

Interpreting “Urgent Reasons” in Marriage Dispensation Cases: A Socio-Legal Study at the Pangkalan Bun Religious Court

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Abstract.

The phrase “urgent reasons” in Indonesian marriage dispensation law is normatively open yet operationally undefined, creating interpretive space that contributes to disparities in judicial decisions. While prior studies explain these disparities through regulatory weakness or judicial discretion, they rarely examine how such normative ambiguity is socially reproduced through judicial practice. Addressing this gap, this study analyses how judges construct the meaning of “urgent reasons” in pregnancy-related marriage dispensation cases and how this process reflects the interaction between legal structure and local social norms. Using a socio-legal approach, the research examines 43 decisions (2020-2025) from the Pangkalan Bun Religious Court and in-depth interviews with three judges. Drawing on Anthony Giddens’ Structuration Theory, the study argues that normative ambiguity does not merely generate discretion but operates as a structuration mechanism through which judges reproduce and negotiate legal meaning in concrete cases. The findings reveal three dominant interpretive patterns: (1) urgency as moral restoration and protection of family honour, (2) urgency as safeguarding the best interests of the child, and (3) urgency as maintaining religious and social stability. These patterns demonstrate that judicial disparities stem not from inconsistency but from the activation of different normative orientations when judges confront ambiguous legal structures within a specific socio-cultural context. Theoretically, this study contributes to socio-legal scholarship by showing how vague legal norms function as institutional media for the reproduction of legal pluralism through judicial agency. Practically, the findings highlight the need for clearer operational guidelines such as minimum age thresholds, psychological assessment standards, and child protection recommendations, to balance legal certainty, judicial discretion, and child rights protection in marriage dispensation policy.

Keyword:

vague norms, marriage dispensation, disparity of decisions, structuration theory, religious courts.

INTRODUCTION

Marriage is something sacred, for that it needs careful preparation both physically, economically and psychologically (Surawan, 2021). Within the Indonesian legal system, marriage dispensation functions as an exception to the minimum marriage age stipulated in Law Number 1 of 1974 as amended by Law Number 16 of 2019 and further regulated by Supreme Court Regulation Number 5 of 2019. This mechanism allows judges to grant permission for underage marriage if there are legally accountable *urgent reasons*. In practice, many dispensation cases arise from pregnancy outside marriage. Empirical findings show that despite legal reforms aimed at reducing child marriage, applications for dispensation remain high in religious courts across Indonesia (Candraningrum et al., 2022; UNICEF, 2023). This indicates that marriage dispensation has become a legal pathway through which child marriage continues to occur, placing judges in a decisive position in determining whether such requests are granted or rejected.

The core issue lies in the phrase “*urgent reasons*”, which is not operationally or limitatively defined in the regulation. This creates norm ambiguity (*vague normen*) that opens broad interpretive space for judges. In legal theory, vague norms potentially produce legal uncertainty and disparities in decisions because they allow variations in interpretation in concrete cases (Mertokusumo 2020; Asshiddiqie 2021). This condition is clearly reflected in religious court practice, where cases with relatively similar factual characteristics especially pregnancy, result in different judicial considerations and outcomes (Butt 2020; Nurlaelawati 2022). These dynamics are particularly visible at the Pangkalan Bun Religious Court, where socio-cultural pressures, constructions of family honor, local religiosity, and community stigma toward pregnancy outside marriage strongly influence how cases are brought before the court. Judges do not operate in a social vacuum; they face moral expectations from families and communities when adjudicating dispensation petitions.

Previous studies generally explain disparities in marriage dispensation decisions through regulatory weakness, variation in judicial reasoning regarding the best interests of the child (Siregar 2021; Fitriani & Wibowo 2023), and the influence of religious norms, shame culture, and family honor (Candraningrum et al., 2022; UNICEF, 2023). Other socio-legal debates frame judicial discretion either as a threat to legal certainty or as an adaptive response to social complexity (Tamanaha, 2021; Butt, 2020). However, these studies rarely explain how the ambiguity of the norm itself is socially produced, maintained, and reproduced through judicial practice. Norm ambiguity is mostly treated as a legislative weakness rather than as a social phenomenon formed through the interaction between legal structures and judicial actors. This reveals an epistemic gap in understanding how legal meaning

is formed in practice, a methodological gap due to the dominance of normative analysis without empirical–theoretical integration, and a theoretical gap in explaining how judges reproduce ambiguous norms within specific local contexts.

To address this gap, this study employs Structuration Theory developed by Anthony Giddens (Giddens, 1984; Stones, 2020). This perspective views structure not merely as rules that constrain action, but as both the medium and the outcome of social practices continuously reproduced by agents. In marriage dispensation cases, legal norms provide the structural framework, but the concrete meaning of “*urgent reasons*” emerges only through the interpretive actions of judges when deciding cases. Disparities in decisions are therefore understood not as individual inconsistency, but as the dialectical consequence of interaction between legal structure and judicial agency in a particular socio-cultural context.

The ambiguity of this norm also intersects with the principle of the best interests of the child as an international human rights standard (UNICEF, 2023). Studies consistently show that child marriage correlates with reproductive health risks, school dropout, and long-term economic vulnerability (Badan Pusat Statistik (BPS); UNICEF. 2023; Girls Not Brides 2023). Therefore, disparities in dispensation decisions are not merely technical judicial issues but have long-term social consequences, especially for girls.

Departing from these gaps, this study aims to analyze how judges interpret the concept of “*urgent reasons*” in pregnancy-related marriage dispensation cases and to explain how the interaction between legal structure and local social context produces disparities in judicial decisions. To operationalize this perspective, this study understands structure as the legal norms regulating marriage dispensation, agency as judges as reflective actors interpreting these norms, and outcome as the judicial decisions granting or rejecting dispensation petitions. Through this socio-legal framework, this research offers a theoretical explanation of how normative ambiguity is reproduced through judicial practice while providing empirical insight into marriage dispensation policy in Indonesia.

METHOD

This study employs a socio-legal qualitative approach to examine how norm ambiguity (*vage normen*) contributes to disparities in judicial decisions in pregnancy-related marriage dispensation cases at the Pangkalan Bun Religious Court. This approach integrates normative analysis of legal regulations with empirical analysis of judicial practice as an interaction between *law in books* and *law in action* (Banakar and Travers 2020; McConville and Chui 2020). Existing studies tend to treat disparities as a

result of regulatory weakness or differences in judicial reasoning, but they rarely analyze how the ambiguity of the norm itself is reproduced through judicial practice. This research addresses that specific gap by examining how judges construct the meaning of “urgent reasons” through everyday adjudication.

The unit of analysis covers the entire population of marriage dispensation decisions due to pregnancy decided between 2020 and 2025, totaling 43 decisions that are fully accessible through the court database. Rather than sampling from a larger pool, this study uses a total case dataset within the specified temporal and substantive criteria. This strengthens the internal representativeness of the data because all relevant cases within the defined category and period are included. Case selection was guided by purposive criteria to ensure comparability of judicial reasoning: (1) the petition was filed due to pregnancy outside marriage, (2) the decision contains substantive legal considerations regarding “urgent reasons,” and (3) the decision has permanent legal force. These criteria ensure that variations analyzed reflect differences in interpretation rather than differences in case facts.

Primary data were obtained through semi-structured interviews with three judges who directly handled marriage dispensation cases during the research period. These informants were selected purposively because they represent all active judges adjudicating such cases at the court during the period studied, thereby substantively covering the full spectrum of interpretation practices within the institution. The number of informants is methodologically justified through data saturation: by the third interview, no new argumentative patterns emerged. To strengthen validity, the study applied member checking, in which interview summaries and interpretive conclusions were reconfirmed with the informants, and peer debriefing with fellow socio-legal researchers to review coding, categorization, and interpretation processes.

In addition to document analysis and interviews, the study conducted six non-participatory observations of marriage dispensation hearings involving pregnancy cases. These observations covered hearings with varying applicant ages and family backgrounds to understand courtroom interaction patterns, judicial questioning styles, and how social context entered legal reasoning. Observation was intended to enrich contextual understanding of how considerations expressed in written decisions were shaped during trial interaction, without intervening in proceedings.

Data were triangulated across verdict documents, interviews, and observations to enhance credibility (Creswell and Poth 2018; Bryman 2022). The researcher positioned himself as an external observer not involved in judicial processes, minimizing institutional bias while allowing critical socio-legal interpretation.

Data analysis employed interpretive qualitative content analysis. Open coding identified recurring elements in judicial considerations such as social pressure, family honour, the child’s age, psychological readiness, educational continuity, and religious considerations. Axial coding then grouped these into broader conceptual categories: social–moral recovery orientation, protection of the best interests of the child, and religious–communal stability. These categories were further developed into analytical themes representing distinct patterns of legal rationality in interpreting “urgent reasons.” The process followed the interactive model of data reduction, data display, and conclusion drawing and verification (Miles et al., 2020).

The interpretive framework draws on Structuration Theory by Anthony Giddens (Giddens 1984; Stones 2020), to explain how legal structures and judicial agency interact. In this framework, structure refers to legal norms governing marriage dispensation, agency refers to judges as reflective interpreters of these norms, and outcome refers to judicial decisions granting or rejecting petitions. This approach enables the analysis to move beyond identifying variation toward explaining how normative ambiguity is continuously reproduced through judicial practice (Tamanaha 2021a).

RESULT AND DISCUSSION

Empirical Configuration of Disparities in Marriage Dispensation Decisions Due to Pregnancy

An examination of marriage dispensation decisions due to pregnancy outside marriage at the Pangkalan Bun Religious Court (2020-2025) shows a stable pattern of disparity despite fluctuations in caseload. The decline in 2020 relates to restricted court services during COVID-19, followed by normalization in 2021-2022 (UNICEF 2021; Badan Pusat Statistik (BPS), 2022). This temporal variation matters analytically because it indicates that disparity is not an artifact of volume but a feature of how cases are reasoned.

Table 1. Summary of Marriage Dispensation Decisions Due to Pregnancy (2020-2025)

Year	Number of Cases	Granted	Rejected	Percentage Granted
2020	4	3	1	75,0%
2021	7	5	2	71,4%
2022	10	8	2	80,0%
2023	9	6	3	66,7%
2024	8	6	2	75,0%
2025*	5	4	1	80,0%
Total	43	32	11	74,4%

(*2025 until mid-year)

The 74.4% approval rate suggests that pregnancy frequently operates as a decisive indicator in constructing “urgent reasons.” Yet reading this only as judicial preference would be misleading. In 19 of the 32 granted cases, judges explicitly emphasized family honor and stigma prevention, showing that legal reasoning is intertwined with maintaining local social equilibrium (Cammack, 2021; Nurlaelawati, 2022). Conversely, the 11 rejections relied on age (14-15), psychological unreadiness, educational disruption, and long-term vulnerability, concerns consistent with research on the harms of child marriage (Bhan 2020; Petroni 2021; Raj & Boehmer 2021).

Interview evidence clarifies how these orientations are activated. Judge A noted: *“Families come with very strong moral pressure. We must consider the real social impact.”* Judge B stressed: *“Pregnancy cannot be automatic. The best interests of the child must be seen in the long term.”* Judge C added: *“Religious and cultural values see marriage as the legitimate solution.”* These statements show that judges mediate between child-rights protection and communal moral expectations rather than simply applying rules.

Analytically, this reveals that disparity stems from competing normative priorities triggered by similar facts. This aligns with socio-legal findings that where norms are open, judges draw on social values as interpretive resources (Banakar 2020; Butt 2020; Cislighi & Heise, 2020). It also explains why raising the legal marriage age does not automatically reduce dispensations when honour-based norms remain powerful (Taylor, 2021; Yount, 2022).

From the perspective of Anthony Giddens (Giddens, 1984; Stones, 2020), “urgent reasons” functions as a rule reproduced through practice. When judges grant dispensations to preserve honor, they reproduce a morality-based order (Cotterrell, 2021). When they refuse for child protection, they reinforce a rights-based order (Freeman, 2021; Tobin, 2022). Normative ambiguity therefore operates as an adaptive mechanism that keeps law socially legitimate (Tamanaha, 2021), while simultaneously risking unequal outcomes if left without guidance (Waldron, 2020).

The significance of these findings lies in showing that disparity is patterned and socially produced, not accidental. Legal reform at the statutory level is insufficient when operational parameters are absent and social expectations remain dominant (UNICEF, 2023; Plan International, 2022). Marriage dispensation becomes a pragmatic instrument for resolving what is perceived as a socially irreversible situation, but this short-term solution risks neglecting long-term child welfare and educational continuity. This is the underlying policy tension revealed by the data.

The Construction of “Urgent Reasons” from a Judge's Perspective: The Dialectic of Discretion, Social Morality, and Child Protection

To understand how “urgent reasons” is constructed in practice, this study conducted in-depth interviews with three judges at the Pangkalan Bun Religious Court who had handled marriage dispensation cases due to pregnancy. All informants acknowledged that regulations provide no measurable operational parameters, no tolerable minimum age, no psychological readiness standard, and no social-risk indicators, making discretion inherent in adjudication. In the sense described by Anthony Giddens (Giddens, 1984; Stones, 2020), rules exist, but their concrete meaning emerges only through practice. Judges therefore do not simply apply norms; they construct their meaning in context. Judge A stated: *“The law does not specify what constitutes urgent reasons. So we have to look at the context. If a woman is pregnant and her family is putting social pressure on her, that is usually considered urgent enough.”* (Interview, 2026)

This statement shows that social pressure and stigma are treated as relevant variables in defining urgency. In the local setting, pregnancy outside marriage is understood as a collective moral issue tied to family reputation. Petitions for dispensation thus carry communal weight rather than standing as purely individual claims. Empirical studies support this pattern: collective honor norms shape institutional responses to teenage pregnancy (John, 2020), (Cislaghi & Heise, 2020). Judges, accordingly, read cases not only through statutes but through the surrounding moral landscape.

Follow-up interviews revealed that parents frequently express fears of ridicule, exclusion, and inter-family conflict during hearings. Under such pressure, “urgent reasons” is interpreted as the need to restore social balance and prevent wider disruption. Urgency here is social-communal, not merely legal. Yet this orientation is not uniform. Judge B offered a more restrictive view: *“We cannot automatically grant it just because she is pregnant. We must consider her age, mental readiness, and whether the marriage is truly in the best interests of the child or just to cover up the shame.”* (Interview, 2026).

This position centers the best-interests principle. Pregnancy is insufficient without considering biological age, psychological readiness, educational continuity, and economic capacity. This approach aligns with findings that early marriage correlates with lower educational attainment and poverty risks (Wodon, 2020; Delprato, 2021; Raj & Boehmer, 2021). In practice, judges may request clarification about family support and future plans, showing that discretion can function protectively rather than permissively.

In practice, judges even request additional clarification regarding family support and the couple's future plans as a form of testing whether the petition is truly based on the best interests of the child. Discretion in this context is not permissive, but rather protective of long-term risks. Meanwhile, Judge C emphasizes the religious dimension and social stability: *“In the context of this society,*

marriage is considered the quickest solution and is in line with religious values. If it is not granted, new social problems may arise.” (Interview, 2026)

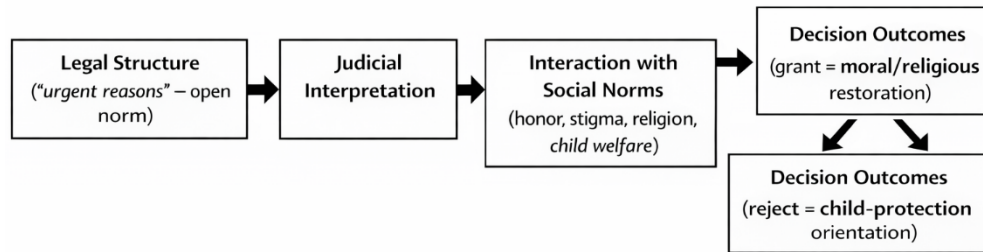
Judge C emphasized a different dimension: *“In the context of this society, marriage is considered the quickest solution and is in line with religious values. If it is not granted, new social problems may arise.”* (Interview, 2026). Here, marriage is seen as socially legitimate and religiously appropriate. Studies of Indonesian religious courts show that judges often harmonize state law with religious norms (Lindsey, 2020; Feener, 2021; Bowen, 2020). Concerns about secret marriages if petitions are rejected further indicate that anticipated social consequences shape adjudication (Grijns & Horii, 2021).

Interviews also revealed pragmatic factors: when families have completed marriage preparations before trial, rejection risks triggering new conflicts. Socio-legal scholarship notes that where norms are open, judges draw on social values as interpretive resources (McConnachie and Piccolino 2021; Suchman 2021). At the same time, Waldron (2020) warns that wide discretion without operational guidance threatens legal certainty and equality.

Bringing interview evidence together with decision analysis reveals three relatively consistent patterns of reasoning: (1) urgency as social-moral restoration to protect family honor and prevent stigma; (2) urgency as child-protection, prioritizing long-term welfare; and (3) urgency as religious-social stabilization, viewing marriage as the normative solution. Disparity arises because different normative priorities are activated when judges face the same open rule.

While this can be explained through structuration (Giddens 1984; Stones 2020), (Benda-Beckmann & Benda-Beckmann, 2021) shows how state law coexists with moral and religious orders. Legal consciousness (Ewick & Silbey, 2020) highlights how shared understandings of shame and legitimacy shape institutional reasoning. Vernacularization (Merry, 2020) explains how abstract norms are translated into locally meaningful solutions. These perspectives reveal that disparity is not only a structural effect but also a product of how communities define what counts as a legitimate resolution.

The significance of these findings lies in showing that judges are not inconsistent; they are navigating unresolved tensions between legal certainty, child protection, religious legitimacy, and communal expectations. Marriage dispensation becomes a pragmatic response to situations perceived as socially irreversible, yet this pragmatism risks sidelining long-term child welfare and educational continuity. The underlying problem, therefore, is not discretion itself but the absence of operational parameters to guide it. This dynamic can be visualized as follows:



Similar cases lead to different outcomes because judges activate different normative references when interpreting the same ambiguous rule. The challenge for policy is to provide guidance that preserves sensitivity to social context while ensuring consistent protection of children’s rights.

Structuration Analysis: The Dialectic of Legal Structure and Judicial Agency

To explain the disparity in marriage dispensation rulings due to pregnancy at the Pangkalan Bun Religious Court, Anthony Giddens’ Structuration Theory (Giddens 1984) is useful for understanding how legal norms gain meaning through practice. Structure, in this view, consists of rules and resources that both constrain and enable action, and are continually reproduced through institutional routines. Law, therefore, is not only a normative text but a social practice shaped by judicial interpretation.

In Indonesian marriage dispensation law, “urgent reasons” is formulated without operational limits. This openness creates interpretive space in which judges translate abstract norms into concrete decisions. At the local level, this translation occurs through interaction with family honor norms, community religiosity, and perceptions of shame. Judicial decisions thus resolve cases while simultaneously shaping how the norm is understood in future practice.

Socio-legal scholarship helps deepen this explanation. Legal consciousness (Ewick & Silbey 2020), shows how shared social understandings influence institutional reasoning. Vernacularization (Merry 2020) explains how formal norms are adapted into culturally meaningful solutions. Legal pluralism in Indonesia Benda-Beckmann and Benda-Beckmann (2021) demonstrates that state law coexists with moral and religious orders. These perspectives indicate that ambiguity is not merely a drafting weakness but an adaptive feature allowing law to function in a diverse society.

Empirically, when judges grant dispensations to preserve family honor or prevent stigma, they reinforce a morality-based source of legal legitimacy (Cotterrell 2021). When they refuse based on psychological readiness, education, and long-term welfare, they reinforce a child-rights orientation (Freeman 2021; Tobin 2022). Both outcomes arise from the same rule but activate different normative

references. This explains why similar facts can produce different decisions without implying arbitrariness.

At the same time, this condition exposes a normative risk. Tamanaha (2021a) notes that legal indeterminacy enables contextual adaptation, yet Waldron (2020) warns that wide discretion without guidance threatens equality before the law. The findings here show both sides: flexibility allows sensitivity to social reality, but the absence of operational parameters leaves room for unequal outcomes.

The broader implications are visible when linked to research on the consequences of child marriage. Evidence connects early marriage to reproductive health risks, school dropout, and long-term poverty (Malhotra and Elnakib 2021; Yaya, Oduşina, and Bishwajit (2020). Reports by UNFPA (2022) and Nguyen & Wodon (2021) emphasize intergenerational effects. When judges adopt a protective approach, they are not only deciding a case but reinforcing a developmental and rights-based legal orientation.

However, local social structures remain influential. Studies of Indonesian religious courts (Butt & Lindsey 2021; Bedner 2020) show that judicial legitimacy depends on balancing formal norms with community sensitivities. Findings from Pangkalan Bun indicate that socio-moral reasoning still dominates many decisions, although psychological and educational considerations are increasingly present. This suggests gradual normative transformation occurring through practice rather than legislation.

This study therefore extends the use of structuration in legal analysis. Normative ambiguity does not simply create discretion; it functions as a mechanism that allows social, religious, and rights-based rationalities to coexist within one legal framework. Judges manage this uncertainty to maintain legitimacy in socially sensitive cases. Legal change, as Deflem (2020) argues, can emerge from interpretive practice within institutions, not only from statutory reform.

The practical implication is clear: reforming marriage dispensation requires operational guidance alongside normative rules. Parameters such as an absolute minimum age threshold, psychological assessment, recommendations from child protection agencies, and safeguards for educational continuity can support consistency without ignoring social context. Future research may compare similar dynamics in other local courts and Indigenous settings (Anwar et al., 2025).

The pattern observed in Pangkalan Bun shows that disparity reflects how an open rule is worked out in practice amid competing expectations. Ambiguity, in this sense, sustains the law's social

relevance while also revealing the need for clearer guidance to ensure consistent protection of children's rights.

CONCLUSION

At the Pangkalan Bun Religious Court, disparity in pregnancy-related marriage dispensation decisions is not the result of random judicial inconsistency but stems from the operational openness of the norm "urgent reasons," which allows judges to prioritize different considerations in similar cases. Most approvals rely on social pressure, family honor, and socio-religious stability, while rejections emphasize psychological readiness, educational continuity, and long-term child welfare. In practice, "urgent reasons" becomes an interpretive construct shaped by the interaction between formal legal norms and local social expectations.

Drawing on Anthony Giddens' Structuration Theory, this study shows that normative ambiguity does not merely generate discretion but operates as a mechanism through which moral, religious, and rights-based rationalities are reproduced in judicial practice. This extends structuration analysis in legal studies by demonstrating that legal structures are sustained not only through compliance with rules but through judges' management of normative uncertainty within plural social contexts.

These findings imply that legislative reform alone is insufficient. Clear operational guidance is needed to balance legal certainty, child protection, and socio-cultural sensitivity, including minimum age thresholds, standardized psychological and social assessments, recommendations from child protection agencies, and safeguards for educational continuity. Normative ambiguity should not merely be reduced, but strategically managed through guidelines that direct judicial discretion toward consistent child-rights protection while remaining responsive to local realities.

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