risks of early marriage. She said, "The Bimwin module has been determined by the Directorate General of Islamic Guidance at the Ministry of Religious Affairs, so it cannot be changed. However, as an instructor, I make the module more relevant to the current situation, such as the use of 'language of love', which is not included in the module."²²

The absence of child-friendly materials indicates that the service design has not yet fully adopted the principle of differentiated treatment based on age and ability. Consequently, underage couples attending pre-marital courses are required to adapt to material intended for adults, rather than receiving guidance tailored to their specific vulnerabilities. Overall, the findings suggest that the management of pre-marriage courses (bimwin) at the Jember District KUA is carried out within a limited prevention framework. Although administrative tightening and outreach programmes such as BRUS demonstrate institutional awareness of the issue of child marriage, their prevention capacity remains limited by the absence of integrated service design and a child-sensitive curriculum.

The following table outlines the main challenges identified regarding the effectiveness of the School-Age Youth Guidance (BRUS) and Marriage Guidance

²⁰ Yuke Yolanda dan Fuat Hasanudin, *Fostering School-Age Teenagers: An Effort to Repress Child Marriage in The Perspective of Talcott Parsons*, 9, no. 2 (2025): 206.

²¹ Abdullah, "Head of Pakusari Religious Affairs Office."

²² Imla'ul Hasanah, "counsellor at Summersari Religious Affairs Office," 2025.

programme materials, based on interviews with KUA heads and KUA counsellors in the sub-districts of Pakusari, Summersari, and Pakusari in Jember Regency, as follows:

Table 1
Challenges to the Effectiveness of Pre-Marriage Course Modules at KUA Offices in the Sub-districts of Ajung, Pakusari, and Summersari Regarding

No	Challenge Identified	Counselling for School-Age Adolescents (BRUS)	Marriage Guidance (Bimwin)
1	Limited resources	The limited number of counsellors delivering the modules	Resources for specialist counselling are limited, as it requires dedicated time and specialist expertise from KUA staff
2	Limitations Budget	Limited budget for educational media	Budget constraints have resulted in the delivery of Bimwin training materials on facilities and infrastructure being limited
4	The absence of a forum Together	There is currently no joint forum for the evaluation and planning of BRUS modules, so we are still relying on the Ministry of Religious Affairs' modules	Cooperation between institutions remains sporadic and depends on personal relationships between officials.
5	The module materials do not yet meet the needs of teenagers and children	The module content uses many reproductive health terms and concepts from the Qur'an that are difficult for some students to understand.	The content of the Bimwin module remains general in nature and does not yet help to safeguard the rights of adolescents involved in marriage, as it does not specifically address the psychological, emotional and social challenges and needs of underage couples.

Source: Author's analysis based on the BOPTN Research Report, 2025

The challenges outlined above indicate that the implementation of the BRUS and Bimwin modules continues to face various structural and technical obstacles that hinder the provision of rights-based public services for children, particularly in

relation to service models, and specifically the content of the modules, which remains suboptimal. The absence of specific thematic modules for underage couples and the normative nature of religious language in the material mean that it fails to address the psychological aspects of adolescence, exacerbating the structural gaps in premarital guidance services. Consequently, the substance of the counselling material remains heavily reliant on KUA counsellors and is not systematically aligned with psychological readiness or child protection principles.

The absence of a coordination forum for the evaluation and planning of the BRUS module between the KUA, schools, village authorities, community health centres (Puskesmas) and police stations (Polsek) has resulted in the BRUS module not being implemented in an integrated manner. Multisectoral coordination is vital to enhance the effectiveness of the BRUS module, particularly in delivering comprehensive pre-marital education. Similarly, in Bimwin, the module content remains fragmented and lacks coordination, resulting in a piecemeal approach regarding shared understanding of the issues and methods required to address the impacts of child marriage. Consequently, a shared understanding among institutions is required. This is as stated by Reyhan Argha Putra et al., who argue that stakeholders must be able to develop a shared understanding of what can be achieved by helping to address the impact of early marriage on stunting.²³ Therefore, without reform, pre-marital counselling will continue to serve as a symbolic administrative tool rather than an effective mechanism for preventing early marriage within the framework of child protection, which is also consistent with the principles of Islamic family law.

An Analysis of Islamic Family Law Regarding the Management of Pre-marital Courses within the Framework of Child Protection

From the perspective of Islamic law, the implementation of pre-marital counselling services as a means of preventing child marriage has sparked an ongoing debate between formal legal compliance and the substantive ethical objectives of Sharia. In Islamic law, there are no specific provisions setting a particular age limit as a prerequisite for marriage. Surah An-Nisa' verse 6 of the Qur'an merely emphasises that a person must have reached maturity to marry. In other words, reaching adulthood is interpreted as reaching puberty for both men and women. The measure of a person's capacity to marry, as explained by Ibn Kathir, is that the age limit for marriage is based on *rushd*, that is, the age and maturity marked by physical characteristics such as wet dreams in men and menstruation in women.²⁴ However, contemporary scholars argue that the minimum age for marriage should not be viewed solely from a physical perspective, but must be balanced against considerations of intellectual and spiritual maturity (*rushd*) as well as social and

²³ Reyhan Argha Putra, Sri Suwitri, dan Teuku Afrizal, *Kolaborasi Stakeholder Dalam Mengatasi Angka Pernikahan Dini Di Kecamatan Selo Kabupaten Boyolali*, 14, no. 3 (2025): 6.

²⁴ Teguh Anshori, *Analisis Usia Ideal Perkawinan Dalam Perspektif Maqasid Syari'Ah.*, 1, no. 1 (2019): 5.

mental capacity.²⁵ Consequently, child marriage in contemporary Islamic legal studies is viewed as a matter of public interest (*maṣlaḥah*) rather than merely a question of validity.

Pre-marital counselling developed through BRUS and Marriage Guidance (Bimwin) can be seen as an institutional effort to implement the principle of marital readiness into a systematic and structured counselling mechanism. However, in practice, it has been found that Bimwin services at the KUA do not provide counselling that is sensitive to underage couples who have obtained a court dispensation; one reason for this is that the pre-marriage curriculum design remains general in nature and oriented towards adult couples. This implies that the principle of *maṣlaḥah*, which is one of the objectives of *maqāsid al-shariah*, has not been fully realised, as the model for managing pre-marriage courses is limited to administrative formalities rather than functioning as an educational tool capable of preventing harm from the outset. Meanwhile, Jasser Auda defines *maqāsid* as the values and meanings intended by Sharia behind the laws, referring to development and rights.²⁶

Viewed from the perspective of *maqāsid al-syarī'ah*, this inconsistency is evident, particularly in relation to the protection of life (*ḥifẓ al-nafs*) and the preservation of the lineage (*ḥifẓ al-nasl*). The Sakinah Family Foundation textbook module published by the Ministry of Religious Affairs of the Republic of Indonesia presents a normative and administrative orientation with an emphasis on the obligations of husbands and wives, efforts to build a *sakinah* family, and universal reproductive health. However, the material does not provide adequate space for issues of life protection, particularly regarding the medical impacts of teenage pregnancy, psychological risks such as emotional immaturity and the potential for domestic violence, as well as social consequences such as dropping out of school and intergenerational poverty.

This substantial gap means that the Bimwin module is less responsive to threats to life from an early age, particularly for women and children. This is because *Ḥifẓ al-nafs* is closely linked to *maṣlaḥat* (the public good). Al-Syātībī explains that *maṣlaḥat* is that which pertains to the preservation of human life, a life of perfection, and the attainment of what is absolutely desired.²⁷ In this context, *Hifẓ al-Nafs* can be understood to encompass, firstly, family health in relation to family planning, including pregnancy and the risks associated with pregnancy and childbirth at a

²⁵ Muhamad Hamdan Tauviqillah, Widyanto Naufal Mahdy, dan Eni Zulaiha, *nalisa Gender Pada Ayat-Ayat Alquran Yang Mengisyaratkan Pernikahan Anak : Menyoal Makna Bulugh Al-Nikah Pada Surah Al- Nisa Ayat 6, 8*, no. 4 (2024): 2670.

²⁶ Rizqa Febri Ayu dan Kamsi, *Protection of Children as a Philosophical and Sociological Base for the Age Limit: Maqāsid Shari'a Version of Jasser Auda*, 22, no. 1 (2022).

²⁷ Ali Abubakar, *The Right of a Child Outside the Legal Marriage of a Biological Father: The Analysis of Ḥifẓ Al-Nafs as Law' Illat*, 5, no. 1 (2021): 158.

young age. Secondly, it covers the management of stress and conflict arising from domestic disputes and domestic violence, as well as solutions to these issues.²⁸

It can therefore be concluded that the Bimwin module does not explicitly violate Hifz al-Nafs, yet from a substantive perspective, there is a failure to prevent foreseeable harm, which may be regarded as a neglect of Hifz al-Nafs; specifically, when the health and psychological risks of child marriage are not adequately addressed in the implementation of Bimwin, leaving underage couples lacking critical awareness of the threats to their safety. Therefore, to uphold Hifz al-Nafs, strengthening the substance of the Marriage Guidance (Bimwin) programme is an urgent necessity in the context of the high prevalence of child marriage.

The development of a specific thematic module on the prevention of child marriage is necessary as a means of integrating this strategic issue into the Bimwin curriculum. Couples participating in Bimwin not only gain normative knowledge but also develop a critical awareness of the multidimensional risks inherent in child marriage. According to research by Siti Nur Endah Handayani, it is noted that the high-risk nature of early pregnancy, which can lead to complications during pregnancy and childbirth, makes reproductive health education essential and beneficial for improving the currently inadequate knowledge of reproductive health, and will influence their perceptions regarding postponing pregnancy.²⁹

Unlike Bimwin, BRUS is provided to school-age adolescents to educate them about the prevention of early marriage in an immature environment and to inform them of the consequences of unregistered marriages. From the perspective of *hifz al-nafs*, BRUS is implemented at an early stage as a form of protection before risks arise. BRUS materials, such as the dangers of early marriage, drug abuse, promiscuity, and the consequences of unregistered marriages, are substantially aimed at preventing physical and mental harm to adolescents. Although the substance of the material aligns with the aspects of *Hifz Al-nafs*, empirical findings indicate that the implementation of BRUS at the KUA level remains limited to normative counselling and that the material has not yet been fully integrated with a systematic psychosocial approach. This means that children still struggle to understand it, particularly when facing sexual violence resulting from promiscuity, as they will naturally be afraid to report it to the police.

In Islam, sexuality is linked to the principle of protecting the soul from all forms of coercion, abuse and sexual exploitation that violate human dignity and honour. Therefore, sexual harm caused by promiscuous behaviour, whether physical or

²⁸ Nur Al-farhain Kamaruzaman, Mashitah Abdul Mutalib, dan Nur Aina Abdullah, *Tinjauan Awal Keberkesanan Modul Bersepadu Kursus Pra-Perkahwinan Islam (MBKPI) Kepada Pemohon Perkahwinan Bawah Umur : Analisis Aspek Hifz Al-Nafs*, 7, no. 2 (2024): 80.

²⁹ Siti Nur Endah Hendayani, Yeni Rosyeni, dan Tri Setiowati, *Care Management of Premarital Women Using Clear Counseling Techniques, Roles Body Attitudes and Gather Approaches*, 10, no. 5 (2022): 4156.

psychological, is strongly condemned as it violates the principle of *hifz al-nafs*.³⁰ Sexual fiqh has, in fact, provided normative and preventive measures to uphold morality and protect individuals from risky sexual behaviour. These preventive measures are realised, amongst other things, through the command to lower one's gaze, as emphasised in Surah An-Nūr verses 30–31, the prohibition of *ikhtilāṭ* or mixing between men and women without a purpose justified by Islamic law, and the prohibition of approaching zina as stated in Surah al-Isrā' verse 32

These provisions indicate that Islamic law is not merely normative and punitive towards violations, but also educates individuals to protect themselves from the intentions and thoughts that form the initial framework for harmful actions. However, findings in the field suggest that the religious language used in counselling is often normative and formal, thereby failing to address the psychological aspects of adolescents. This situation means that the function of *hifz al-nafs* within BRUS is not optimally fulfilling the objectives of Sharia, although it does not potentially violate them. Therefore, it is necessary to simplify religious language by integrating religious values into the current realities of adolescents, such as interactions on social media, peer pressure, and dating culture. Simpler and more easily understandable material needs to be prepared through more inclusive delivery methods, for example, using a visual-based approach or employing technology to explain difficult concepts.³¹

Furthermore, protection in accordance with the objectives of Sharia law is *Hifz Al-Nasl*, which emphasises the importance of safeguarding the continuity and quality of the next generation, namely ensuring that this is not limited to biological continuity, but also extends to the protection and care of future generations, with a focus on safeguarding children's rights and their best interests.³² From the perspective of the *maqashid al-sharia*, particularly the principle of *hifz al-nasl*, the practice of *bimwin* at the KUA in the sub-districts of Ajung, Pakusari and Summersari reflects two dimensions of protection. Firstly, the preventive dimension, which aims to safeguard the clarity of lineage (*nasab*) through the application of strict administrative requirements regarding the minimum age for marriage. For example, the Pakusari Sub-district KUA assigns code N2 to applications that do not meet the age requirements for prospective grooms and brides at the initial stage of marriage registration.

The assignment of this code also halts all subsequent administrative processes, including traditional or self-directed marriage counselling, and the KUA's action is considered valid and legally binding because, to participate in marriage counselling, one must first complete the administrative procedures. This administrative screening

³⁰ Nur Chanifah dkk., *Islamic Sexuality Education to Prevent Sexual Violence in Higher Education*, (2025) 4, no. 2 (t.t.): 163.

³¹ Sabilla, Ike Rachmawati, dan Rizki Hegia Sampurna, *he Influence of the Effectiveness of the School-Age Adolescent Guidance Program (BRUS) on Adolescent Perceptions Regarding Early Marriage in Sukabumi Districts*, 207.

³² Zakyyah, *Nasab Anak Luar Kawin Menurut Hifzhu Nasl*, 9, no. 2 (2016): 208.

is an effort to protect *Hifz-Al-Nasl* by strengthening the awareness and readiness of prospective spouses in establishing a household. This is because, according to Islamic law, as explained by Wahbah al-Zuhayli, lineage is regarded as a blood bond arising from marriage in accordance with Sharia.³³

Secondly, the protection dimension aims to safeguard children as the next generation by ensuring their fundamental rights are met, particularly access to specialised modules and counselling support for underage couples. This approach is consistent with *Hifz al-Nasl* in its contemporary sense, as conceptualised by Ibn 'Ashur, which encompasses the protection of dignity, legal identity, access to education, economic security, and social integration, thereby emphasising that the protection of the next generation is not merely about genealogical structure, but also the protection of human dignity and the moral continuity of generations.³⁴

The absence of specific thematic modules and specialised counselling for underage couples indicates that Bimwin does not provide an adequate understanding of psychological readiness, such as readiness to shoulder the responsibilities of husband and wife, readiness to engage in sexual relations, to care for children, and to build a family, meaning that the objective of *hifz al-nasl*, in its substantive sense, has not yet been fully realised, particularly regarding the consequences of child marriage. In this context, the substance of Bimwin's material is administrative in nature, indicating that marriage guidance is not optimally directed as a preventive tool in safeguarding *hifz al-nasl*.

The management model implemented by the KUA regarding the modules and counselling treats the aspect of *Hifz al-Nasl* as a structural safeguard for lineage, rather than a comprehensive safeguard to protect the dignity, rights and best interests of children. Although Bimwin and BRUS do not formally conflict with Islamic law, the limited integration of issues related to the protection of lineage/descent means that these programmes have not yet fully realised the objectives of *Hifz Al-Nasl* within the framework of *maqāṣid al-syarī'ah*. The Office of Religious Affairs (KUA), as a state institution, plays a strategic role in the prevention of child marriage, particularly through pre-marital counselling services. However, in practice, these services are often not yet optimally utilised as instruments of child legal protection. Therefore, the management of pre-marital counselling services needs to be based on a child protection perspective, so that they are not merely administrative in nature, but also preventive and educational.

³³ Muhammad Aqwan Thariq dan Nofi Sri Utami, *Protection of Lineage (Hifz Al-Nasl) in Determining the Legal Parentage of Children Born Out of Wedlock: A Normative Analysis and Judicial Practice of the Pringsewu Religious Court*, 15, no. 1 (2026): 597.

³⁴ Ahmad Fauziyah dan Dedi Sumanto, *Penetapan Asal Usul Anak Dari Hasil Pernikahan Sirri Dalam Perspektif Maqashid Syariah Di Pengadilan Agama Limboto*, 5, no. 1 (2024): 47.

Conclusion

Pre-marital course services at the Religious Affairs Offices in the sub-districts of Ajung, Summersari and Pakusari have fulfilled the function of preventing child marriage through BRUS education at secondary school level, restrictions on the marriage age via administrative refusal, the requirement for a dispensation, and marriage preparation through Marriage Guidance (Bimwin). However, in substance, the pre-marriage course service model remains administratively oriented, and the content of the Bimwin and BRUS modules has not yet been automatically integrated with children's rights, meaning it is not yet fully preventative or child-sensitive. Consequently, children who are socially pressured into early marriage, particularly through unregistered marriages, often remain outside the scope of effective legal and psychosocial protection within these pre-marriage course mechanisms.

However, the findings of this study have important implications for public policy and the development of contemporary Islamic family law. Firstly, at the policy level, there is a need to reconceptualise the management of pre-marital counselling as a preventative child protection mechanism, rather than merely an administrative requirement for marriage. This is particularly relevant if access to module content and counselling, which currently remains general in nature shifts towards interventions featuring diverse, structured and sustained module materials that are sensitive to children's rights, alongside specialised guidance for underage couples before they enter married life. Similarly, strengthening BRUS as an early education programme for adolescents, integrated with schools and stakeholders, is vital to prevent early marriage before the legal and social risks become a reality.

Secondly, from an Islamic legal perspective, pre-marital courses serve as a means to realise public interest and prevent harm within marriage. BRUS and Bimwin support *hifz al-nafs* through reproductive health education, emotional management, and the prevention of violence. Both also support *hifz al-nasl* through the enforcement of age requirements, the legality of marriage, clarity regarding family status, and preparation for married life. However, the implementation of these two principles has not yet been optimal, as the curriculum does not specifically address health, psychological, educational, economic and childcare risks, nor the fulfilment of children's rights. Therefore, premarital counselling services need to be restructured as a preventive, integrated, contextual and sustainable child protection system based on the best interests of the child and the principles of *hifz al-nafs* and *hifz al-nasl*. This can be achieved through the integration of children's rights into the legal framework of Islamic family law, thereby enabling policymakers to support efforts to strengthen the social functions of the KUA in promoting justice, responsibility and sustainable family life.

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