



Marriage Dispensation and Gender Justice from a *Mubādalāh* Perspective: A Critical Analysis of Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk

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Abstract: This article critically examines issues of gender justice in marriage dispensation cases through an in-depth analysis of the Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk. The petition for marriage dispensation was rejected on procedural grounds due to the petitioners' absence, despite the urgent circumstances involving an underage girl who was pregnant. This study seeks to assess whether the judicial reasoning and outcome reflect substantive justice and provide adequate legal protection for vulnerable female parties. Employing a normative juridical approach and drawing on the reciprocity (*Mubādalāh*) theory developed by Faqihuddin Abdul Kodir, the decision is analyzed both textually and contextually. The findings indicate that the legal reasoning remains predominantly procedural and insufficiently responsive to women's lived experiences, thereby marginalizing their position as legal subjects. The reciprocity perspective offers an ethical and jurisprudential alternative that repositions women as active, equal, and reciprocal participants in legal relationships. This research contributes to the advancement of a more just, inclusive, and socially responsive framework of Islamic family law and advocates for the incorporation of reciprocity principles into judicial practice to enhance gender-sensitive adjudication.

Keywords: Family Law, Gender Justice, Marriage Dispensation, *Mubādalāh*, Women.

Abstrak: Artikel ini mengkaji secara kritis persoalan keadilan gender dalam perkara dispensasi perkawinan melalui analisis mendalam terhadap Putusan Pengadilan Agama Tanjungkarang Nomor 131/Pdt.P/2024/PA.Tnk. Permohonan dispensasi perkawinan tersebut dinyatakan tidak dapat diterima berdasarkan alasan prosedural akibat ketidakhadiran para pemohon, meskipun terdapat keadaan mendesak yang melibatkan seorang anak perempuan di bawah umur yang sedang hamil. Penelitian ini bertujuan untuk menilai apakah pertimbangan hukum dan amar putusan yang dijatuhkan telah mencerminkan keadilan substantif serta memberikan perlindungan hukum yang memadai bagi pihak perempuan yang berada dalam posisi rentan. Penelitian ini menggunakan pendekatan yuridis normatif dengan kerangka analisis teori *reciprocity* (*Mubādalāh*) yang dikembangkan oleh Faqihuddin Abdul Kodir, melalui pembacaan putusan secara tekstual dan kontekstual. Hasil penelitian menunjukkan bahwa penalaran hukum hakim masih didominasi oleh pendekatan prosedural dan belum secara memadai merespons pengalaman hidup perempuan, sehingga memarginalkan posisi mereka sebagai subjek hukum. Perspektif *reciprocity* menawarkan alternatif etis dan yurisprudensial dengan menempatkan perempuan sebagai subjek hukum yang aktif, setara, dan bersifat resiprokal dalam relasi hukum. Penelitian ini berkontribusi pada pengembangan kerangka hukum keluarga Islam yang lebih adil, inklusif, dan responsif secara sosial, serta mendorong integrasi prinsip-prinsip *reciprocity* dalam praktik peradilan guna memperkuat adjudikasi yang sensitif terhadap keadilan gender.

Kata Kunci: Dispensasi Perkawinan, Hukum Keluarga, Keadilan Gender, *Mubādalāh*, Perempuan.

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Introduction

The phenomenon of marriage dispensations in Indonesia has become a prominent family law issue, as public awareness of the importance of child protection and gender equality grows (Asnawi et al., 2024). Since the enactment of Law Number 16 of 2019, which sets the minimum age for marriage at 19 for both men and women, there has been a surge in applications for marriage dispensations in religious courts (Akbari, 2025). These applications are generally based on reasons such as premarital pregnancy, social pressure, or economic factors (Arrasyid et al., 2024). In practice, legal provisions intended to protect children often clash with pressing social realities, creating tension between legal norms and substantive societal needs (Imran et al., 2024).

One case that reflects this dynamic is the Tanjungkarang Religious Court Decision Number 131/Pdt.P/2024/PA.Tnk. In this case, the applicants, consisting of the parents of the two prospective brides and grooms, applied for a marriage dispensation for their children who were still under the legal age for marriage, on the grounds that the prospective bride was 22 weeks pregnant. However, the judge declared the application inadmissible because the applicants did not appear at two hearings, as stipulated in SEMA No. 1 of 2016 (Supreme Court, 2024a). Although this decision is procedurally valid, it leaves important questions regarding whether the law has sided with substantive justice, especially for vulnerable groups such as pregnant girls.

What is further highlighted is the absence of women's voices in this legal decision-making process. The primary subject, the prospective bride, is not represented as an active participant in the legal process. She does not express an opinion, her involvement is not recorded, and her will is not recognized. This situation indicates the persistence of a patriarchal pattern of legal relations, where decision-making authority rests entirely with parents and the state (in this case, the judge), without the participation of those directly affected.

The increasing number of marriage dispensation cases in Indonesia has emerged as a critical issue in contemporary Islamic family law, reflecting a growing tension between procedural legal compliance and the substantive protection of vulnerable groups, particularly women and children. Following the enactment of Law Number 16 of 2019, which equalizes the minimum marriage age at 19 for both men and women, religious courts have experienced a significant rise in dispensation applications, commonly justified by premarital pregnancy, social pressure, or economic hardship. While these legal provisions are normatively designed to protect children and promote gender equality, their implementation often encounters complex social realities that challenge the law's capacity to deliver substantive justice. This situation raises a fundamental legal problem: to what extent does procedural rigor in marriage dispensation cases accommodate or instead marginalize the voices and best interests of those most affected.

This tension is clearly illustrated in the Decision of the Tanjungkarang Religious Court Number 131/Pdt.P/2024/PA.Tnk, which serves as a critical case study in this article. In this case, the application for a marriage dispensation was declared inadmissible due to the applicants' absence at two hearings, in accordance with Supreme Court Circular Letter (SEMA) No. 1 of 2016. Although procedurally valid, the decision invites deeper scrutiny regarding its substantive implications, particularly given that the prospective bride was 22 weeks pregnant. The case is analytically significant because it exemplifies a broader pattern in which strict procedural adherence may inadvertently overlook the protection of women in vulnerable situations, thereby revealing structural limitations within judicial practice.

A salient issue arising from this decision is the absence of women's agency in the legal process. The prospective bride who bears the most direct social, physical, and psychological consequences of the decision was not positioned as an active legal subject. Her views were neither recorded nor considered, indicating the persistence of patriarchal legal relations in

which authority is concentrated in parents and judicial institutions. This exclusion underscores the need to move beyond a purely positivist legal analysis and to incorporate a gender justice perspective that critically examines power relations embedded in family law adjudication.

To address this gap, this study employs the reciprocity Theory (*Qirā'ah Mubādalāh*), a gender-just interpretative framework in Islamic thought that emphasizes reciprocity, participation, and ethical equality between men and women. Rather than treating Islamic law as a static normative system, this approach enables a relational reading of legal norms, allowing judicial decisions to be evaluated not only on procedural grounds but also on their ethical and social consequences. The use of reciprocity Theory is particularly relevant for examining marriage dispensation cases, where legal outcomes directly affect relational dynamics, bodily autonomy, and women's dignity.

Therefore, it is important to view this case not only from a positive legal perspective, but also from a gender justice perspective (Pradikta, Anggraini, et al., 2025). In order to read this issue more deeply and fairly, this article uses a theoretical approach. *Reciprocity*, an approach to the interpretation and ethics of gender relations in Islam developed by Faqihuddin Abdul Kodir (Kodir, 2021). He is an Indonesian Muslim scholar active in the field of progressive Islamic thought, particularly regarding women's issues and gender justice. Born in Ciamis and educated at IAIN Sunan Kalijaga Yogyakarta, Faqihuddin has long been involved in the development of mutually-based interpretation and jurisprudence through the Fahmina Institute, and is active in gender mainstreaming through Rahima. His main work, *Qira'ah Reciprocity: Progressive Interpretation for Gender Justice in Islam* (2019), explains that Islamic law and teachings should be read within a reciprocal, participatory, and ethical framework between men and women (Muin et al., 2025).

This study also places the research within an existing academic context. Marwiyah et al.'s (2023) research on "A Legal Analysis of the Implementation of Marriage Dispensation at the Batam Religious Court from the Perspective of Legal Certainty and Child Protection" concluded that court decisions in marriage dispensation cases tend to prioritize procedures over child protection, often ignoring the principle of the best interests of the child (*best interest of the child*). Meanwhile, research by Nafi & Ali, (2024) examines the practice of family justice from a legal perspective. *Reciprocity* and found that the absence of women's involvement in the legal process results in relational inequalities that lead to structural injustice in family law decision-making.

This research is situated within, yet distinct from, existing scholarship. Previous studies have highlighted procedural dominance in marriage dispensation rulings and the frequent neglect of the "best interests of the child," as well as the structural exclusion of women from family law decision-making. However, these studies have largely stopped at normative critique or general institutional analysis. The present article fills this gap by conducting an in-depth examination of a single judicial decision, using reciprocity Theory not merely as a normative ideal but as an analytical tool to critique judicial reasoning and reveal relational injustice within positive law enforcement.

Accordingly, the novelty of this research lies in two key contributions. Theoretically, it advances the application of reciprocity Theory as a critical lens for analyzing religious court decisions, an approach rarely employed in case-based judicial analysis. Practically, it offers a synthesized reading of procedural law and gender-ethical reflection, demonstrating how judicial practices can be reoriented toward inclusivity and substantive justice without undermining legal certainty.

This article therefore aims to analyze how the reciprocity Theory can expose and critique gender injustice in marriage dispensation decisions while offering an alternative ethical framework that prioritizes women's participation and protection. Ultimately, the study seeks

to contribute to the development of Islamic family law that is not only procedurally sound but also ethically grounded, participatory, and responsive to social vulnerability. By integrating gender-ethical values into judicial reasoning, this research advocates for a more humanistic and transformative practice of Islamic law within Indonesia's dynamic socio-legal landscape.

Method

This study employs a qualitative research design with a normative-juridical orientation, aimed at critically examining judicial practices in marriage dispensation cases and their implications for gender justice within Islamic family law. A qualitative method is adopted because the research does not seek to quantify legal phenomena, but rather to interpret judicial reasoning, analyze the structure of court decisions, and uncover power relations that influence the legal protection of women as legal subjects in marriage dispensation proceedings.

The primary object of this research is the Decision of the Tanjungkarang Religious Court Number 131/Pdt.P/2024/PA.Tnk, which was selected due to its high level of legal and social urgency, namely a marriage dispensation request involving an underage prospective bride who was pregnant outside of marriage. This decision was chosen because it reflects a broader pattern in judicial practice where strict procedural compliance may conflict with substantive justice and the protection of vulnerable groups. As a decision-based legal study, this research is not confined to a specific physical field location; instead, it was conducted over a defined period dedicated to document analysis, legal interpretation, and the review of relevant legal and Islamic scholarly literature.

The research applies a normative-critical approach by integrating positive law analysis with a conceptual framework based on reciprocity Theory (*Qirā'ah Mubādalāh*). This approach is used to assess whether judicial considerations not only comply with procedural and substantive legal norms, but also respond to principles of relational justice, women's participation, and the protection of vulnerable parties. Reciprocity Theory is employed as an analytical framework because it enables a relational and ethical reading of Islamic family law and provides a critical lens for identifying patriarchal patterns that persist in judicial decision-making.

The sources of data in this study consist of primary and secondary legal materials. Primary data include the full text of the Tanjungkarang Religious Court decision, which is analyzed textually and contextually to identify legal grounds, judicial reasoning, and the positioning of the parties within the ruling. Secondary data are derived from relevant laws and regulations, including Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, the Compilation of Islamic Law (KHI), and Supreme Court Circular Letter (SEMA) Number 1 of 2016 concerning Guidelines for Granting Marriage Dispensations. In addition, secondary sources include scholarly books, peer-reviewed journal articles, and academic works addressing marriage dispensation, gender justice, and Reciprocity Theory in Islamic legal discourse.

Data collection was carried out through documentary study and literature review. Documentary study involved collecting and examining authoritative legal documents, particularly court decisions and statutory regulations, obtained from official Supreme Court directories and national legal databases. These documents were selected due to their normative authority and direct relevance to the research object. The literature review was conducted to contextualize the findings, strengthen analytical arguments, and situate the study within existing academic debates on Islamic family law and gender justice.

Data analysis was conducted using a qualitative-analytical method through several stages. First, legal facts contained in the court decision were identified and systematically classified. Second, the judicial reasoning was analyzed in terms of both procedural law and

substantive legal considerations. Third, the analysis evaluated the extent to which the decision incorporated or neglected substantive justice and the protection of women's rights. Finally, the decision was interpreted through the lens of Reciprocity Theory to reveal relational inequalities and their implications for gender justice. This analytical process was carried out descriptively and critically, with the aim of producing a comprehensive understanding of marriage dispensation adjudication and identifying pathways for the reform of Islamic family law toward a more inclusive and justice-oriented framework.

Results

Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk

The Petitioners in this case are the parents of a prospective groom and a prospective bride, both of whom are below the minimum legal age for marriage as stipulated in Article 7 paragraph (1) of Law Number 16 of 2019 concerning the Amendment to Law Number 1 of 1974 on Marriage. The Petitioners submitted an application for a marriage dispensation to the Tanjungkarang Religious Court in order to allow their children to legally enter into marriage under Indonesian state law (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

The application for marriage dispensation was filed on the basis of an urgent reason, namely that the prospective bride was pregnant outside of marriage with a gestational age of approximately twenty-two (22) weeks. The Petitioners argued that the marriage needed to be conducted immediately in order to prevent more severe social, psychological, and legal consequences for the prospective bride and the unborn child, as well as to safeguard family honor and ensure legal certainty regarding the child's civil status (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

Following the registration of the application at the Clerk's Office of the Tanjungkarang Religious Court, the Panel of Judges scheduled hearings and duly summoned the Petitioners in accordance with the applicable procedural law. However, despite having been properly and lawfully summoned, the Petitioners failed to appear at two consecutive scheduled hearings without providing any legally acceptable justification for their absence (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

Based on the Petitioners' absence from the hearings, the Panel of Judges concluded that the marriage dispensation application could not be further examined due to the failure to satisfy the mandatory requirement of the Petitioners' presence as a fundamental principle in petition-based proceedings. Accordingly, the Panel referred to Article 22 of the Supreme Court Circular Letter (SEMA) Number 1 of 2016, which stipulates that when a petitioner fails to appear after being duly summoned, the application may be declared inadmissible (*niet ontvankelijk verklaard*) (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

On the basis of these considerations, the Panel of Judges of the Tanjungkarang Religious Court ruled that the Petitioners' application was inadmissible (NO), without proceeding to an examination of the merits of the case and without conducting a substantive assessment of the urgent circumstances related to the pregnancy of the prospective bride (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

Legal Basis and Judicial Reasoning in the Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk

First, the primary legal basis relied upon by the Panel of Judges in rejecting the application for marriage dispensation in this case is the provision of civil procedural law that emphasizes the presence of the parties as a formal prerequisite for the examination of a petition. The Panel of Judges explicitly referred to Article 22 of the Supreme Court Circular Letter (SEMA) Number 1 of 2016 concerning the Procedures for Handling Petition Cases in

Court, which stipulates that if the petitioner fails to appear after being duly and lawfully summoned, the application may be declared inadmissible (*niet ontvankelijk verklaard*). Within this framework, the presence of the petitioner is positioned as an absolute requirement for initiating a substantive examination of the case; consequently, the petitioner's absence is deemed to extinguish the right to have the merits of the application examined (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

Second, the judges' reasoning was also grounded in the principle of procedural legality, namely the principle that all judicial processes must be conducted in strict compliance with the procedural rules prescribed by law. This principle positions procedural law as an instrument for maintaining order, legal certainty, and uniformity in judicial practice. In the context of this decision, the Panel of Judges considered that continuing the examination of the case in the absence of the petitioner would potentially violate the principle of *audi et alteram partem* (the right to be heard), as there would be no party present who could actively provide explanations, have their claims verified, or be held accountable for the application submitted (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

Third, the judges further reasoned that the court's authority in petition-based proceedings is inherently passive and dependent upon the initiative of the petitioner. From the perspective of civil procedural law, the court cannot unilaterally proceed with or examine the substantive aspects of an application if the petitioner does not demonstrate a genuine intention to participate in the judicial process. Accordingly, the petitioner's absence was interpreted as an indication of the failure to meet the requirement of seriousness of claim, rendering the application legally unfit for further examination (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

Fourth, although Law Number 16 of 2019 on Marriage provides judges with discretionary authority to grant a marriage dispensation in situations of urgency, the Panel of Judges in this case did not reach the stage of assessing the existence of *urgent reasons* as contemplated in Article 7 paragraph (2) of the Law. This was due to the fact that procedural obstacles had already terminated the examination process at an earlier stage. As a result, substantive legal considerations concerning child protection, the best interests of the child, and the condition of pregnancy outside of marriage were not incorporated into the judicial reasoning, as the case was resolved solely on formal procedural grounds (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

Fifth, taken as a whole, the legal basis for rejecting the application in this case reflects a judicial reasoning orientation that places compliance with procedural law as the primary source of legitimacy for judicial decisions. The Panel of Judges prioritized procedural certainty and administrative compliance as expressions of adherence to the positive legal system. However, this approach simultaneously reveals the normative limitations of judicial practice, wherein procedural law functions as an initial filter that may obstruct access to substantive justice, particularly in family law cases that are deeply intertwined with social, moral, and protective concerns for vulnerable groups (Source: Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk).

Beyond these formal legal grounds, the judges' conviction in rejecting the application was further reinforced by considerations relating to the authority and integrity of the judicial process. The judges viewed the petitioners' failure to appear at two duly and lawfully scheduled hearings as reflecting a lack of cooperation and an absence of genuine commitment to submitting themselves to the available legal mechanisms. From a judicial perspective, allowing proceedings to continue in the absence of the petitioners was feared to create a negative precedent that could undermine procedural discipline and open the door to potential abuse of judicial processes. Accordingly, the rejection of the application was not merely understood as the mechanical application of procedural norms, but also as an effort to

preserve consistency, order, and the institutional authority of the judiciary by ensuring that all litigants demonstrate good faith and legal responsibility in participating in court proceedings.

Procedural Formalism, Judicial Rigidity, and the Marginalization of Women's Agency in Marriage Dispensation Adjudication

The findings of this study based on the analysis of the Tanjungkarang Religious Court Decision Number 131/Pdt.P/2024/PA.Tnk reveal several key empirical patterns that are significant for understanding contemporary judicial practices in marriage dispensation cases. The first major finding is the dominance of procedural formalism over substantive justice (*procedural dominance*). The court declared the application inadmissible (*niet ontvankelijk verklaard*/NO) solely on the basis of the applicants' absence from two hearings, in accordance with Article 22 of Supreme Court Circular Letter (SEMA) No. 1 of 2016 (Supreme Court, 2024b), despite the fact that the petition involved an urgent situation, namely a 22-week out-of-wedlock pregnancy. This finding demonstrates that procedural compliance was treated as the decisive criterion, while the substantive conditions surrounding the welfare of the prospective bride were not meaningfully examined.

The second key finding concerns the misapplication of the urgency doctrine in marriage dispensation cases. Normatively, Law No. 16 of 2019 allows judges to grant dispensations when "urgent reasons" are convincingly proven (JDIH BPK, 2019). Empirically, the data from the decision show that pregnancy outside marriage widely recognized in both statutory regulation and Islamic legal discourse as an emergency circumstance was not substantively assessed. The court did not explore alternative procedural mechanisms, such as verifying the reasons for the applicants' absence or rescheduling hearings to safeguard the interests of the pregnant girl. This indicates a judicial tendency to interpret urgency narrowly through procedural lenses, rather than as a substantive mandate to protect vulnerable parties.

The third major finding is the absence of women's agency in judicial reasoning, which constitutes a critical indicator of the lack of gender-sensitive adjudication. The analysis of the decision text reveals that the prospective bride was not positioned as a legal subject with agency. Her perspective, consent, and personal circumstances were entirely absent from the judicial narrative. The judge's considerations relied exclusively on the procedural behavior of the parents as applicants, thereby marginalizing the individual most affected by the decision. This absence is empirically evidenced by four parameters: (1) the judge's considerations do not reference the voice or condition of the prospective bride; (2) the legal standing of the parties is framed solely around parental authority; (3) there is no narrative acknowledging the girl as a victim of legal and social vulnerability; and (4) the reasoning prioritizes procedural law while neglecting material law aimed at protection and welfare. These indicators collectively demonstrate the absence of effective legal protection for women in the adjudication process (Aliyah & Aulia, 2022).

A further finding relates to judicial rigidity in applying procedural rules. Comparative insights from existing literature indicate that SEMA No. 1 of 2016 was designed to guide, not restrict, judicial discretion in urgent cases (Hamdi & Efendi, 2022). In practice, courts in other regions have exercised flexibility by continuing case examinations when absences are justified or when delaying proceedings would cause greater legal harm (Taufiq, 2021). The Tanjungkarang decision, however, reflects a rigid procedural approach that did not attempt to mitigate the potential legal and social consequences for the prospective bride. This rigidity represents not merely an isolated incident, but reinforces a broader trend of proceduralism in religious court practices, particularly in cases involving underage marriage (Moelyono et al., 2022).

From an interpretative layer, when analyzed through the framework of reciprocity Theory (*Qirā'ah Mubādah*), the findings expose a deeper relational injustice embedded in the

judicial process. Reciprocity Theory emphasizes mutuality, participation, and ethical equality in legal relations, requiring that women be actively involved as decision-making subjects rather than passive objects of legal outcomes (Kodir, 2021; Hermanto, 2022). The exclusion of the pregnant girl from the legal process illustrates how judicial decisions may inadvertently reproduce patriarchal structures, thereby undermining substantive justice and reinforcing social domination (Sugitanata et al., 2023).

Empirically, this study contributes to the literature by demonstrating how procedural dominance, combined with the absence of women's agency, operates concretely within a specific judicial decision. Unlike broader doctrinal analyses, this case-based examination reveals how legal norms are translated into practice, highlighting a structural pattern in which procedural certainty is prioritized at the expense of relational and gender justice (Susanti, 2024). The findings thus not only confirm existing critiques of marriage dispensation practices, but also provide detailed empirical evidence of how judicial reasoning can marginalize vulnerable women through procedural mechanisms.

Overall, the findings indicate that Decision No. 131/Pdt.P/2024/PA.Tnk is formally valid yet substantively problematic. It exemplifies how strict adherence to procedural law, when detached from social context and material justice considerations, can exacerbate gender inequality and fail to protect pregnant adolescent girls. These results underscore the urgent need for a more integrative judicial approach that balances procedural rigor with substantive protection, particularly in cases involving vulnerable groups within Islamic family law.

Table. Key Empirical Findings from Decision No. 131/Pdt.P/2024/PA.Tnk

No.	Key Findings	Empirical Indicators in the Court Decision	Legal and Gender Justice Implications
1.	Procedural Dominance	The petition was declared inadmissible (NO) solely due to the applicants' absence from two hearings, without substantive examination of the case merits.	Procedural law overrides substantive justice, limiting judicial responsiveness to urgent and vulnerable situations.
2.	Misapplication of Urgency Doctrine	A 22-week pregnancy was acknowledged factually but not assessed as a legally urgent circumstance warranting judicial discretion.	Urgency is narrowly interpreted, weakening the protective function of marriage dispensation mechanisms.
3.	Absence of Women's Agency	The prospective bride's voice, consent, and personal circumstances are entirely absent from judicial considerations.	Women are treated as passive objects rather than active legal subjects, reinforcing patriarchal legal relations.
4.	Marginalization of Victim Narrative	Judicial reasoning centers exclusively on parents' procedural conduct, with no recognition of the girl as a vulnerable subject.	The lack of victim-centered reasoning undermines child and women's protection principles.
5.	Judicial Rigidity	No effort was made to verify reasons for absence or apply procedural flexibility permitted under SEMA No. 1 of 2016.	Rigid proceduralism exacerbates legal and social harm for vulnerable parties.
6.	Imbalance between Procedural and Material Law	Procedural compliance is prioritized over material law	Legal certainty is achieved at the expense of

objectives, including welfare and protection. substantive and relational justice.

This table synthesizes the core empirical findings derived from the textual and contextual analysis of Decision No. 131/Pdt.P/2024/PA.Tnk. The table demonstrates that the central pattern emerging from the decision is the dominance of procedural reasoning, where compliance with formal requirements becomes the primary determinant of the judicial outcome. Despite the presence of an objectively urgent condition namely a 22-week out-of-wedlock pregnancy the court refrained from engaging in a substantive assessment of the case. This indicates a restrictive interpretation of urgency and a limited exercise of judicial discretion, thereby reducing the protective capacity of marriage dispensation law.

More critically, the table highlights the structural exclusion of women's agency from the adjudication process. The absence of the prospective bride's voice, combined with the lack of a victim-centered narrative, illustrates how judicial reasoning remains parent-centric and institutionally patriarchal (Prabowo, 2016). This pattern confirms that legal protection for women is undermined not only by procedural rigidity but also by the imbalance between procedural law and material justice objectives. Collectively, these findings provide concrete empirical evidence that judicial practices in marriage dispensation cases may perpetuate gender inequality when procedural formalism is applied without adequate sensitivity to social context, vulnerability, and relational justice.

Discussion

The Tension between Formal Legality and Substantive Justice in Positive Law

The Tanjungkarang Religious Court's decision No. 131/Pdt.P/2024/PA.Tnk reveals a fundamental problem in the Indonesian legal system, particularly in the practice of religious justice: the tension between procedural legality (formal law) and substantive justice. On the one hand, the panel of judges ruled that the marriage dispensation request was inadmissible (*Declared Inadmissible/NO*) because the applicants did not appear for two court summonses. This decision refers to the provisions of the Supreme Court Circular Letter (SEMA) No. 1 of 2016 Article 22, which emphasizes that the applicant's absence without a valid reason is sufficient grounds for rejecting the application without examining the main case (Supreme Court, 2024b). On the other hand, there is a very pressing social fact that cannot be ignored: the girl who is the subject of the application is pregnant out of wedlock, with a gestational age of 22 weeks. In this situation, the law faces a dilemma between implementing strict procedures or opening up space for broader social justice (Hermanto & Nisa, 2024).

From a formal legal perspective, the panel of judges' decision has a strong legal basis. Failure to attend the hearing constitutes a violation of the principle of *listen to the other side* (the right to be heard), which is a fundamental principle in the judiciary. A judge cannot examine a case if the interested parties are not present, as this can lead to formal legal flaws. However, the problem arises when procedures are used rigidly and become an obstacle to uncovering the broader substance of the case (Pradikta, Fadillah, et al., 2025). In this case, the substance of the case concerns the fate of a girl who became pregnant out of wedlock, who is in a very vulnerable social, psychological, and legal position.

Under national law, marriage dispensation is regulated in Law Number 16 of 2019 as an amendment to Law Number 1 of 1974 concerning Marriage. Article 7 paragraph (1) states that marriage is only permitted if the man and woman have reached the age of 19 years. However, paragraph (2) states that in the event of urgent reasons, parents can submit a request to the court for dispensation. This means that the law provides room for flexibility in certain situations (JDIH BPK, 2019). However, in practice, administrative requirements such as the applicant's presence can be a major obstacle that causes substantive reasons not to have time to be considered.

A more flexible approach can be found in the principle *maqashid al-syari'ah* in Islamic law. One of the main purposes of Sharia is to protect the offspring (*hifz al-nasl*), which means ensuring the continuity of the lineage within a legal and protected framework (Al Saudiyah, 1856). In this case, marriage becomes a legal mechanism to maintain the dignity of women and their unborn children. If a girl becomes pregnant outside of marriage and is not immediately married, she will face severe social stigma and difficulty in gaining legal access to her child. Therefore, scholars state that in emergency situations like this, marriage can be seen as a priority.

In the Indonesian context, although the law regulates the minimum age, the practice of marriage dispensation is a form of recognition of a less-than-ideal social reality. Research conducted by Nurwandri & Syam (2021) in several religious courts shows that many judges grant marriage dispensations considering teenage pregnancy as a form of urgent circumstances. In many cases, judges not only consider procedural aspects but also exercise discretion (*ijtihad*) to gather social and psychological information from the parties, including through direct examination of the prospective bride and groom. This demonstrates that in practice, some judges are capable of fulfilling their roles as both law enforcers and protectors of vulnerable groups.

Unfortunately, in the Tanjungkarang District Court case, this did not occur. There was no attempt by the court to verify the reasons for the applicant's absence, no record of the judge attempting to recall the relevant parties, and no apparent attempt to explore the possibility of a separate substantive examination. This suggests a highly formalistic approach, lacking any scope for bridging the social justice challenges at hand. Consequently, pregnant girls are left without formal legal or social protection from the state.

Furthermore, this legal approach risks setting a bad precedent (Muin et al., 2025). If every marriage dispensation request involving a pregnant woman is rejected on procedural grounds without considering the social context, the legal system will lose its social sensitivity. On the other hand, society will seek non-legal avenues such as unregistered marriages, which actually open up the potential for further rights violations, such as a lack of legal protection for women, uncertainty about the status of children, and economic vulnerability.

Thus, the tension between formal legality and substantive justice in this case should be seen as a signal that the law needs to be adaptive, particularly in cases involving the protection of children and women. When the law fails to provide solutions to social emergencies, it loses its function as a tool for the common good. Therefore, in addition to strengthening procedural discipline, the justice system must also develop mechanisms for social assistance, humane recalls, and holistic recovery strategies. In this context, justice is measured not only by compliance with legal provisions, but also by the extent to which the law is able to respond to reality and preserve human dignity.

Proceduralism, Substantive Justice, and the Exclusion of Women in Islamic Family Court Adjudication

The Decision of the Tanjungkarang Religious Court Number 131/Pdt.P/2024/PA.Tnk analytically reflects a crucial *analytical claim* in the study of Islamic family court practices in Indonesia, namely the strengthening of *proceduralism* within religious adjudication, where procedural law functions not merely as an instrument of judicial order but as a mechanism of exclusion against vulnerable groups. In this case, the applicants' absence from two hearings was treated as the sole basis for declaring the petition inadmissible, without allowing substantive judicial assessment of the highly urgent factual condition namely, an underage girl's out-of-wedlock pregnancy. This pattern indicates that procedural rules no longer operate as a means toward justice, but rather as barriers to legal protection. Systemically, this decision represents a broader tendency in religious courts to prioritize procedural certainty over substantive justice, thereby transforming procedural law into an exclusionary device that

deepens social vulnerability, particularly for women and children in Islamic family law cases (Ali, 2024).

In this context, the integration of positive law and *maqāṣid al-sharī'ah* must be understood dialectically rather than dichotomously. *Maqāṣid al-sharī'ah* does not exist outside or in opposition to the national legal system; rather, it may function as an interpretative framework that activates the discretionary space explicitly provided by Law Number 16 of 2019. The statutory recognition of “urgent reasons” in marriage dispensation cases inherently grants judges the authority to conduct contextual and welfare-oriented assessments grounded in the protection of life, lineage, and human dignity. Accordingly, the application of *maqāṣid al-sharī'ah* is neither merely theological nor abstract, but juridically relevant and practically applicable in reinforcing substantive justice within positive law. When judicial discretion is constrained by rigid proceduralism, what occurs is not legal compliance, but a reduction of the law’s normative and ethical purpose (Aziz et al., 2023).

Furthermore, the absence of women’s voices in judicial reasoning must be understood as a serious legal failure rather than a mere social or ethical concern. The position of women in this decision is not recognized as that of legal subjects possessing agency, experience, and legitimate interests. This exclusion constitutes a violation of *participatory justice*, which requires that individuals directly affected by legal outcomes be meaningfully involved in decision-making processes, as well as *substantive due process*, which demands that legal procedures deliver material fairness rather than formal compliance alone. In international legal discourse, the denial of these principles is widely recognized as a form of structural injustice that undermines the legitimacy of judicial decisions, particularly in cases involving vulnerable populations (Faiz et al., 2023).

Taken together, these findings challenge the prevailing formalistic paradigm within religious courts and open critical space for rethinking judicial reasoning in Islamic family law. This case demonstrates that legal certainty cannot be achieved at the expense of substantive justice or the protection of women and children. Instead, it calls for a more responsive model of judicial reasoning one capable of harmonizing procedural law, substantive norms, and principles of gender justice and child protection. Such an approach is essential not only for judicial reform, but also as an ethical and constitutional imperative in advancing an inclusive, humanistic, and socially responsive system of Islamic family law within Indonesia’s contemporary legal landscape (Idris et al., 2024).

Gender Inequality and the Absence of Women as Legal Subjects

One of the most problematic aspects of the Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk is the absence of women’s voices and active roles in this case, namely pregnant girls, in the legal process. The entire narrative of the case in the decision only presents the applicants, consisting of the parents of the two prospective brides. Meanwhile, the girl, who is in a very vulnerable position socially, legally, and psychologically, does not appear to be presented as an active legal subject. She is not mentioned as stating her will, her involvement is not explained, and her opinion or statement in the marriage dispensation application process is not even quoted. The absence of women in this legal narrative structure is not merely administrative, but contains a deeper problem: a legal structure that does not side equally with women, especially those in vulnerable positions.

Gender inequality in Indonesia’s family law system is nothing new. Several studies have shown that women are often treated as legal objects, not legal subjects. In the context of marriage dispensations, this is evident in the fact that marriage decisions and court applications are made by parents without explicitly presenting the child as a party expressing consent or objection (Ali & Hanafi, 2022). Yet, Child Protection Law No. 35 of 2014 affirms that every child has the right to be heard in all forms of legal proceedings and decision-making concerning them. Furthermore, the Convention on the Rights of the Child (*Convention on the*

Rights of the Child/CRC) which has been ratified by Indonesia also emphasizes that children have the right to active participation in every legal process (Hendra & Hakim, 2023).

Within the framework of gender justice, the absence of women's voices in this case represents a concrete example of the silencing of women's experiences and will by patriarchal legal and social structures. This ruling reflects how the legal system still centralizes authority in the hands of parents and judges, while silences those directly affected. In the case of teenage pregnancy, this reality is particularly dangerous because the social risks, stigma, trauma, and long-term impacts are borne entirely by the women, while the law's role is not to protect them, but merely to enforce procedures.

Theoretical study Reciprocity very relevant to highlight this question. This theory, developed by Faqihuddin Abdul Kodir, is based on the principle of reciprocity reciprocity in the relationship between men and women. This theory rejects gender-biased interpretations of Islam and emphasizes that Islamic law should guarantee the active involvement of both parties, including women, in all aspects of social life, including family law. From this perspective, reciprocity, women not only have equal rights normatively, but must also be treated as rational, volitional subjects who participate in decisions concerning their lives (Nawawi et al., 2022).

Thus, the absence of a daughter in the decision document is not only a violation of the principle of procedural justice, but also a neglect of the principle of reciprocity and participation in the theory reciprocity If the law only processes requests submitted by other parties, without listening to the voices of the women directly involved, then the legal system has reproduced the unequal power relations that make women the objects of legal decisions over which they have no control.

Research conducted by Salim et al., (2021) on "Equal Marriage Age Requirements as a Form of Gender Equality in Minimizing Underage Marriage in Indonesia" shows that in the majority of marriage dispensation applications, girls' involvement is merely symbolic or administrative, merely signing documents or attending court hearings, but they are not given the space to express their opinions freely and independently. This is often exacerbated by cultural factors and family pressure that prevent girls from expressing their rejection. In some cases, it was even found that girls were unaware that they had been proposed for marriage through legal channels. This is a form of structural violence disguised as legal procedures.

In the Tanjungkarang District Court case, although the petition was rejected for procedural reasons (two failures to appear), the lack of analysis of the girls' voices demonstrates that the legal process is not designed to favor vulnerable groups. In cases involving children, especially pregnant women, the courts have an obligation to ensure the children's active participation in the process. This can be done by requesting direct testimony, bringing in a psychologist or social worker, and providing a safe forum for children to express their opinions without pressure.

The absence of such a mechanism indicates that our law still lacks a relational understanding of justice. Justice is not simply a matter of compliance with the law, but also about how the legal system positions individuals within social and power relations. When girls are denied a voice, the law marginalizes them as independent individuals, relegating them to mere means of restoring the family's reputation or fulfilling social norms.

In the context of out-of-wedlock pregnancy, the risks facing girls are significant: loss of educational opportunities, social stigma, psychological distress, and the legal status of the unborn child. If the legal system is not present to protect against all of these, what occurs is the social criminalization of a condition that actually requires help (Oktaria et al., 2024).

Thus, a legal approach that supports gender justice demands that women, especially girls, be actively involved in every legal process that concerns them. The principles of mutuality, deliberation, and participation as taught in the theory of gender equality are in place.

Reciprocity it's not just an Islamic moral principle, but also a legal principle that judicial officials should practice to uphold women's dignity and rights. Without it, the law will continue to be a tool for perpetuating structural inequalities that harm women in the long run.

The absence of women's voices in the Tanjungkarang Religious Court Decision No. 131/Pdt.P/2024/PA.Tnk must be understood as an *analytical claim* concerning structural gender exclusion within Islamic family court adjudication, rather than as a mere procedural oversight. Empirically, the decision demonstrates a consistent pattern in which legal subjectivity is concentrated in parents and judicial authorities, while the girl most directly affected by the case is rendered invisible within the legal narrative. Her will, consent, and lived experience are entirely absent from the judicial reasoning, indicating that the court did not recognize her as an autonomous legal subject. This exclusion reflects a broader structural tendency in family law practice, where women particularly girls in vulnerable situations are positioned as objects of regulation rather than participants in justice. Systemically, this pattern reveals how legal procedures may operate as instruments of gendered exclusion, reproducing unequal power relations under the guise of procedural neutrality (Rohmadi et al., 2024).

From the perspective of legal theory and international human rights discourse, the exclusion of women's voices constitutes a failure to uphold *participatory justice* and *substantive due process*. National law, particularly the Child Protection Law No. 35 of 2014, as well as Indonesia's ratification of the Convention on the Rights of the Child, explicitly guarantees children's right to be heard in legal processes affecting their lives. The absence of the girl's participation in this case therefore represents not only an ethical shortcoming but a juridical deficiency, as the legal process failed to ensure meaningful involvement of the primary rights-holder. This failure becomes even more pronounced in the context of teenage pregnancy, where the social, psychological, and legal consequences are disproportionately borne by girls. When courts prioritize parental representation and procedural compliance over direct engagement with affected children, they undermine the very principles of protection and justice that family law is intended to uphold (Syufa'at, 2022).

Theoretical engagement with Reciprocity Theory (*Qirā'ah Mubādalāh*) further deepens this critique by exposing the relational injustice embedded in such judicial practices. Reciprocity Theory emphasizes reciprocity, agency, and mutual participation between men and women, insisting that women must be treated as rational, volitional subjects in decisions that shape their lives. When applied as an interpretative lens, the theory reveals that the Tanjungkarang decision not only neglects women's agency but actively reproduces patriarchal legal logic by silencing the female subject. This finding aligns with broader empirical studies showing that girls' participation in marriage dispensation cases is often symbolic or entirely absent, amounting to a form of structural violence masked by legal formality. Taken together, these findings challenge the formalistic paradigm that dominates religious court practices and underscore the urgent need for a transformation in judicial reasoning one that integrates gender justice, child protection, and relational ethics into the core of Islamic family law adjudication.

Opportunities for Integration of Perspectives Reciprocity in the Legal System

The discourse on justice in Islamic family law in Indonesia has so far focused largely on normative provisions and adherence to legal procedures. However, social experience shows that legal provisions are not always able to respond to the diversity and complexity of societal realities, particularly those concerning women's lives (Rifandi, 2025). In this context, the approach reciprocity which emphasizes the principles of mutuality, active involvement, and relational justice, has a great opportunity to be integrated into the legal system, particularly in the practice of religious justice. The Tanjungkarang Religious Court Decision No.

131/Pdt.P/2024/PA.Tnk is an important starting point for discussing how to integrate this approach. Reciprocity can improve the quality of justice in marriage dispensation cases.

Theory Reciprocity the Islamic legal system developed by Faqihuddin Abdul Kodir is rooted in an interpretation method that places women and men as equal subjects in all provisions of Islamic law, unless there is explicit evidence to the contrary. The basic principle reciprocity is reciprocity in roles, responsibilities, and rights between men and women. In this context, all applicable policies and legal provisions should be able to be applied reciprocally, and should not lead to the dominance of one party over the other (Huda, 2025). This theory seeks to unravel the framework of patriarchal interpretation that has been shaping social and legal structures that tend to be biased against women.

In the case of marriage dispensation, the approach reciprocity provides a strong basis for rejecting legal practices that exclude women, especially when women are in vulnerable positions such as pregnancy out of wedlock. Women, in this case, girls who are the subject of dispensation requests, must be viewed as subjects with will, moral considerations, and the right to legal protection, not simply objects of parental or state decisions. Therefore, a legal system that aspires to be based on the values of substantive justice should guarantee the active involvement of women in the legal process, including when they are still children.

Integration of perspectives reciprocity. The introduction of legal reforms into the legal system can begin with procedural reforms in religious courts. One way is to develop participatory court practices, namely, a trial mechanism that not only examines documents but also provides space for the directly affected parties, particularly women and children, to express their concerns. In marriage dispensation cases, for example, judges should directly examine the psychological readiness, wishes, and opinions of the prospective bride, rather than relying solely on requests from her parents (Ebbbers-Pardijs & Wagner, 2025).

In addition, the approach reciprocity also opens up space for the use of gender-based mediation methods, where conflict resolution is not solely conducted within the legal framework but also involves social, psychological, and ethical approaches. This type of mediation can be conducted by involving female legal counselors, psychologists, moderate religious leaders, and family counselors. This is important because women, especially those experiencing premarital pregnancies, often lack the courage to express their wishes openly in a formal courtroom. With a more participatory approach, women's voices and needs can be more fully articulated.

Another opportunity in the application of the approach reciprocity this is at the level of legal education and judicial training. Legal education curricula, particularly in Islamic law and family law studies, need to integrate gender perspectives and the ethics of reciprocity. Judicial training should also include materials on relational justice, a child- and women-rights-based approach, and reflection on patriarchal biases that may unconsciously influence their decisions. This is crucial for fostering a legal culture that is not only procedural, but also empathetic and inclusive (Makhlad, 2022).

Research conducted by Rifqi (2021) at the Yogyakarta Religious Court shows that when judges are given the space to exercise judicial discretion with a participatory and gender-sensitive approach, the resulting decisions are much more likely to meet a sense of justice and be accepted by the parties. In some marriage dispensation cases, judges even provide in-depth consideration regarding the future of the child, ensure the psychological readiness of both parties, and refer them to family counseling before issuing a decision. Such practices reflect the values of reciprocity applied in judicial practice (Ebbbers-Pardijs & Wagner, 2025).

Furthermore, integration reciprocity it is also relevant to encourage regulatory change. For example, SEMA No. 1 of 2016 could be revised to not only establish administrative provisions regarding marriage dispensations but also include ethical guidelines and protection for vulnerable groups. Marriage dispensations are not simply a matter of age and

documents, but also concern the future and safety of girls. Regulations that promote true justice must ensure that every application for dispensation is thoroughly assessed from a legal, social, and ethical perspective.

It is also important to understand that integration reciprocity this does not mean abandoning positive law, but rather complementing it with relational and humanitarian values. In Islam, law is not an end in itself, but a means to bring about justice (*tahqiq al-'adl*). Therefore, when the law becomes a barrier to women's safety and honor, ethical and theological approaches such as reciprocity can be a corrective sign so that the law returns to its spirit of liberating and honoring humanity (Ebbers-Pardijs & Wagner, 2025).

In the context of plural and dynamic Indonesia, the integration of approaches reciprocity it is also in line with the spirit of the constitution and the principles of human rights. The Indonesian Constitution guarantees gender equality and the protection of children and women. Therefore, there is no reason to reject this approach. reciprocity instead, it brings Islamic legal practices closer to constitutional and universal values that uphold justice.

Thus, the Tanjungkarang PA case should serve as a moment of reflection to encourage systemic change in the Islamic legal system in Indonesia. Reciprocity it is not just a matter of ideology or interpretation, but rather a matter of saving the future of women and ensuring that the law truly serves as a guardian of dignity, not merely a guardian of procedure.

The opportunity to integrate the reciprocity perspective into the Indonesian legal system should be understood as a response to a structural limitation within religious court adjudication, rather than merely as an ethical enrichment. The Tanjungkarang Religious Court Decision illustrates how existing judicial practices remain heavily centered on procedural compliance, leaving little room for contextual reasoning that accommodates women's lived realities. In this sense, reciprocity functions as a critical analytical framework capable of exposing how procedural neutrality often masks unequal power relations. By foregrounding reciprocity and relational justice, this approach reframes judicial responsibility not simply as rule enforcement, but as an active engagement with the social consequences of legal decisions. Consequently, integrating reciprocity into adjudication practices has the potential to transform courts from procedural gatekeepers into institutions that meaningfully safeguard vulnerable parties (Sekarrini et al., 2025).

Importantly, the integration of reciprocity does not imply a departure from positive law, but rather offers a method to operationalize the discretionary space already embedded within existing legal norms. Law Number 16 of 2019, particularly in its recognition of "urgent reasons" for marriage dispensation, implicitly authorizes judges to assess cases beyond formal requirements. Reciprocity provides a principled lens through which such discretion can be exercised responsibly, ensuring that legal reasoning remains grounded in both normative legality and substantive justice. When judicial interpretation is informed by reciprocity and participation, the law's protective purpose is strengthened rather than diluted. This dialectical relationship positions reciprocity not as a competing normative order, but as an interpretative tool that aligns Islamic legal values with constitutional commitments to justice and equality (Ebbers-Pardijs & Wagner, 2025).

At a systemic level, the relevance of reciprocity extends beyond individual cases to broader institutional reform. Incorporating this perspective into judicial procedures, mediation mechanisms, and legal education can address entrenched patterns of exclusion that disproportionately affect women and children. Participatory hearings, gender-sensitive mediation, and interdisciplinary judicial assessments are not merely procedural innovations, but manifestations of a relational understanding of justice. Empirical evidence from progressive judicial practices demonstrates that when courts adopt participatory and gender-responsive approaches, legal outcomes are perceived as more legitimate and protective. In this regard, the Tanjungkarang case should be read as a critical juncture highlighting the

urgency of reorienting Islamic family law adjudication toward a model that balances procedural certainty with relational justice, ensuring that the law functions not only as a regulator of conduct, but as a guarantor of dignity and protection for those most at risk.

Conclusion

This study concludes that the Decision of the Tanjungkarang Religious Court Number 131/Pdt.P/2024/PA.Tnk illustrates a persistent tendency within Indonesia's positive legal system to prioritize rigid procedural compliance over substantive and relational justice, even in cases involving acute social and humanitarian vulnerability such as teenage pregnancy. The research objective to critically examine the compatibility of judicial practice with principles of gender justice and Islamic ethical values reveals that procedural formalism continues to function as a dominant paradigm in marriage dispensation adjudication. As a result, the law risks losing its protective and ethical dimension when formal requirements, such as court attendance, are enforced without adequate consideration of the substantive circumstances faced by vulnerable parties. Through a normative-juridical analysis informed by reciprocity Theory (*Qirā'ah Mubādalāh*), this research demonstrates that the exclusion of women's voices particularly those of pregnant girls from judicial reasoning represents a fundamental failure of relational justice and participatory legal process. Such practices not only marginalize women as legal subjects but also perpetuate structural gender inequality within Islamic family law adjudication. The findings affirm that justice cannot be fully realized when women are positioned merely as objects of parental authority or judicial discretion, rather than as autonomous subjects with agency, moral capacity, and legal standing. In this regard, the absence of reciprocity, participation, and gender-sensitive discretion in the examined decision underscores a broader systemic limitation in the current application of family law. The contribution of this study lies in advancing Reciprocity Theory beyond its normative-theological roots by positioning it as an operational analytical framework capable of informing judicial reasoning within positive law. Integrating reciprocity principles into Islamic family law practice offers a pathway toward a more inclusive, ethical, and context-responsive legal system one that aligns procedural certainty with substantive justice and human dignity. This research thus reinforces the argument that legal legitimacy is not derived solely from formal compliance, but from the law's capacity to listen to, engage with, and protect those most vulnerable within legal processes.

As a policy recommendation, this study suggests the incorporation of participatory and gender-responsive guidelines into marriage dispensation procedures, including mandatory judicial engagement with the affected child or woman, interdisciplinary assessments involving psychologists or social workers, and the revision of SEMA No. 1 of 2016 to explicitly emphasize substantive justice and protection for vulnerable groups. Additionally, judicial training programs should integrate gender justice and relational ethics as core competencies. These measures are expected to enhance the capacity of religious courts to function not merely as procedural institutions, but as transformative agents of justice that uphold the dignity, rights, and welfare of women and children within Indonesia's Islamic legal system.

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