



Compensatory Annulment Justice in Indonesian Marriage Law: Coercion, Cohabitation, and Substantive Protection



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Abstract

Existing scholarship on marriage annulment in Indonesian family law primarily addresses formal defects of validity and coercion, but offers limited analysis of compensatory remedies when annulment produces social and economic harm. This article addresses that gap by examining Decision No. 42/Pdt.G/2023/PA.Llk and introducing the concept of compensatory annulment justice, defined as a judicial approach that annuls a coerced marriage while preserving limited remedies for relational harm. Using a normative juridical, case-based analysis, the study treats the decision as primary legal material to assess judicial reasoning on consent, coercion, cohabitation, and compensation. The findings show that the court moved beyond formal validity by (i) construing coercion through witness-based proof of psychological threat, (ii) positioning premarital cohabitation and local custom as relevant social facts without allowing them to override free consent, and (iii) awarding Rp2,000,000 via reconventional claim grounded in unlawful act doctrine and proportionality. These results demonstrate that annulment need not erase all consequences of the relationship. The study contributes a coherent framework for integrating consent protection with post-annulment responsibility, offering doctrinal guidance for courts to balance autonomy, legal pluralism, and substantive justice in family disputes.

Keywords: Compensatory Annulment Justice; Coercion in Marriage; Marriage Annulment; Premarital Cohabitation; Substantive Justice

I. Introduction

In Indonesia, the principle of free consent is incorporated into the national marriage law framework through Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law. These instruments affirm that mutual consent is an essential condition for a valid marriage and that forced marriage contradicts the legal foundation of marital validity.¹ This legal orientation is consistent with comparative developments in Muslim family law, where several Muslim-majority jurisdictions have attempted to codify Islamic family law while strengthening the protection of women, children, and individual autonomy.² However, the implementation of free consent becomes difficult when marriage is performed in a social context shaped by family

¹ Ahmad R Halim, M F A Amruzi, and Jalaluddin Jalaluddin, "Legal Formulation for Forced Marriage Prevention Through the Decision of Wali Mujbir in Religious Courts and Its Relevance With Maqāṣid Syari'ah and Human Rights," *Mazahib* 23, no. 1 (2024): 79–116, <https://doi.org/10.21093/mj.v23i1.6189>.

² Yousef A Wahb, "Competing Authorities," *American Journal of Islam and Society* 39, no. 3–4 (2023): 87–111, <https://doi.org/10.35632/ajis.v39i3-4.2993>.

pressure, psychological threat,³ customary expectations, or premarital cohabitation. Article 27 of the Marriage Law and Article 71 letter f of the Compilation of Islamic Law provide a legal basis for annulment when marriage is concluded under coercion or unlawful threat. In Islamic doctrine, coercion or ikrah refers to compulsion that removes genuine choice and renders consent legally defective.⁴

The main research problem arises from the difficulty of determining when consent is truly free and when it is merely formal. In many marriage annulment cases, the marriage may appear valid because it has been solemnised and registered, but the factual circumstances surrounding the marriage may reveal pressure that undermines voluntariness. Coercion is not always expressed through physical violence; it may also appear through psychological, social, cultural, or religious pressure. Islamic legal theory recognises this complexity by distinguishing between complete coercion and partial coercion, showing that consent may be impaired in different degrees.⁵ Therefore, judges must not only verify the formal validity of marriage but also examine whether the parties' willingness was substantively present.⁶ This study addresses that problem by analysing how judicial reasoning transforms disputed facts into legal findings on coercion, consent, and annulment.

A general solution to this problem is to treat marriage annulment as a legal mechanism that protects the integrity of consent while still considering the social realities surrounding the marriage. Indonesian family law cannot resolve coercion cases through formalism alone because marriage disputes often arise within a plural normative setting. Local customs may pressure couples to marry after cohabitation or perceived moral transgression, while Islamic norms prohibit sexual relations outside marriage and state law requires lawful consent and registration. Studies on Indonesian communities show that customary expectations may be used to restore social morality, but they may also produce forced marriage when community pressure overrides individual autonomy.⁷ Thus, the legal solution must distinguish between custom as social context and custom as coercive justification. Custom may explain why marriage occurred, but it cannot replace the legal requirement of free consent.

Previous literature provides several specific solutions for analysing such cases. First, legal pluralism offers a framework for understanding how state law, Islamic law, and local custom interact in family adjudication. Indonesian family law operates within a plural legal environment in which statutory provisions, Islamic principles, and customary norms coexist and sometimes compete.⁸ Religious court judges frequently navigate this plurality by integrating legal texts with social facts and community norms, allowing judicial decisions to remain legally grounded while responsive to social realities.⁹ However, legal pluralism must be normatively controlled. It should not be used to legitimise coercion or to subordinate individual autonomy to communal expectations. In annulment cases, this means that custom may be considered as part of the factual background, but the decisive test remains whether the marriage was entered into freely.

³ Abdul Hakim, "Annulment of Marriage and Khuluk in Family Law in Muslim Countries: A Comparative Study of Family Law in Syria, Sudan, Turkey and Indonesia," *Al Hurriyah Jurnal Hukum Islam* 7, no. 2 (2022): 192, <https://doi.org/10.30983/alhurriyah.v7i2.5561>.

⁴ Toha Andiko, Zurifah Nurdin, and Ahmed Malik, "Reactualization of Wali Mujbir in the Modern Era: Maqasid Sharia Analysis of Imam Shafi'i's Concept Regarding Wali's Ijbar Right," *Al-Risalah* 23, no. 2 (2023): 274-291, <https://doi.org/10.30631/alrisalah.v23i2.1403>.

⁵ Neng W Millyuner, Adi N Rohman, and Elfirda A Putri, "Interpretation of the Phrase 'Coercion' in the Compilation of Islamic Law as Reasons for Cancellation of Marriage," *Krtha Bhayangkara* 15, no. 2 (2021): 271-288, <https://doi.org/10.31599/krtha.v15i2.844>.

⁶ Nofan N Azmi et al., "Application of Progressive Law to Marriage Annulment Cases: Prospects and Development in Indonesia's Religious Court," *Al-Qadha Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 1 (2024): 127-143, <https://doi.org/10.32505/qadha.v11i1.9230>.

⁷ Arzam Arzam et al., "Tradition of the Forced Marriage of Couples Who Return Late at Night Perspective of Islamic Law: Case Study of the Tradition of the Lekuk Lima Puluh Tumbi Lempur Society, Jambi," *Ibda Jurnal Kajian Islam Dan Budaya* 21, no. 1 (2023): 73-88, <https://doi.org/10.24090/ibda.v21i1.6727>.

⁸ Misnar Syam and Devianty Fitri, "Concept of Islamic Law Enforcement in the History and Practice of Islamic Justice," *Journal of Law Politic and Humanities* 4, no. 3 (2024): 315-325, <https://doi.org/10.38035/jlph.v4i3.366>.

⁹ Dodon Alfiander, "Disparity in the Considerations of Judges in Deciding Divorce Disputes in Religious Courts and District Courts," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (2022): 109-119.

Second, the literature on the consequences of annulment suggests that annulment should not be understood solely as retroactive invalidation. Although annulment cancels the validity of marriage, it may also produce serious social, moral, and economic consequences for one or both parties. Existing scholarship identifies tension between the doctrine that an annulled marriage is treated as legally defective and the need to protect parties who suffer disadvantage from the relationship.¹⁰ Compensation becomes relevant here, especially where one party experiences abandonment, lack of maintenance, stigma, or harm resulting from relational expectations. Studies on annulment and family law remedies indicate that Indonesian law has not yet systematically theorised compensation in annulment cases, despite the possibility that annulment may leave a disadvantaged party without adequate protection.¹¹ This shows the need for a legal approach that can preserve consent-based annulment while recognising responsibility for relational harm.

Closely related scholarship has examined free consent, coercion, legal pluralism, and the consequences of defective marriage, but these discussions remain fragmented. Studies on consent emphasise that forced marriage violates Islamic ethics and modern legal standards.¹² Studies on coercion explain how threats, psychological pressure, and social pressure may invalidate consent.¹³ Research on legal pluralism shows that religious courts often integrate statutory, Islamic, and customary norms.¹⁴ Meanwhile, studies on annulment consequences highlight the need to protect disadvantaged parties after invalidation.¹⁵ Nevertheless, the literature has not sufficiently connected these strands in cases where coercion, premarital cohabitation, local custom, reconventional compensation, and substantive justice appear together. This gap becomes visible in Decision No. 42/Pdt.G/2023/PA.Llk, where the court annulled a marriage because of coercion but also awarded compensation to the respondent for harm arising from cohabitation, abandonment, and lack of maintenance. What is novel in this article is not merely the identification of this dual outcome, but its systematic reconstruction as a coherent doctrinal pattern.

This study departs from existing literature by integrating three previously disconnected analytical strands—coercion as a defect of consent, cohabitation and custom as socio-legal context, and compensation as post-annulment remedy—into a unified conceptual framework. Through this integration, the article formulates the concept of compensatory annulment justice, which captures how judicial reasoning can simultaneously invalidate a coerced marriage while preserving limited responsibility for relational harm. This conceptualisation clarifies that compensation in annulment cases is not an anomaly or judicial inconsistency, but a structured response grounded in legal pluralism, unlawful act doctrine, and substantive justice considerations. By doing so, the article advances a new analytical lens for understanding annulment decisions as multidimensional legal constructions rather than purely formal determinations of validity.

Accordingly, this article aims to analyse Decision No. 42/Pdt.G/2023/PA.Llk by examining how the court constructed coercion as a ground for marriage annulment, how it positioned premarital cohabitation and local custom in determining legal consequences, and how

¹⁰ Ghansham Anand, "Forced Marriage as an Unlawful Act in Indonesia: A Comparative Analysis," *Lambung Mangkurat Law Journal* 7, no. 2 (2022): 159–174, <https://doi.org/10.32801/abc.v7i2.142>.

¹¹ Nina Diningrat, Yaswirman Yaswirman, and Yoserwan Yoserwan, "Authority of State Lawyers in Application for Cancellation of a Marriage, Reviewed From Law Number 16 of 2004 Concerning the Attorney General's Office," *International Journal of Multicultural and Multireligious Understanding* 7, no. 6 (2020): 613, <https://doi.org/10.18415/ijmmu.v7i6.1959>.

¹² Nazir Ullah, Saidatul Nadia Binti Abd Aziz, and Rao Qasim Idrees, "Child Marriages: International Laws and Islamic Laws Perspective," *Journal of Educational and Social Research* 11, no. 3 (2021): 60–70.

¹³ Hakim, "Annulment of Marriage and Khuluk in Family Law in Muslim Countries: A Comparative Study of Family Law in Syria, Sudan, Turkey and Indonesia."

¹⁴ Arskal Salim, "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation," *Samarah Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (2021): 529, <https://doi.org/10.22373/sjhk.v5i2.11082>.

¹⁵ Maryana Lestari and Septhian E Adiyatma, "Marriage Cancelled, What About the Rights for Children?," *The Indonesian Journal of International Clinical Legal Education* 2, no. 2 (2020): 167–180, <https://doi.org/10.15294/ijicle.v2i2.38172>.

reconventional compensation reflected substantive justice. The novelty of this article lies in its formulation of compensatory annulment justice, a concept that explains how annulment may protect free consent without erasing responsibility for relational harm. The study argues that annulment should not be reduced to a formal determination of validity, but should be understood as a multidimensional legal mechanism that balances autonomy, social context, and responsibility.

II. Research Problems

Based on the foregoing background, this article is guided by the following research problems:

1. How did the court construct coercion as a legal ground for marriage annulment in Decision No. 42/Pdt.G/2023/PA.Llk?
2. How did the court position premarital cohabitation and local customary expectations in determining the legal consequences of the annulled marriage?
3. To what extent does the reconventional compensation ordered by the court reflect a model of substantive justice for the disadvantaged party in a marriage annulment case?

III. Research Methods

This study employs a normative juridical method with a case-based approach to analyse Decision No. 42/Pdt.G/2023/PA.Llk as the primary legal material. This method treats law as a system of norms, doctrines, and judicial reasoning, enabling an in-depth examination of how courts interpret and apply legal rules in concrete disputes.¹⁶ Court decisions are positioned as essential primary legal materials that reveal not only the application of law but also evidentiary assessment and normative construction.¹⁷ The analysis integrates the statute, case, and conceptual approaches. The statute approach examines relevant provisions such as Article 27 paragraph (1) of the Marriage Law, Article 71 letter f of the Compilation of Islamic Law, evidentiary rules, and Article 1365 of the Civil Code.¹⁸ The case approach focuses on ratio decidendi and judicial reasoning, while the conceptual approach clarifies key concepts such as consent, coercion, legal pluralism, unlawful act, and substantive justice.

The object of the research is the court decision as a legal text containing factual reconstruction, evidentiary evaluation, and normative construction. Legal materials consist of primary, secondary, and tertiary sources, with court decisions functioning to fill legal gaps and reveal the interaction between statutory law, Islamic law, and custom.¹⁹ Data were collected through document study and analysed qualitatively using legal interpretation, doctrinal analysis, and conceptual evaluation. Interpretative techniques include grammatical, systematic, and hermeneutic interpretation to clarify legal meaning, particularly concepts such as coercion and unlawful threat, supported by content analysis to identify patterns in judicial reasoning. The analysis reconstructs the case, examines judicial reasoning, and evaluates the balance between consent, social context, and compensatory responsibility. This methodological design is appropriate as it allows a comprehensive yet focused examination of judicial logic and demonstrates how annulment operates not only as a formal legal mechanism but also as a framework for achieving substantive justice in family law disputes.

¹⁶ Ahmad Rajafi, Arif Sugitanata, and Vinna Lusiana, "The 'Double-Faced' Legal Expression: Dynamics and Legal Loopholes in Interfaith Marriages in Indonesia," *Journal of Islamic Law* 5, no. 1 (February 2024): 19–43.

¹⁷ Roni E Susanto, I Wayan Putu Sucana Aryana, and Cokorde Istri Dian Laksmi Dewi, "Juridical Analysis of Divorce Annulment Norms Reviewed From Law Number 23 of 2006 Concerning Population Administration (Comparative Study With Australia)," *Jurnal Indonesia Sosial Sains* 5, no. 07 (2024): 1795–1805, <https://doi.org/10.59141/jiss.v5i07.1188>.

¹⁸ Anand, "Forced Marriage as an Unlawful Act in Indonesia: A Comparative Analysis."; Syahrul Mubarak Subeitan, "Forced Marriage: Implementation of the Mandatory Provisions of the Bride's Consent in Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (2022): 77–87.

¹⁹ Azmi et al., "Application of Progressive Law to Marriage Annulment Cases: Prospects and Development in Indonesia's Religious Court."

IV. Result and Discussion

1. Judicial Construction of Coercion as a Ground for Marriage Annulment

The first major finding of this study is that Decision No. 42/Pdt.G/2023/PA.Llk constructs coercion not merely as a factual allegation, but as a legally operative condition that affects the validity of marital consent. The court did not treat the applicant's claim of being forced to marry as a simple narrative of domestic conflict. Instead, it transformed the factual allegation into a legal issue by asking whether the applicant's will had been impaired by threat or pressure at the time the marriage was concluded. This construction is significant because Indonesian marriage law recognises marriage as a legal bond that requires not only formal compliance but also free consent. Article 27 paragraph (1) of the Marriage Law provides that a husband or wife may apply for annulment when the marriage was performed under an unlawful threat, while Article 71 letter f of the Compilation of Islamic Law recognises marriage performed under coercion as a ground for annulment.²⁰ Within this framework, the court positioned coercion as a defect of consent, not merely as a post-marital disagreement.

The court's reasoning reveals an important doctrinal movement from formal validity to substantive voluntariness. The marriage in the case had been registered and evidenced by a marriage certificate, which ordinarily functions as strong proof of a valid marriage. However, the existence of formal registration did not prevent the court from examining whether the marriage was performed with free and genuine consent. This distinction is essential in marriage annulment cases because a marriage may appear formally valid while still being normatively defective if the consent underlying it was produced by coercion. The literature confirms that free consent is a fundamental element of marriage in Islamic family law and Indonesian marriage law, and that consent obtained through pressure, coercion, undue influence, or unlawful threat cannot be equated with autonomous willingness.²¹ In this respect, the decision reflects a judicial effort to prevent formal legality from concealing a substantive defect in marital will.

The construction of coercion in this decision also demonstrates how the court linked national legal norms with Islamic legal doctrine. The court relied on Article 27 paragraph (1) of the Marriage Law and Article 71 letter f of the Compilation of Islamic Law, but it also strengthened its reasoning by referring to Islamic jurisprudential thought that consent is a condition of marriage validity. This approach corresponds with the broader Islamic legal conception that marriage is not valid when consent is absent or impaired. Islamic legal scholarship conceptualises coercion, or *ikrah*, as a condition in which a person is compelled to act under threat and is unable to exercise genuine choice.²² The literature further distinguishes between complete coercion, which eliminates free will, and incomplete coercion, which significantly reduces autonomy but may still allow later confirmation after the pressure disappears. By adopting the principle that consent is essential to marriage, the court placed the case within an Islamic legal logic that treats forced marriage as incompatible with the moral and contractual nature of marriage.

The most distinctive feature of the decision lies in how the court identified coercion from the factual matrix of the case. The applicant alleged that the respondent and her family forced him to marry, including by threats. The respondent denied the allegation and asserted that the relationship had been based on mutual willingness, supported by the fact that the parties had previously lived together. The court therefore had to resolve a factual conflict: whether the marriage resulted from voluntary relational intimacy or from coercive pressure that invalidated consent. In resolving this issue, the court paid close attention to witness testimony. The applicant's witnesses stated that the respondent had threatened to jump into the river if the

²⁰ Muslim Zainuddin, "The Cancellation of the Weddings for Pre-Marriage Pregnancy Women: An Evaluation of Decision 24/Pdt.G/2020/Ms. Ban," *El-Ushrah Jurnal Hukum Keluarga* 6, no. 1 (2023): 44, <https://doi.org/10.22373/ujhk.v6i1.19859>.

²¹ Salma Salma et al., "The Authority of Ex Officio Judges in Protecting Women's and Children's Rights Post-Divorce at the Manado Religious Court," *Jurnal Ilmiah Al-Syir'ah* 23, no. 1 (2025): 102-116.

²² Yasin Yetta, Ahmad Rajafi, and Syahrul Mubarak Subeitan, "Understanding the Implications of Marriage Law Amendments: Marriage Dispensation Cases in Indonesian Religious Courts," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (May 30, 2024): 121, <http://journal.iaincurup.ac.id/index.php/alistinbath/article/view/8979>.

applicant refused to marry her. The court accepted these testimonies as mutually consistent, relevant, and based on what the witnesses saw or heard directly. This evidentiary assessment was crucial because coercion, especially psychological or emotional coercion, is often difficult to prove through documentary evidence alone.²³

The court's reliance on witness testimony reflects the evidentiary nature of coercion in family law disputes. Unlike formal legal defects, coercion frequently occurs in private, relational, or socially pressured settings. It may not leave written evidence. For that reason, courts must evaluate witness credibility, consistency, direct knowledge, and the connection between testimony and the legal elements that must be proven. The literature on proof in marriage annulment cases confirms that applicants must prove actual facts through available evidence, including written documents and witness testimony.²⁴ In cases involving coercion, judges need strong evidence that the marriage was not entered into freely or that one party acted under threat.²⁵ Decision No. 42/Pdt.G/2023/PA.Llk demonstrates this evidentiary structure: documentary evidence established the existence of the marriage, while witness testimony became the main basis for proving the coercive circumstances surrounding the marriage.

A particularly important analytical point is that the court treated the respondent's threat of self-harm as a form of coercive pressure capable of affecting the applicant's freedom of will. This is doctrinally significant because coercion is often imagined in the form of direct physical violence or threats against the person being coerced. In this case, however, the threat was not simply a threat to harm the applicant, but a threat by the respondent to harm herself if the applicant refused to marry her. The court nevertheless considered this threat legally relevant because it placed psychological pressure on the applicant and impaired his freedom to refuse. This reasoning expands the understanding of coercion beyond physical compulsion and aligns with literature showing that coercion in marriage may appear as psychological, social, cultural, or religious pressure. It also corresponds with the civil law understanding that coercion may involve psychological threats that create fear and compel a person to enter into a legal act.²⁶

The court's approach also contributes to the doctrinal distinction between "coercion" and "unlawful threat." The literature notes that Indonesian courts have sometimes distinguished the concept of paksaan under Article 71 letter f of the Compilation of Islamic Law from unlawful threats under Article 27 of the Marriage Law, even though both may function as grounds for annulment. Decision No. 42/Pdt.G/2023/PA.Llk does not rigidly separate the two concepts. Instead, it reads them in an integrated manner: coercion becomes legally relevant when it manifests through a threat that eliminates or substantially impairs free consent. This integrated interpretation is useful for family law adjudication because coercion in intimate relationships rarely appears in a single doctrinal form. It may combine emotional pressure, social embarrassment, customary expectation, family intervention, and fear of moral blame. By reading coercion and unlawful threat together, the court avoided a narrow formalism that would have required only direct physical threat as the basis for annulment.

Nevertheless, the decision also raises an important question concerning the threshold of coercion. If every emotional threat were automatically treated as coercion, the concept of marital consent could become too unstable. Marriage decisions often occur within emotional, familial, and social contexts. The challenge for courts is therefore to distinguish ordinary emotional conflict from coercive pressure that legally vitiates consent. In this case, the court appears to have found the threshold satisfied because the threat occurred before the marriage, was directly

²³ Dwi Fidhayanti, "In Contract Law: Unpacking Undue Influence Through a Judge's Lens," *Journal of Judicial Review* 25, no. 2 (2023): 193-208, <https://doi.org/10.37253/jjr.v25i2.7725>.

²⁴ Zainuddin, "The Cancellation of the Weddings for Pre-Marriage Pregnancy Women: An Evaluation of Decision 24/Pdt.G/2020/Ms. Ban."

²⁵ Azmi et al., "Application of Progressive Law to Marriage Annulment Cases: Prospects and Development in Indonesia's Religious Court."

²⁶ Salma Mursyid, Naskur Bilalu, and Syahrul Mubarak Subeitan, "Navigating Custody: The Impact of Religious Court Judges on Interfaith Family Dynamics," *Al-Mujtahid: Journal of Islamic Family Law* 4, no. 1 (June 29, 2024): 34-45, <https://journal.iain-manado.ac.id/index.php/almujtahid/article/view/3039>; Naskur Bilalu et al., "Compilation of Islamic Law as Judge's Consideration at Religious Court in North Sulawesi, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, no. 2 (2022): 514-536.

connected to the applicant's decision to marry, was confirmed by two witnesses, and was reinforced by the broader context of local customary pressure arising from premarital cohabitation. This shows that the court did not rely on the threat in isolation. Instead, it interpreted the threat within a broader evidentiary and social context. This approach is consistent with the view that judges must assess coercion through a multidimensional inquiry involving legal norms, testimony, psychological pressure, and social-cultural circumstances.²⁷

The court's evaluation of conflicting witness testimony also reveals a structured evidentiary logic. The respondent presented witnesses who stated that there had been no coercion and that the applicant had previously proposed or agreed to formalise the marriage. This created a factual contradiction. Rather than treating all testimony as equal, the court weighed the relevance and probative value of each testimony. The applicant's witnesses directly described the threat incident at the bridge, while the respondent's witnesses mainly described the relationship between the parties, the absence of visible conflict, and the applicant's involvement in marriage arrangements. The court concluded that the respondent's evidence did not defeat the applicant's evidence. This indicates that the court considered direct testimony about the coercive event more probative than general testimony about prior relational closeness. In family law cases, this distinction matters because prior intimacy or cohabitation does not necessarily prove free consent to marriage. A person may have had a relationship with another person, yet still be coerced into formal marriage under social, emotional, or customary pressure.

This finding is especially important because the respondent attempted to use premarital cohabitation as an indication that the marriage was voluntary. The court did not deny the cohabitation. On the contrary, it accepted that the parties had lived together before marriage. However, the court separated the fact of cohabitation from the legal validity of consent at the moment of marriage. This separation is doctrinally sound. Cohabitation may create social expectations, moral responsibility, or even grounds for later compensation, but it cannot automatically substitute for free consent to marriage. In this sense, the decision protects the autonomy of marital consent even within a social context where local custom strongly encourages or pressures cohabiting couples to marry. The court therefore resisted the possibility that local custom could override the legal requirement of voluntariness.

The decision also reflects a progressive interpretive orientation. The literature on Indonesian annulment cases observes that judges have used hermeneutic and legal interpretive methods to clarify ambiguous concepts such as coercion and threat. A progressive approach allows judges to move beyond purely literal interpretation and to consider social context and substantive justice. In Decision No. 42/Pdt.G/2023/PA.Llk, this progressive dimension appears in the court's willingness to recognise psychological pressure as legally meaningful, to read statutory and Islamic legal provisions together, and to assess the social setting of cohabitation without allowing it to legitimise forced marriage. The decision does not merely ask whether a wedding ceremony occurred, whether the marriage was registered, or whether the parties had previously been intimate. It asks whether the applicant's consent at the point of marriage was sufficiently free to sustain the validity of the marriage.²⁸

From the perspective of legal theory, the decision contributes to the development of a consent-based understanding of marriage validity. It affirms that marriage is not a valid legal institution simply because it has been solemnised and registered; it must be grounded in free will. This is consistent with Islamic legal doctrine, which treats consent as essential to the legitimacy of the marriage contract. It is also consistent with Indonesian statutory law, which provides annulment as a remedy when consent is impaired by unlawful threat or coercion. The contribution of the decision lies in its application of these principles to a factually complex situation involving emotional threat, cohabitation, and local custom. By doing so, it shows that

²⁷ Azmi et al., "Application of Progressive Law to Marriage Annulment Cases: Prospects and Development in Indonesia's Religious Court"; Bilalu et al., "Compilation of Islamic Law as Judge's Consideration at Religious Court in North Sulawesi, Indonesia."

²⁸ Yetta, Rajafi, and Subeitan, "Understanding the Implications of Marriage Law Amendments: Marriage Dispensation Cases in Indonesian Religious Courts."

the judicial construction of coercion must be sensitive to the relational and socio-cultural realities in which consent is formed.

To sharpen the analytical depth of the findings, the court's reasoning in Decision No. 42/Pdt.G/2023/PA.Llk can be further interpreted through Gustav Radbruch's triadic theory of legal purpose, which emphasises the balance between legal certainty, justice, and utility. From the perspective of legal certainty, the court relied on formal statutory provisions – particularly Article 27 paragraph (1) of the Marriage Law and Article 71 letter f of the Compilation of Islamic Law – to establish coercion as a valid ground for annulment. From the standpoint of justice, the decision extended beyond formal annulment by recognising the respondent's relational harm and awarding compensation through a reconventional claim, thereby preventing the legal process from disproportionately benefiting only the applicant. Meanwhile, the element of utility is reflected in the court's sensitivity to social realities, including premarital cohabitation and local customary expectations, which were acknowledged as contextual factors shaping the dispute. This theoretical framing clarifies that the decision is not merely a technical application of annulment law, but a structured judicial effort to harmonise doctrinal validity with substantive fairness in a plural legal environment. By situating the findings within this theoretical lens, the analysis demonstrates that the concept of compensatory annulment justice is grounded not only in case-specific reasoning but also in broader jurisprudential principles that guide judicial decision-making.

2. Cohabitation, Local Custom, and the Social Context of Annulment

The second major finding of this study is that Decision No. 42/Pdt.G/2023/PA.Llk does not treat premarital cohabitation and local custom as legally irrelevant background facts. Instead, the court positions them as social facts that shape the moral and legal consequences of the annulled marriage. This is important because the court simultaneously performs two different operations. On the one hand, it refuses to allow cohabitation and customary expectations to validate a marriage performed under coercion. On the other hand, it recognises that cohabitation and local expectations may generate moral responsibility and legal consequences after the marriage is annulled. This dual movement shows that the court's reasoning is not trapped in a binary choice between formal annulment and social reality. It acknowledges that a marriage may be invalid because of defective consent, while the relational conduct surrounding the marriage may still produce responsibility.

Premarital cohabitation occupies a difficult position in Indonesian family law because it exists at the intersection of Islamic norms, state law, and local social morality. In Islamic legal discourse, sexual relations outside marriage are prohibited, and marriage is regarded as the lawful framework for intimate relations. In Indonesian positive law, cohabitation without a legally recognised marriage does not create marital status, and in social discourse it is often associated with *kumpul kebo* or an illicit relationship. At the same time, many communities respond to premarital intimacy or cohabitation through social or customary pressure to marry, especially when the relationship is perceived to threaten family honour, communal morality, or religious expectations. Studies on Indonesian customary communities show that cohabitation, late-night intimacy, pregnancy outside marriage, or alleged moral misconduct may trigger customary sanctions that pressure couples to marry. This socio-legal reality explains why cohabitation cannot be dismissed as merely private behaviour; it often activates a network of social expectations that courts must interpret carefully.²⁹

In Decision No. 42/Pdt.G/2023/PA.Llk, the court found that the parties had lived together before marriage and that local custom in their community required persons who cohabited without a marital bond to be immediately married. This factual finding is central to the decision because it explains the social context in which the marriage occurred. However, the court

²⁹ Muchammad Ichsan, "The Legality of Interreligious Marriage in the Perspective of Islamic Law and Indonesian Positive Law," *Profetika Jurnal Studi Islam* 17, no. 02 (2017): 82-92, <https://doi.org/10.23917/profetika.v17i02.5300>; Arzam et al., "Tradition of the Forced Marriage of Couples Who Return Late at Night Perspective of Islamic Law: Case Study of the Tradition of the Lekuk Lima Puluh Tumbi Lempur Society, Jambi."

did not treat the customary expectation to marry as a sufficient basis to preserve the marriage. The court instead separated the existence of social pressure from the legal requirement of free consent. This separation is doctrinally significant. It means that local morality may explain why the community expected the parties to marry, but it cannot replace the individual's voluntary consent to marriage. Such reasoning is consistent with the literature indicating that customary sanctions may lead to forced marriage, yet a marriage performed under pressure remains defective because the essential condition of free consent is absent.³⁰

This finding responds directly to the second research problem: how the court positioned premarital cohabitation and local customary expectations in determining the legal consequences of the annulled marriage. The answer is that the court treated cohabitation and custom as legally relevant but not legally determinative of marital validity. They were relevant because they helped explain the social pressure surrounding the marriage and the respondent's later claim for compensation. Yet they were not determinative because the validity of marriage still depended on whether the applicant's consent was free. Thus, the court did not allow adat to override the statutory and Islamic requirement that marriage must be based on willingness. This approach reflects an important boundary in Indonesian legal pluralism: local norms may inform judicial understanding, but they cannot legitimise coercion when national marriage law and Islamic legal principles require free consent.

The decision therefore demonstrates a nuanced operation of legal pluralism in Indonesian family law. Legal pluralism recognises the coexistence and interaction of state law, Islamic law, and customary law in regulating family relations. The Marriage Law and the Compilation of Islamic Law provide the formal normative framework, while local custom supplies the social meaning of the parties' conduct. Religious court judges often navigate this plural environment by referring to statutory rules, Islamic principles, and social facts in order to produce decisions that are legally coherent and socially intelligible.³¹ In this case, the court acknowledged the local custom that cohabiting persons should be married, but it placed that custom within the hierarchy of legal validity: custom may explain moral expectation, but it cannot cure defective consent.³²

The court's treatment of cohabitation also illustrates the difference between social causation and legal justification. Cohabitation may have socially caused pressure to marry because the community viewed the relationship as morally improper. However, social pressure to regularise an intimate relationship does not legally justify a forced marriage. The court's reasoning is valuable because it avoids two extremes. It does not ignore community morality, but it also does not surrender individual autonomy to communal expectation. This balance is necessary in family law adjudication because local customs sometimes function as mechanisms of social order, yet they may also become instruments of coercion. The literature on forced marriage in customary settings shows that social and cultural pressures can be powerful enough to undermine free consent, especially when marriage is used as a sanction for perceived moral violations.³³

The decision further shows that cohabitation was not used by the court to deny coercion. This is analytically important because the respondent's argument implied that prior cohabitation and intimacy indicated mutual willingness. The court accepted the fact of cohabitation but did not infer from it that the subsequent marriage was freely chosen. This distinction is legally sound. A person may voluntarily enter an intimate relationship but still be coerced into formal marriage.

³⁰ Rois Fadzi Ahmad Ravi et al., "When Clerical Errors Become Court Cases: Administrative Justice and the Judicialization of Marriage Registration in Indonesia," *Al-Mujtahid: Journal of Islamic Family Law* 5, no. 2 (2025): 117-130.

³¹ Alfian Muhammadiyah and Hasyim Sofyan Lahilote, "Children's Justice in Indonesian Islamic Law through Contemporary Hadanah Judicial Practice," *Antmind Journal of Jurisprudence and Social Justice* 1, no. 1 (2025): 1-13; Alfiander, "Disparity in the Considerations of Judges in Deciding Divorce Disputes in Religious Courts and District Courts."

³² Latif Mustofa, "On the Legality of a Marriage and It's Legal Implication: An Unjustified Heroic Decision," *Justitia Jurnal Hukum* 1, no. 2 (2017), <https://doi.org/10.30651/justitia.v1i2.1159>.

³³ Arzam et al., "Tradition of the Forced Marriage of Couples Who Return Late at Night Perspective of Islamic Law: Case Study of the Tradition of the Lekuk Lima Puluh Tumbi Lempur Society, Jambi."

Conversely, a person may have engaged in conduct that generates moral or social consequences without thereby losing the right to free marital consent. In this sense, the court protected the conceptual autonomy of consent. Consent to cohabit, if it existed, was not treated as consent to marry. The act of cohabitation did not collapse the legal boundary between intimate conduct and marital commitment.

This reasoning is particularly relevant to Indonesian family law because social expectations often transform intimate relationships into marital obligations. In some communities, when a couple is found to have lived together, stayed out late, or engaged in sexual relations, marriage may be perceived as the only socially acceptable remedy. Yet a forced transformation of moral responsibility into marital status risks undermining the very foundation of marriage. The court's approach indicates that the law must distinguish between the need to address social harm and the impermissibility of compelling marriage. This distinction strengthens the autonomy-based conception of marriage in Indonesian law, while still leaving room for the court to address relational harm through other legal mechanisms.³⁴

The case also reveals how local custom can operate as a semi-autonomous social field. Within a community, norms about cohabitation, honour, propriety, and marriage may govern behaviour even when they are not formally codified as state law. The theory of semi-autonomous social field explains that social units such as families, religious communities, and customary communities may generate and enforce their own norms, while still existing within the broader framework of national law (Senior et al., 2019). In Decision No. 42/Pdt.G/2023/PA.Llk, the local norm requiring cohabiting persons to marry appears to have functioned as a community rule that shaped the parties' choices and social expectations. The court recognised this norm as a factual reality, but it did not give it unlimited legal force. This is precisely the judicial task in a plural legal system: to understand local norms without allowing them to defeat fundamental legal protections.

The court's reasoning may also be read through the lens of Gustav Radbruch's triadic idea of legal purpose: legal certainty, justice, and utility. Legal certainty required the court to determine whether the marriage certificate established a formal marital bond and whether the statutory grounds for annulment were satisfied. Justice required the court to consider whether the applicant's consent had been impaired and whether the respondent suffered harm from the relational conduct surrounding the marriage. Utility required sensitivity to the social consequences of cohabitation, local expectations, and the need to prevent unresolved moral harm from producing further conflict. Literature on judicial reasoning in family law suggests that judges often balance certainty, justice, and usefulness when resolving disputes embedded in plural social contexts. The decision reflects this balancing process: it annuls the marriage for defective consent, yet preserves a pathway for responsibility through compensation.³⁵

From a doctrinal perspective, the decision is important because it treats local custom neither as a source of automatic legal validity nor as an irrelevant social residue. The court does not say that because the community required cohabiting persons to marry, the marriage must be maintained. Nor does it say that because the marriage was annulled, the cohabitation and custom have no legal relevance. Instead, local custom functions as a contextual fact that explains why the parties were placed under pressure and why the respondent's claim of harm required legal attention. This judicial technique is useful for future family law analysis because it allows courts to recognise the reality of living law while maintaining the supremacy of core legal principles, particularly free consent and protection from coercion.

The literature on Indonesian legal pluralism supports this approach. The Compilation of Islamic Law itself has been understood as a product of harmonisation between classical Islamic

³⁴ Muhammad A Alfarisi, Muhammad J Hayat, and Adul R Hakimi, "Solving Pregnancy Out-of-Wedlock: 'Dual Validity' of Ngampang Marriage Among Dayak Muslim Community in Sintang, Indonesia," *Journal of Islamic Law* 4, no. 2 (2023): 123-147, <https://doi.org/10.24260/jil.v4i2.1283>.

³⁵ Nihrul B Alhaidar, Muhammad Muhajir, and Syamsud Dhuha, "The Closure of Isbat for Polygamous Marriage on Legal Purpose Perspective," *Al-Hukama* 13, no. 1 (2023): 1-26, <https://doi.org/10.15642/alhukama.2023.13.1.1-26>.

legal ideas and Indonesian social context.³⁶ Religious courts use the KHI as an official reference, but judges also engage with fiqh, statutory law, jurisprudence, and local circumstances when resolving family disputes. In this case, the court’s reasoning shows how that plural method works in practice. State law provides the ground for annulment; Islamic law supplies the moral-doctrinal basis that consent is required; local custom explains the social pressure arising from cohabitation; and civil liability reasoning later becomes relevant to compensation. The decision therefore demonstrates not merely the coexistence of legal systems, but their functional interaction in a single adjudicative process.

The social context of annulment is also important because annulment has consequences different from divorce. Annulment challenges the validity of the marriage itself, while divorce terminates a valid marriage. When a marriage is annulled because of coercion, there is a risk that the relational history preceding the marriage may be erased by the legal fiction that the marriage should not have existed. This can be especially problematic when one party has suffered stigma, loss, or economic disadvantage. Literature on annulment consequences shows that the retroactive effect of annulment may create tension with the need to protect parties who acted in good faith or suffered harm.³⁷ Decision No. 42/Pdt.G/2023/PA.Llk responds to this tension by recognising that annulment cancels marital status but does not necessarily erase all social and moral consequences of the parties’ conduct.

The respondent’s position in the case illustrates this problem. She resisted annulment and preferred divorce, partly because annulment could imply that the marriage lacked legal legitimacy from the beginning. At the same time, she claimed compensation because the applicant had not provided maintenance after marriage. The court’s findings regarding cohabitation and local custom helped frame the respondent not merely as the party whose conduct contributed to coercion, but also as a party who had experienced relational disadvantage. This does not negate the court’s finding that the applicant’s consent was defective. Rather, it shows that family law disputes often contain overlapping vulnerabilities. A party may be responsible for coercive pressure, yet still be harmed by abandonment or lack of maintenance. The legal system must therefore be capable of recognising more than one dimension of justice.

This is where the contribution of the article becomes visible. The analysis of cohabitation and local custom shows that annulment adjudication should not be reduced to the question of whether the marriage is valid or invalid. It should also examine how social facts shape the distribution of responsibility after annulment. The court’s reasoning suggests that premarital cohabitation may be legally relevant in at least three ways: as a background fact explaining social pressure to marry, as a factor that may contribute to moral or social harm, and as a factual basis for assessing responsibility after the marriage is annulled. However, it should not be used as a substitute for free consent. This analytical distinction can help develop Indonesian family law scholarship by clarifying the legal position of cohabitation in annulment cases.

Table 1. Cohabitation and Customary Norms in Judicial Reasoning

Social Fact or Normative Context	Source of Norm or Evidence	Judicial Function	Legal Implication
Premarital cohabitation between the parties	Witness testimony and factual findings of the court	Explains the relational background and the emergence of social expectations	May generate moral or legal responsibility, but does not automatically prove consent to marry
Local custom requiring cohabiting persons to marry	Community practice identified through witness testimony	Explains the social pressure surrounding the marriage	May be considered as context, but cannot override the legal

³⁶ Muhammad L Fauzi, “CHANGING TRENDS IN THE STUDY OF SHARIA IN INDONESIA: An Account on Relevant Bibliographies,” *Journal of Indonesian Islam* 16, no. 2 (2022): 511, <https://doi.org/10.15642/jiis.2022.16.2.511-533>.

³⁷ Lestari and Adiyatma, “Marriage Cancelled, What About the Rights for Children?”

			requirement of free consent
Respondent's claim of disadvantage after annulment	Reconventional claim, absence of maintenance, and factual findings	Connects the annulled marriage to relational harm and compensatory responsibility	Supports the possibility of compensation despite annulment
Applicant's allegation of coercion	Witness testimony regarding threat and pressure	Tests whether the marriage was entered into with valid consent	Defective consent justifies annulment even where cohabitation and custom existed

This classification demonstrates that the court's treatment of cohabitation and custom was neither purely sociological nor purely doctrinal. It was a hybrid legal reasoning process in which social facts were translated into legal relevance. Such translation is a key feature of family law adjudication in plural societies. Courts must not ignore living norms, because doing so would detach legal judgment from social reality. Yet courts must also prevent living norms from legitimising coercion or undermining individual rights. Decision No. 42/Pdt.G/2023/PA.Llk shows that religious court adjudication can perform this mediating function by recognising custom as context, not as an absolute source of validity.

3. Reconventional Compensation and the Search for Substantive Justice

The third major finding of this study is that Decision No. 42/Pdt.G/2023/PA.Llk does not allow marriage annulment to operate as a total legal erasure of the relationship and its consequences. Although the court annulled the marriage because the applicant's consent was legally defective, it also granted the respondent's reconventional claim in part by ordering the applicant to pay compensation of Rp2,000,000. This part of the decision is particularly important because it demonstrates that the legal consequence of annulment is not necessarily confined to the cancellation of marital status. The court recognised that the relationship between the parties had generated social, moral, and economic consequences that could not be ignored simply because the marriage was annulled. In this sense, the decision moves beyond a purely formal understanding of annulment and develops a limited but meaningful form of post-annulment protection.

The use of a reconventional claim in this case is central to the court's construction of remedial justice. In Indonesian civil procedure, reconvention allows the defendant or respondent to submit a counterclaim against the claimant within the same proceeding. In family law disputes, this mechanism has become an important procedural instrument for providing remedies beyond the principal claim, particularly in cases involving maintenance, child support, mut'ah, iddah support, joint property, and other economic consequences of marital dissolution. The literature explains that reconvention supports the principles of justice, simplicity, speed, and low cost because the counterclaim can be examined in the same proceeding without requiring a separate lawsuit.³⁸ In Decision No. 42/Pdt.G/2023/PA.Llk, this procedural device allowed the respondent to resist the one-sided effect of annulment by bringing forward her claim of disadvantage, particularly the absence of maintenance and the social consequences of the relationship.

The court's acceptance of the reconventional claim is significant because the main claim was not divorce but annulment. In divorce cases, claims for post-marital financial protection are relatively familiar, especially claims for mut'ah, iddah maintenance, child support, and joint

³⁸ Meli D Yuniar and Waluyo Sudarmaji, "The Realization of the Fulfilment of the Children's Sustenance Post-Divorce in Purworejo Religious Court in 2020-2021," *El-Ussrah Jurnal Hukum Keluarga* 6, no. 1 (2023): 131, <https://doi.org/10.22373/ujhk.v6i1.18244>.

property.³⁹ In annulment cases, however, the remedial position is more complicated because annulment is often understood as rendering the marriage invalid or as if it had not legally existed from the beginning. This creates a doctrinal tension: if the marriage is annulled, on what basis can the court still recognise a compensatory obligation? The decision resolves this tension by shifting the basis of compensation from marital status alone to relational conduct, moral responsibility, and unlawful act reasoning. This judicial move is central to the article's argument that annulment should not erase all consequences of the relationship.

The respondent's claim for compensation was based on the argument that during the marriage she had not received maintenance from the applicant. The court found that after the marriage, the applicant left the respondent and did not provide maintenance. It also found that the parties had cohabited before marriage, that local custom required persons who lived together without marriage to be married, and that the applicant's conduct created a strong expectation that he would marry the respondent. These findings allowed the court to construct the respondent's disadvantage not merely as a consequence of annulment, but as the result of a broader relational history. The compensatory order therefore functioned as a corrective response to the applicant's conduct before and after the formal marriage. This is important because it prevents annulment from becoming a legal instrument by which one party escapes all responsibility after having participated in an intimate relationship that generated social expectations and harm.

The court's reasoning is closely related to the doctrine of unlawful act under Article 1365 of the Civil Code. This doctrine provides that every unlawful act causing loss to another person obliges the person at fault to compensate for that loss. The literature explains that the elements of unlawful act consist of an unlawful act, fault, loss, and a causal relationship between the act and the loss. Indonesian doctrine has developed from a narrow understanding of unlawfulness as violation of written law toward a broader understanding that includes acts contrary to propriety, morality, and the values living in society.⁴⁰ This broader understanding is crucial for family law because relational harm is not always captured by explicit statutory provisions. In the present case, the court relied on the idea that the applicant's conduct had created a strong expectation of marriage and had caused disadvantage to the respondent.

The court's reference to Supreme Court jurisprudence on broken promises to marry strengthens this construction. The literature notes that Indonesian courts have treated unilateral cancellation of a promise to marry as an unlawful act when it violates norms of propriety and morality and causes loss to the other party. Supreme Court decisions such as Decision No. 3191 K/Pdt/1984, Decision No. 3277 K/Pdt/2000, and Decision No. 1644 K/Pdt/2020 have affirmed that broken promises to marry may produce civil liability when they cause material or immaterial loss. Decision No. 42/Pdt.G/2023/PA.Llk adopts a similar moral-civil logic. Although the case is not simply about an unfulfilled promise to marry, the court treated cohabitation, expectation of marriage, abandonment, and absence of maintenance as conduct capable of producing compensable harm.

This reasoning is doctrinally innovative because it relocates compensation from the formal consequences of a valid marriage to the broader consequences of relational responsibility. In a conventional annulment framework, compensation might be difficult to justify if the marriage is treated as invalid from the beginning. However, by using unlawful act reasoning, the court identified a legal basis outside the validity of marriage itself. The compensatory obligation did not arise solely because the applicant was a husband in a valid ongoing marriage; it arose because his conduct caused disadvantage to the respondent. This distinction allows the court to maintain coherence between annulment and compensation. The marriage could be annulled

³⁹ Syaifuddin Zuhdi et al., "DIVORCE IN KANGEAN ISLANDS: The Study on Judge's Legal Reasoning of Kangean Religious Court, 2020-2022," *Jurnal Jurisprudence* 12, no. 2 (2023): 166-187, <https://doi.org/10.23917/jurisprudence.v12i2.1229>.

⁴⁰ Mahmud Mahmud, Adi Sulistiyono, and HARI PURWADI, "Doctor's Legal Responsibility for Unlawful Actions Against Medical Action Errors," *Russian Law Journal* 11, no. 1 (2023): 88-94, <https://doi.org/10.52783/rlj.v11i1.352>; Kartika Paramita, "Tort Claim Under the Ship Time Charter: The Perspective of Indonesian Law," *Fiat Justitia Jurnal Ilmu Hukum* 15, no. 3 (2021): 233-254, <https://doi.org/10.25041/fiatjustitia.v15no3.2089>.

because consent was defective, but the respondent's harm could still be addressed because the applicant's conduct independently generated responsibility.

The amount of compensation awarded also reveals the court's effort to balance justice with proportionality. The respondent requested Rp10,000,000, while the applicant stated that he could only provide Rp500,000 because he was a farm labourer earning Rp50,000 per working day. The court did not simply accept either figure. Instead, it considered the applicant's economic condition and referred to poverty and living-cost indicators, including statistical data and minimum living needs, before determining compensation at Rp2,000,000. This judicial calculation shows that the court attempted to avoid both under-compensation and excessive burden. It acknowledged the respondent's loss but also considered the applicant's financial capacity. Such reasoning is consistent with the broader principle that family law remedies should be responsive to actual economic conditions and not merely symbolic.

The compensatory order of Rp2,000,000 may appear modest, but its doctrinal significance is greater than its nominal amount. It recognises that annulment does not erase relational harm. The award functions as a limited form of post-annulment protection, especially for a party who has suffered disadvantage from abandonment and lack of maintenance. In family law scholarship, compensation is often justified through the principles of substantive justice, protection of vulnerable parties, and moral responsibility within intimate relationships. The concept of *mut'ah* in Islamic family law, for example, reflects the idea that a husband may owe a form of consolatory or compensatory payment to a wife after marital dissolution. Although the present case concerns annulment rather than divorce, the underlying logic is comparable: the law should not leave the disadvantaged party without remedy when the relationship has produced harm.⁴¹

The decision also resonates with the theory of substantive justice. Procedural justice would be satisfied if the court simply examined the annulment petition, applied the legal ground of coercion, and declared the marriage annulled. Substantive justice, however, requires the court to consider whether the legal outcome fairly addresses the lived consequences experienced by both parties. The literature distinguishes procedural justice, which focuses on formal and consistent application of rules, from substantive justice, which emphasises fair outcomes responsive to the actual needs and harms of the parties. In Decision No. 42/Pdt.G/2023/PA.Llk, the court achieved formal justice by annulling a coerced marriage and substantive justice by recognising compensatory responsibility. This combination shows that annulment can protect autonomy without producing remedial emptiness for the disadvantaged party.

The case may also be read through the framework of progressive law. Progressive legal thought views judges not merely as the mouthpiece of statutory texts, but as legal actors who must be sensitive to human suffering, social realities, and justice beyond literal legalism. The court's reasoning reflects this orientation because it did not stop at the literal consequence of annulment. Instead, it used reconvention, unlawful act doctrine, factual findings on cohabitation, and economic indicators to construct a remedy that corresponds to the social reality of the dispute. This approach shows that family law adjudication can be both normatively disciplined and socially responsive. It remains grounded in legal doctrine, but it also recognises the human consequences of intimate relationships.

At the same time, the decision raises a conceptual challenge: how far may a court go in awarding compensation after annulment without contradicting the legal effect of annulment itself? If annulment means that the marriage is treated as legally defective, it might appear inconsistent to impose obligations associated with marital dissolution. The court resolves this by not grounding compensation solely in the marital bond. Instead, it combines several bases: the fact of cohabitation, the creation of marital expectation, the absence of maintenance after the

⁴¹ Jumarim, Ilyya Muhsin, and Muhammad Chairul Huda, "The Interplay of Fiqh, Adat, and State Marriage Law: Shaping Legal Consciousness of Sasak Women," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 1 (June 15, 2024): 27-52, <https://ejournal.iainmadura.ac.id/index.php/alihkam/article/view/10522>; Nita Triana, "Progressivity of Judges in Domestic Violence Disputes Settlement in the Case of Divorce in the Religious Court," *Ulul Albab Jurnal Studi Dan Penelitian Hukum Islam* 2, no. 1 (2018): 1, <https://doi.org/10.30659/jua.v2i1.3543>.

formal marriage, and the doctrine of unlawful act. This method avoids treating the annulled marriage as fully equivalent to a valid marriage, while still preventing the annulment from erasing harm. The result is a hybrid remedial construction: compensation is not a full post-divorce entitlement, but a limited remedy for relational harm.

This hybrid construction can be understood as an example of compensatory annulment justice. The concept refers to a judicial approach in which annulment protects the party whose consent was defective, while compensation protects the party who suffers harm from the relational conduct surrounding the annulled marriage. The concept does not deny the invalidity of the marriage. Rather, it recognises that invalidity and responsibility may coexist. A marriage may be annulled because consent was impaired, but the court may still impose compensation where one party's conduct has caused social, moral, or economic loss to the other. This framework is useful for Indonesian family law because many annulment cases arise within complex relational settings involving cohabitation, customary expectations, family pressure, deception, or abandonment.

The reconventional mechanism is essential to this framework because it allows the court to hear the respondent's claim without requiring a separate lawsuit. This supports access to justice, particularly for parties with limited resources. Literature on reconvention in family law emphasises that the mechanism helps protect women and children by enabling claims for maintenance, *mut'ah*, *iddah* support, child support, and property rights to be raised within the same proceeding.⁴² Although the respondent in this case did not claim typical post-divorce entitlements, the logic is similar: reconvention prevents the principal claim from dominating the litigation and allows the court to address the respondent's disadvantage in the same procedural forum. This reinforces the role of reconvention as an instrument of substantive justice in family adjudication.

The decision's proportional calculation of compensation also reflects the court's attempt to translate abstract justice into a workable remedy. The court considered the respondent's claim, the applicant's economic capacity, the period of non-maintenance, and living-cost indicators. This method is notable because family law judgments often face difficulty in determining appropriate amounts for maintenance or compensation, especially when parties work in informal sectors and have limited documented income. By using statistical references and local economic indicators, the court attempted to objectify the amount of compensation. This does not eliminate all problems of enforcement, but it strengthens the rational basis of the award. Literature on post-divorce maintenance shows that implementation remains a persistent problem because payment often depends on the debtor's good faith and the availability of effective execution mechanisms.⁴³ A carefully reasoned amount may improve legitimacy, even though enforcement challenges remain.

Table 2. Reconventional Compensation in Marriage Annulment

Basis of Compensation	Factual Finding	Legal Reasoning	Remedial Implication
Cohabitation and expectation of marriage	The parties cohabited before marriage, and local custom required cohabiting persons to marry	The applicant's conduct created a serious expectation of marriage and moral responsibility	Annulment does not erase responsibility arising from relational conduct
Absence of maintenance	The applicant left after marriage and did not	Economic disadvantage occurred during the	Compensation functions as a limited

⁴² Meli Dwi Yuniar, Ida Fatimah, and Abdul Wahid, "The Realization of the Fulfilment of the Children's Sustenance Post-Divorce In Purworejo Religious Court in 2020-2021," *El-Ussrah: Jurnal Hukum Keluarga* 6, no. 1 (2023): 131-148.

⁴³ Happy Pian et al., "The Role of High Religious Courts in the Bengkulu Area in Safeguarding Children's Interests Regarding Post-Divorce Living Expenses and Civil Rights," *Ulul Albab Jurnal Studi Dan Penelitian Hukum Islam* 7, no. 1 (2024): 34, <https://doi.org/10.30659/jua.v7i1.36594>.

	provide maintenance to the respondent	short period following the formal marriage	replacement for neglected support
Unlawful act doctrine	The court referred to Article 1365 of the Civil Code and jurisprudence on broken promises to marry	Conduct contrary to propriety, morality, and social expectations may create civil liability	Compensation can be justified outside the formal validity of the annulled marriage
Proportionality of remedy	The respondent claimed Rp10,000,000, while the applicant had limited income as a farm labourer	The amount must consider harm, economic capacity, and objective living-cost indicators	Rp2,000,000 operates as a limited but meaningful post-annulment remedy

This classification clarifies that the compensation awarded in Decision No. 42/Pdt.G/2023/PA.Llk was not arbitrary. It was constructed through layered reasoning that combined relational facts, civil liability doctrine, economic proportionality, and substantive justice. The table also shows that compensation was not treated as a contradiction of annulment, but as a corrective mechanism addressing harm that survived the cancellation of marital status. This is the core theoretical contribution of the decision: annulment and compensation are not mutually exclusive when the court distinguishes between the invalidity of consent and the responsibility generated by conduct.

The contribution of this analysis to legal scholarship lies in its reframing of annulment as a remedial field rather than a single-status determination. Existing discussions of annulment often focus on whether the marriage is valid or voidable. Decision No. 42/Pdt.G/2023/PA.Llk suggests that the more difficult question is what should happen after annulment when the relationship has produced social and economic consequences. By foregrounding reconventional compensation, the decision opens space for a more responsive annulment jurisprudence. It invites scholars and judges to examine whether annulment cases should include clearer standards for compensation, especially where one party has suffered harm from cohabitation, abandonment, deception, coercion, or lack of support. In this way, the decision contributes to the development of Indonesian family law by showing that substantive justice requires both the protection of free consent and the recognition of responsibility for relational harm.

V. Conclusion

The court constructed coercion as a legal ground for marriage annulment in Decision No. 42/Pdt.G/2023/PA.Llk as a legally operative defect of consent through a combination of doctrinal qualification, evidentiary assessment, and contextual interpretation. The court did not rely solely on formal indicators of marriage validity, but examined whether the applicant's will had been impaired by psychological threat, as proven through consistent witness testimony and supported by Article 27 paragraph (1) of the Marriage Law and Article 71 letter f of the Compilation of Islamic Law. This confirms that valid marriage in Indonesian family law requires substantive voluntariness, and that non-physical coercion—such as emotional pressure—can invalidate consent. The decision therefore clarifies the legal threshold of coercion and strengthens a consent-based doctrine of marital validity.

Premarital cohabitation and local customary expectations were treated as relevant social facts but not as determinants of legal validity. The court acknowledged that cohabitation and community norms explained the social context and pressure surrounding the marriage, yet it refused to treat them as substitutes for free consent. The court positioned custom within a controlled framework of legal pluralism, where statutory law and Islamic legal principles retain normative authority. At the same time, these social facts were not ignored; instead, they were

used to interpret the relational background and moral consequences of the parties' conduct, thereby linking formal legal reasoning with socio-cultural realities.

The use of conventional compensation as a substantive justice mechanism by the courts ensures that annulment did not eliminate all consequences of the relationship, particularly the harm suffered by the respondent due to cohabitation, abandonment, and lack of maintenance. The compensation was constructed through unlawful act doctrine, expectation-based reasoning, and proportionality considerations, indicating that legal responsibility can arise independently of marital validity. Annulment of marriage in Indonesian family law should be understood not only as a determination of validity, but as a multidimensional legal mechanism that balances consent, social context, and responsibility.

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