



THE MARRIAGE LAW REFORM IN THE GLOBAL ERA: INTEGRATING HUMAN RIGHTS INTO FAMILY LAW

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ABSTRACT

The purpose of this study is to examine marriage law reform in the global era, emphasizing the integration of human rights principles into family law. This study focuses on how marriage law can respond to the demands of globalization, gender equality, and the protection of vulnerable groups. This study uses a juridical-normative approach and comparative methods through a review of laws and regulations, court decisions, and ratified international instruments. The analysis focuses on practices in Indonesia and Southeast Asian countries, particularly Malaysia and the Philippines. This study reveals that Indonesia still places religion as the primary basis for marriage legality, Malaysia faces the complexity of dualism between Islamic law and civil law, while the Philippines is relatively progressive in adopting human rights principles despite still being influenced by Catholic doctrine. This study contributes to the family law literature by offering an integrative perspective that emphasizes the importance of marriage law reform that is responsive to local values while aligning with global human rights standards. These findings have strategic implications for the development of family law policy in Southeast Asia in the face of globalization and international standardization.

1. Introduction

Human rights constitute a global social order that embodies the institutionalization of freedom so that everyone can maximize their human potential. Human rights are values and norms that guarantee and recognize that everyone can enjoy the basic rights and freedoms inherent in their nature and existence as human beings. Within the institution of marriage, structural injustice often occurs in the rights of women and children to enjoy these freedoms. This structural injustice in marriage law is evident in norms

that are still patriarchal and discriminatory.¹

Marriage law as stated by Freeman emphasized that *marriage law is the cornerstone of family law*², the same thing was also mentioned by Weitzman, L. J.³ which states that marriage law is the foundation of modern family law, as it determines the structure, rights, and obligations of the smallest unit of society.⁴⁵ Therefore, it can be seen, in fact, that almost all family law regulations originate from marriage. As one of the main pillars in the family law system, it not only regulates private relationships between husband, wife, and children, but also represents social, cultural, and religious values in a society.

However, marriage law often shows a face that is not neutral, but is instead full of structural injustice.⁶ especially in aspects of gender equality and child protection. Gender injustice stems from social, political, legal and cultural structures that position women lower than men.⁷

This can be seen from the principle of monogamy adopted in Law Number 1 of 1974 as amended by Law Number 16 of 2019, hereinafter abbreviated as the Marriage Law.⁸ The principle of monogamy adopted by the Marriage Law is not absolute, because the provisions of Article 3 Paragraph (2) of the Marriage Law opening up the possibility of polygamy.⁹¹⁰ The description of the legality of polygamy is very clear, but until now the debate about polygamy has not ended.¹¹ Polygamy has become something controversial among the community, one of which is the practice of illegal polygamy,¹² namely the practice of a man having more than one wife, through a court permit mechanism. In perspective theory *living law* as stated by Eugen Ehrlich,¹³ effective law is not merely written law (law in the books), but rather the law that lives and is implemented in society (*law in action*). The provisions of Article 3 Paragraph (2) can be

1 Nina Nurmila., *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia*. Routledge, London, 2009, page 44

2 Michael D. A. Freeman., *Understanding Family Law*, , New York: Oxford University Press, 2007, page.12

3 Lenore J. Weitzman., *The Marriage Contract, Spouses, Lovers and the Law*, New York: The Free Press, 1981, page.536.

4 Elvira Damayanti, Divani Divani, and Daffa Daffa., Perkawinan dalam Perspektif Hukum Adat Indonesia: Ragam Sistem, Tradisi, dan Tantangan Modern, *Taruna Law: Journal of Law and Syariah*, Vol. 3, No. 2, (2025), page. 99-116.

5 Luh Suryatni., Perkawinan Merubah Status Pria Dan Wanita Dalam Kehidupan Di Masyarakat, *Jurnal Ilmiah Hukum Dirgantara*, Vol.11 No.2, 2021, page. 73-86

6 Nina Nurmila, Women., Islam and Everyday Life: Renegotiating Polygamy in Indonesia, *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia*, 2009, page.1-197,

7 Mansour Fakh., *Analisa Gender dan Transformasi Sosial*, Yogyakarta: Student Library, 2013, page.45

8 Muhammad Aprizal Arsyita, Damrah Khair, Erina Pane, A. Kumedi Ja'far and Siti Mahmudah., Smuggling of The Law In Different Religious Marriage As A Legal Action In The State Of Pancasila, *Smart: Journal of Sharia, Tradition and Modernity*, Vol.1 No.1, 2021, page.16-48

9 Esther Masri., Poligami Dalam Perspektif Undang-Undang Nomor I Tahun 1974 Tentang Perkawinan Dan Kompilasi Hukum Islam (KHI), *Krtha Bhayangkara*, Vol.13 No.2, 2019, page. 223-241

10 Heppy Hyma Puspytasari, Alif Maulana, and Febi Agustina, Poligami dalam Hukum Islam dan Hukum Perkawinan, *Journal of Education Research*, Vol.4 No.4, 2023, page. 2517-2524

11 Mansur Mansur., Dekonstruksi Tafsir Poligami: Mengurai Dialektika Teks dan Konteks, *Ahawal*, Vol.1 No.1, 2008, page.31-64

12 Mufarochah, etc., Literature Study: Analysis of Polygamy Factors in Men, *Eduvest-Journal of Universal Studies*, Vol.5 No.3, March, 2025, page. 2992-2999

13 Eugen Ehrlich., *Fundamental Principles of the Sociology of Law*, Cambridge, Massachusetts: Harvard University Press, 1936, page.493-496.

understood as a form of state recognition of the plurality of social and religious norms that exist in Indonesian society,¹⁴ which in certain realities still accepts the practice of polygamy as part of a value system that is considered valid and legitimate. Thus, exceptions to the principle of monogamy are an adaptive effort by state law so that it continues to have social validity (social validity) amidst the diversity of societal value systems.

However, recognition of living law This is not limitless. The state continues to place the practice of polygamy within a framework of legal restrictions and controls through a court-approved licensing mechanism. This demonstrates that the Marriage Law not only affirms existing social practices but also carries out a normative process to select and correct these practices to ensure they align with the principles of justice, legal certainty, and human rights protection. Furthermore, when analyzed through approach feminist legal theory,¹⁵ The provisions of Article 3 Paragraph (2) demonstrate the normative tension between legal recognition of the practice of polygyny and the principle of gender equality. Feminist legal theory views that law is often built within a patriarchal social structure that has the potential to reproduce unequal power relations between men and women. In this context, polygyny is seen as a practice that structurally places women, especially wives, in a more vulnerable position, both socially, economically, and psychologically. Women in polygynous relationships are more likely to view domestic violence as justifiable, reflecting patriarchal dynamics and gender inequality within polygynous family structures.¹⁶

Therefore, from a feminist legal perspective, the provisions of Article 3 Paragraph (2) can only be justified normatively if they truly function as an instrument of protection for women, not merely as formal legitimacy for the practice of polygamy.¹⁷ The requirements for court permission, the wife's consent, and proof of the husband's ability to act fairly must be interpreted as a corrective mechanism against potential patriarchal domination. In this case, the court plays a strategic role as *guardian of gender justice* to assess whether the polygamy application is in line with the principles of equality, substantive justice, and the dignity of women.

By integrating perspectives living law and feminist legal theory, it can be concluded that Article 3 Paragraph (2) of the Marriage Law is a dialectical space between the recognition of living social reality and the demands of gender justice in modern law. This provision is not intended to normalize the practice of polygyny as a common marriage pattern, but rather to place it as a legal exception that is limited, conditional, and under strict state control, in order to minimize discriminatory impacts and guarantee the protection of women's and

14 Ida Tutia Rakhmi, Rifka Safira, Anta Rini Utami, and Aldisa Melissa., Relasi Agama Dan Negara Dalam Hak Konstitusional Warga Negara Berdasarkan Pasal 300-305 KUHP 2023, *IURIS STUDIA: Jurnal Kajian Hukum*, Vol.6 No.2, 2025, page.566-579.

15 Catharine A. MacKinnon., *Toward a Feminist Theory of the State*, Cambridge, Massachusetts: Harvard University Press, 1989, page. 64

16 Richard Gyan Aboagye, etc., Association between polygyny and justification of violence among women in sexual unions in sub-Saharan Africa, *BMC Public Health*, Vol.25 No.1719, 2025, page.1-12.

17 Fahrur Dama., Problematika Poligami Di Indonesia Analisis Normatif dan Sosiologis dalam Hukum Keluarga Islam, *HOKI: Journal of Islamic Family Law*, Vol.3 No.1, 2025, page 42-47

children's rights in the institution of marriage.

This provision means that the law has provided the opportunity to have more than one partner for the husband only, while the wife has no opportunity to have more than one husband.¹⁸ This shows that various legal norms still contain patriarchal bias that places women and children in a subordinate position, thus giving rise to injustice in social and legal practices. In the context of globalization, new challenges have emerged in the form of the need to harmonize national legal norms with international legal standards. International instruments such as Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC). The protection of human rights for women has been a central issue in international law, reflecting the evolving recognition of gender equality and the need to address systemic inequalities. Historically, women have been marginalized in both legal and societal structures, facing discrimination, violence, and economic disparity. However, over the past century, a series of international conventions, treaties, and declarations have sought to safeguard women's rights globally.¹⁹ Emphasizes the importance of eliminating discrimination and strengthening child protection as part of universal human rights. Integrating these principles into national family law is imperative to meet the demands of the times, particularly in the era of globalization, which accelerates the flow of transnational legal values, ideas, and practices.

Indonesia, Malaysia, and the Philippines, three Southeast Asian countries, share similarities in family law pluralism influenced by religious, customary, and colonial factors, but differ in their marriage regulations. All three face similar challenges, including gender bias, child marriage, and weak protection of women's and children's rights. Therefore, a comparative study of several Southeast Asian countries is crucial for mapping normative gaps, identifying contributing sociological factors, and formulating a model for marriage law reform that is fair, inclusive, and in line with international human rights principles.

The purpose of this study is to examine marriage law reform in the global era, emphasizing the integration of human rights principles into family law. This research focuses on the protection of children's and women's rights in marriage. The results of this study are expected to provide academic contributions to the discourse on family law reform in the global era by offering an integrative perspective between local norms and international standards, while also presenting an alternative regulatory model that addresses contemporary challenges.

2. Research Methods

This study uses a juridical-normative approach and comparative methods through a review of laws and regulations, court decisions, and ratified international instruments. in order to find similarities and differences, as well

18 H. Moch. Isnaeni., *Hukum Perkawinan Indonesia*, 1st ed., Bandung: PT. Refika Aditama, 2016, page.56

19 Salvia Salsabila Putri Kastiady, etc., Protection of Human Rights Against Women in an International Legal Perspective, *International Law Discourse in Southeast Asia*, Vol.3 No.2, 2024, page. 221-248.

as to understand how the international treaties positioned in the hierarchy of laws.²⁰ This legal research is carried out by examining secondary data through library research. the conceptual approach used by examining and understanding the concepts of the international legal and marriage treaty making process.²¹ The study highlights significant disparities in institutional capability and legal culture between the nations.²² The analysis results show that although there is already a law that regulates the protection of women.²³

3. Results And Discussion

3.1 The Position of Women in Marriage Law Analysis

Marriage is not only a social or religious phenomenon, but also falls within the realm of Human Rights (HAM). which guarantees freedom, equality and protection for individuals.^{24,25} As stated in the provisions of Article 10 paragraph (1) of Law No. 39 of 1999 concerning Human Rights, which states that Everyone has the right to form a family and continue their lineage through a legal marriage.²⁶ In this regard, Hans Kelsen explains the concept of freedom as follows: Politically free is he who is subject to a legal; order in the creation of which he participates. An individual is free if what he "ought to" do according to the social order coincides with what he "will to" do. Democracy means that the "will" which is represented in the legal order of the state is identical with the wills of the subject.²⁷

Furthermore, Hans Kelsen also stated: The freedom that is possible within society, and especially within the state, cannot be the freedom from any bond, it can only be from a particular kind of bond. The problem of political freedom is : How is it possible to be subject to a social order and still be free? Thus, Rousseau has formulated the question to which democracy is the answer.²⁸

In Indonesia, although Law No. 16 of 2019 has raised the minimum age for marriage to 19 for both men and women, the practice of marriage dispensations still allows for child marriage.²⁹ This demonstrates that in

20 Albiruwahidhan Cahayarizputra., International Treaties in the Hierarchy of Legislations: Comparison Between Indonesia and France, *Uti Possidetis: Journal of International Law*, Vol.6 No.1, 2025, page. 167-216

21 Fransiskus AWJ., Procedural Problems in Indonesia's Treaty-Making Process: A Comparative Analysis, *Indonesian Comparative Law Review*, Vol.4 Issue.1, 2021, page. 26-33

22 Arpangi, etc., Integrating Australian Employment Law Practice in Support of People with Disabilities in Indonesia, *Khazanah Hukum*, Vol.7 No.2, 2025, page.236-254

23 Ferry Irawan Febriansyah, etc., Legal Regulations Against Violence in Marriage, *International Journal of Law and Society (IJLS)*, Vol.3 No.1, 2024, page.44-58.

24 Ahmad Agung Setya Budi., Kawin Paksa Dalam Perspektif Hukum Islam dan Konteks Kajian Hak Asasi Manusia, *Jurnal Dunia Ilmu Hukum*, Vol.1 No.2, 2023, page. 44-49

25 Made Widya Sekarbuana, Ida Ayu Putu Widiawati, and I Wayan Arthanaya., Perkawinan Beda Agama dalam Perspektif Hak Asasi Manusia di Indonesia, *Jurnal Preferensi Hukum*, Vol.2 No.1, 2021, page. 16-21

26 Rustan Darwis., Penentuan Unsur Paksaan Dan Ancaman Sebagai Dasar Pembatalan Perkawinan Di Pengadilan Agama Masamba, *Maddika : Journal of Islamic Family Law*, Vol.1 No.1, 2020, page. 48-59

27 Hans Kelsen., *General Theory of Law and State*, *General Theory of Law and State*, 6th ed., New York: The Lawbook Exchange, 2017, page 64.

28 *Ibid.*

29 Ahmad Muqaffi, Rusdiah Rusdiah and Diana Rahmi., Menilik Problematika Dispensasi Nikah Dalam Upaya Pencegahan Pernikahan Anak Pasca Revisi UU Perkawinan, *Journal of Islamic and Law Studies*. Vol.5 No.2, 2021, page. 361-377

Indonesia, the policy of pursuing pleasure in marriage persists. When examined in light of Jeremy Bentham's theory, this policy of granting marriage dispensations is³⁰ So, the granting of this dispensation is actually giving pleasure. The principle of monogamy in Article 3 of the Marriage Law is in line with Jeremy Bentham's utilitarian principle which emphasizes achieving the greatest happiness for the greatest number of people, because normatively monogamy is seen as more capable of guaranteeing welfare and protecting the position of women in marriage. Exceptions through Article 3 Paragraph (2) must be strictly assessed based on the principle of benefit, namely whether the practice of polygamy truly minimizes suffering or actually strengthens gender inequality. In this perspective of living law, recognition of living social practices cannot be separated from the evaluation of their impact on women, while feminist legal theory affirms the role of the state, through the courts, as a corrective instrument to prevent the reproduction of patriarchal power relations. Thus, the protection and strengthening of women's position are key indicators of marital legal justice, both utilitarian and normative.

Policies that deviate from established norms will have double consequences, namely happiness and unhappiness, which in Balinese local wisdom is called *Rwa Bhineda*.³¹ This dispensation policy will result in the reproduction of gender inequality and the weakening of children's rights protection.³² This is relevant when compared to John Rawls' Theory of Justice.³³ It's clear that this dispensation policy actually creates injustice. John Rawls, in his theory, states that justice is the primary virtue in social institutions.³⁴ Every person has a dignity based on justice, so even an entire society cannot overturn it. On this basis, justice rejects the idea that the loss of freedom for some can be justified by the greater good gained by others. Justice does not allow the sacrifices imposed on a few to be outweighed by the benefits enjoyed by the majority.

Similar things also happen in several countries in Southeast Asia, such as Malaysia with its dual legal system (*dual legal system*) which separates Sharia law from civil law,³⁵ appears to also face problems similar to those in Indonesia. The minimum age for marriage under Sharia law is lower than under civil law, thus opening up opportunities for discrimination against women and girls.

Meanwhile, in the predominantly Catholic Philippines, divorce is prohibited in its legal system. This policy often harms women who are victims of domestic

30 John Stuart Mills., *On Liberty, or Concerning Freedom*, Trans. Yayasan Obor Indonesia, Jakarta, 1996, page. 3-6.

31 Selvyani., *The Concept of Rwa Bhineda as a Paradigm of Pluralism in Religious Diversity in Bali*. *ŚRUTI: Journal of Hinduism*, Vol.5 No.1, 2024, page. 20-30

32 I Made Ari Kapela., *The Concept of Rwa Bhineda within the Balinese Hindu Society*, *Bali Tourism Journal*, Vol.7 No.2, 2023, page. 27-30.

33 John Rawls., *Theory of Justice: The Basics of Political Philosophy to Achieve Social Welfare in the State*, Yogyakarta: Student Library, 2011, page.3

34 Awal Mukmin., *Pertimbangan Hakim dalam Menolak Dispensasi Nikah Perspektif Teori Keadilan John Rawls* (Studi Penetapan Pengadilan Agama Kabupaten Kediri Nomor 0158/Pdt.P/2018/PA.Kab.Kdr), *Al-Qadlāya*, Vol.2 No.2, 2023, page. 8-18

35 Jamila Hussain., *More Than One Law for All: Legal Pluralism in Southeast Asia*, *South Asian History and Culture*, Vol.10 No.2, 2011, page. 152-166.

violence, as it lacks adequate legal mechanisms to end an abusive marriage.³⁶ All three countries demonstrate patterns of structural injustice still embedded in marriage law, including age norms for marriage, divorce mechanisms, and power relations between men and women.

Considering the existence of marriage regulations in several Southeast Asian countries, such as Indonesia, Malaysia, and the Philippines, it is clear that the issue of women's status within the family is central. Normatively, marriage law ideally places women and men on equal footing, both in terms of rights and obligations. This aligns with the principle of gender equality guaranteed by international instruments, such as the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW)³⁷, as well as the constitutional mandate in many countries, including Indonesia, which guarantees equality before the law.

However, in practice, women's position in marriage is often influenced by religious norms, patriarchal culture, and social constructs. For example, in Indonesia, although Marriage Law No. 16 of 2019 has emphasized the principle of equality, reality shows that gender bias persists, particularly regarding the husband's authority as head of the family and the wife's limited role in household decision-making.³⁸ A similar situation is evident in Malaysia, with the dualism of Islamic and civil law, which in some aspects still places women in a subordinate position.

The position of women in marriage law is also closely related to issues of legal protection, particularly in the context of divorce, child custody, and division of joint property. Women are often more economically and socially vulnerable when a marriage breaks up. Therefore, marriage law reform needs to be directed at strengthening women's position through fairer regulations, responsive to human rights principles, and consistent with the goal of achieving gender equality within the family.

3.2 The Position of Women in Marriage Law: A Comparative Analysis of Several Southeast Asian Countries

In the Indonesian constitutional system,³⁹ judicial power is expressly regulated in Article 24 paragraph (1) of the 1945 Constitution which states that,⁴⁰ "Judicial power is an independent power to administer justice in order to uphold law and justice." This formulation confirms that judges as executors of judicial power have full independence, may not be intervened by other powers, and are

36 John C. Titan., Exploring the Possibility of Divorce in the Philippines: A Legal Perspective, *International Journal of Law and Politics Studies*, Vol.7 No.8, 2025, page. 1-18

37 United Nations., *Convention on the Elimination of All Forms of Discrimination against Women*. United Nations Treaty Series, Vol.1249, 1979, page.13

38 Hardianti Hardianti and Nurchaliq Majid., Rekonstruksi Konsep Nafkah Dalam Hukum Keluarga Islam: Perspektif Gender Dan Otonomi Perempuan, *Usrah: Jurnal Hukum Keluarga Islam*, Vol.6 No.3, 2025, page. 68-82

39 Anis Mashdurohatun., Reconstruction Of The Implementation Of Regional Head Elections Based On The Value Of Justice, *International Journal of Business, Economics and Law* Vol.28 No.1, 2022, page.120–32.

40 Suparto Suparto., Perlunya Amendemen Terhadap Pasal 24 B Ayat (1) UUD 1945 Dalam Rangka Pengawasan Terhadap Hakim Konstitusi, *Borneo Law Review*, Vol.4 No.1, 2020, page.31-44

obliged to maintain the rule of law and realize substantive justice.⁴¹ Furthermore, Article 24 paragraphs (2) and (3) stipulate that this power is exercised by the Supreme Court and the judicial bodies under it, as well as the Constitutional Court, with the support of other institutions regulated by law in order to ensure the fair and professional implementation of judicial power.⁴²

Theoretically, marriage law ideally guarantees equal rights and obligations between husband and wife, protection against violence, and fair access to property, divorce, and child custody. However, national implementation is influenced by a combination of religious norms, patriarchal traditions, and legal politics, resulting in varying positions for women across countries. Based on the results of a search of legal materials related to the position of women in marriage in several countries in Southeast Asia, it shows that the position of women in marriage law in Indonesia, Malaysia and the Philippines shows a complex dynamic between legal norms, socio-cultural practices, as well as the influence of religion and international instruments.

The position of women in marriage law in Indonesia has experienced significant developments along with the enactment of Law Number 1 of 1974 concerning Marriage.⁴³⁴⁴ (Marriage Law) which was later revised by Law No. 16 of 2019. The law emphasizes that marriage must be based on the principle of equality, but practice still demonstrates gender bias, particularly in polygamy, inheritance rights, and women's roles within the household. In addition to the Marriage Law, the Compilation of Islamic Law (KHI)⁴⁵ While the specific provisions for Muslims allow men to practice polygamy, that is, having more than one wife under certain conditions, this still creates gender inequality. Therefore, when this provision is linked to the international human rights instrument, CEDAW, which Indonesia ratified through Law No. 7 of 1984, it actually promotes the principle of non-discrimination.

According to Indonesian law, a woman's position in marriage is that of a wife, with women being positioned equally with their husbands in terms of domestic rights and obligations, as outlined in Article 31 of the Marriage Law.⁴⁶ The rights and position of a wife are equal to those of a husband in domestic life and social interactions.⁴⁷ Each party has the right to take legal action. The following

41 M. Iqbal Wibisono., *Dinamika Politik Hukum Dalam Transformasi Kekuasaan Kehakiman Pasca Amandemen UUD 1945. Sosio Dialektika*, Vol.10 No.2, 2025, page. 321-345.

42 Rinsofat Naibaho, and Indra Jaya M. Hasibuan., *Peranan Mahkamah Agung Dalam Penegakan Hukum Dan Keadilan Melalui Kekuasaan Kehakiman. Nommensen Journal of Legal Opinion*, Vol.2 No.2, 2021, page. 203-214

43 Wahda Hilwani Damanik., *Dinamika Pembaharuan Hukum Keluarga Islam Dalam Hukum Nasional, Jurnal Hukum Ekonomi dan Wakaf*, Vol.3 No.1, 2025, page.1-15

44 Junaidi Junaidi, and Nadia Deby Sukanti., *Perempuan dengan Peran Ganda dalam Rumah Tangga. Saree: Research in Gender Studies*, Vol.4 No.1, 2022, page. 25-37

45 Republic of Indonesia., *Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law*. Jakarta: State Secretariat of the Republic of Indonesia, 1991.

46 Ahmad Nawawi., *Perlindungan Terhadap Perempuan Dan Anak Dalam Rancangan Undang-Undang Ketahanan Keluarga Perspektif Hak Asasi Manusia. Sakina: Journal of Family Studies*, Vol.5 No.1, 2021, page. 1-13.

47 Muhammad Adib, Dona Salwa, and Muthmainnah Khairiyah., *Tukar Peran Suami Dan Istri Dalam Rumah Tangga Perspektif Hukum Keluarga Dan Gender. Journal of Islamic and Law Studies*, Vol.8 No.1, 2024, page. 92-114

article explains that the husband is the head of the family and the wife is the homemaker. Regarding the management of marital assets, although the Marriage Law adopts a joint property system as stipulated in Article 35, which states that assets acquired during the marriage become joint property. Assets brought by each husband and wife, as well as assets each receives as gifts or inheritance⁴⁸, remain under the control of each party unless otherwise agreed by the parties. However, in practice, in married life in society, the husband's position is often more dominant. This is also true in cases of divorce. Although women have the same rights to file for divorce, the administrative and social burden is heavier for wives than for husbands.

Legal problems that frequently occur in Indonesian marriage law are regarding *issue* Polygyny⁴⁹, even though it has been regulated normatively with strict conditions, but still has implications for the unequal position of women. In Indonesia, regarding legal protection for women, Various laws and regulations regulate women's rights, such as those after divorce. Article 41 (c) of the Marriage Law stipulates that a former husband is obliged to provide for his former wife's living expenses after the divorce. Furthermore, women's rights after divorce are also regulated in the Compilation of Islamic Law (KHI), specifically in Chapter XVII. According to Article 144 of the KHI, divorce can occur through a divorce decree issued by the husband or a divorce suit filed by the wife. This divorce can only be carried out based on a judge's decision in a Religious Court. The court has the authority to order the former husband to fulfill his obligations regarding living expenses and other obligations to his former wife, including: *mut'ah* (divorce money), iddah maintenance (living allowance during the iddah period), and child support. Even if the wife does not file a lawsuit, the panel of judges can order the ex-husband to pay child support. *mut'ah*, iddah maintenance, and child maintenance as a form of responsibility.⁵⁰

Likewise, many child marriages are found, although the Constitutional Court through its Decision No. 22/PUU-XV/2017, has decided that the marriageable age limit for prospective brides and grooms is 19 years old, but legal irregularities often occur, with stakeholders granting dispensations on the grounds of urgency.⁵¹ This ruling affirms the protection of girls from child marriage practices that are detrimental to their status. Apart from that, in daily practice in community life, domestic violence still occurs frequently. Despite Law No. 23 of 2004, the practice is still widespread.

Considering the current issues in the implementation of the Marriage Law, which still imposes many policies, it is clear that Indonesian women have been granted equal status with men, but its implementation still faces structural,

48 Khalfi, A., OA Victoria, and Zukri FB Moh., Comparative Law of Islamic Inheritance and Civil Law Inheritance (West). *Sultan Agung Notary Law Review: Universitas Islam Sultan Agung*, Vol.1 No.2, 2020, page. 109.

49 Sujana, I Nyoman., *Legal Status of Children Born Out of Wedlock in the Perspective of Constitutional Court Decision Number 46/PUU-VIII/2010*, Yogyakarta: Aswaja Pressindo, 2021, page.15.

50 Sariati Sari., Analysis of Protection of Women's Rights in Marriage According to Islamic Law and Law in Indonesia, *Al-Qadha: Jurnal Hukum Dan Syar'iah*, Vol.1 No.2, 2025, page. 39-47.

51 Imaro Sidqi and Mhd. Rasidin., Prohibition of Interfaith Marriage in Indonesia: A Study of Constitutional Court Decision Number 24/PUU-XX/2022, *Jurnal Ilmiah Al-Syir'iah*, Vol.21 No.1, 2023, page. 154-172

cultural, and social obstacles. While the legal instruments are progressive, enforcement remains weak. Regulation marriage laws in Malaysia are differentiated based on religion, namely *Islamic Family Law* for Muslims (nearly 60% of the population), and the Law Reform (Marriage and Divorce) Act 1976 for non-Muslims. In the context of Islamic law, marriage is not merely a physical relationship, but also a sacred covenant with profound meaning. This marriage contract process involves the agreement of both parties and is witnessed by witnesses, thus providing legality and legitimacy to the relationship. The marriage contract also reflects the moral commitment and responsibility between husband and wife to care for and support each other in building a harmonious household life based on religious values.⁵² Furthermore, marriage in Islam also has a spiritual purpose, namely to carry out Allah's commands and fulfill the Sunnah of the Prophet Muhammad (peace be upon him). Therefore, marriage is viewed not only from a legal and physical perspective, but also from a spiritual and moral perspective, which are essential foundations for building a peaceful, loving, and compassionate family. Therefore, it is strongly emphasized that sexual intercourse may only occur after a valid marriage contract, in accordance with Islamic teachings and sharia provisions.⁵³

The position of women in marriage is heavily influenced by Islamic law, which is regulated at the state level through the Sharia Courts. Considering that the majority of Malaysia's population is Muslim, the basic reference is *Islamic Family Law (Federal Territories) Act 1984*, while non-Muslims use references *Law Reform (Marriage and Divorce) Act 1976*. The Malaysian government has not ratified CEDAW in full without reservations, especially regarding marriage and family.

The position of women in marriage is still weak, considering that Islamic law still allows men to practice polygamy with the permission of the Sharia Court, but this often harms the first wife, and in the event of a divorce the husband has the right to divorce, while women can only file a petition, *fasakh*, *character*, or *ta'liq*. While the process is more difficult, women are recognized as having rights in managing joint assets, implementation remains biased.

Regarding current issues frequently encountered in the practice of marriage law in Malaysia, polygamy without court permission is still common, which certainly harms the rights of wives.⁵⁴ Malaysian marriage law still provides discretion for Muslim citizens to conduct child marriages provided they have obtained the approval of a Sharia judge.⁵⁵ This can be seen in the case of Kes Indira Gandhi

52 Nurlaila Harun., Islamic Legal Education on the Rights and Obligations of Husbands and Wives in Building a Harmonious Family, *Global Sustainability and Community Engagement January*, Vol.2 No.1, 2026, page. 142-150.

53 Hayatullah Laluddin, et. al., The Contract of Marriage and Its Purposes from Islamic Perspective, *Asian Social Science*, Vol.10 No.2, 2014, page. 139-145

54 Anis Shuhaiza Md Salleh, Najah Inani Abdul Jalil, Nor Ashikin Md Nasir and Syahmi Awang., Islamic Family Law on Polygamous Marriage in Malaysia: Between Roses And Thorns, *Jurnal Pembangunan Sosial (JPS)*, Vol.27, 2024, page. 25-49.

55 Muhammad Al-Ghazalli Abdol Malek, Mohd Al Adib Samuri, and Muhammad Nazir Alias., Child Marriage in Malaysia: Reforming Law through the Siyasa al-Shar'iyya Framework, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol.7 No.1 2023, page. 121-130

a/p Mutho v. Pengarah Jabatan Agama Islam Perak. In this case, the Federal Court ruled that the religious conversion of children without the mother's consent is invalid. This ruling strengthens women's position in family custody and decision-making. In child custody disputes, women's position is clearly weak, due to the tendency in practice to favor the father. Based on the description and evidence of court decisions in Malaysia, it is clear that women's position in marriage law in Malaysia remains weak compared to Indonesia, primarily due to the patriarchal nature of the Sharia Court. However, civil court decisions have become increasingly progressive in protecting women.⁵⁶

The Philippines is unique in Southeast Asia in that it does not recognize divorce for the majority of its citizens (non-Muslims), due to its strong Catholic influence. However, there are special laws for Muslims, namely: *Code of Muslim Personal Laws (Presidential Decree No. 1083/1977)*.⁵⁷ The Family Code of the Philippines (1987) is generally applicable in the Philippines. Which generally applicable. Muslim Code (PD 1083) applies to Muslims (approximately 5-6% of the population). In relation to international human rights instruments, the Philippine government has ratified CEDAW without reservation, so as to be more committed to gender equality.⁵⁸

Position of Women in Marriage, Catholic/non-Muslim women, can only apply *annulment*, not divorce. This limits women's freedom to leave a troubled marriage. Meanwhile, Muslim women still face many of the same issues as Muslim women in Malaysia, including polygyny and limited divorce rights. When it comes to managing marital property, Philippine marriage law strictly regulates *Family Code*, where the state has provided equality between men and women.⁵⁹

Current Issues The absence of a national divorce law is a major human rights issue in the Philippines, harming women victims of domestic violence, as outlined in the case of Republic v. Molina, where in its decision the Supreme Court of the Philippines set strict conditions *annulment*, making it difficult for women to end their marriages.⁶⁰ This ruling confirms the existence of structural barriers for Filipino women. Meanwhile, Muslims are still permitted to practice polygamy. In terms of women's position in childcare, the Philippine government is relatively more protective of mothers than Malaysia.

1) Based on current issues regarding marriage law in the Philippines, it is clear that the status of women in the Philippines differs between the Catholic

56 Adi Syahputra Sirait, Nurhotia Harahap, Taufik Hidayat, Risalan Basri Harahap., Assessing Criminal Penalties in Marriage Law: a Comparative Study of Policy Frameworks within Indonesian and Malaysian Legislation, *Al-Manahij: Jurnal Kajian Hukum Islam*, Vol.18 No.2, 2024, page. 255

57 Gavin Willis Jones., Muslim and Non-Muslim Divorce Trends in Southeast Asia in The 21st Century, *Asian Journal of Social Science*, Vol.51 No.3, 2023, page. 137-145

58 United Nations., *Convention on the Elimination of All Forms of Discrimination against Women*. United Nations Treaty Series, Vol. 1249, 1979. page. 13, New York: United Nations, Accessed September 28, 2025.

59 Rebecca Foley., Muslim Women's Challenges to Islamic Law The Case of Malaysia, *International Feminist Journal of Politics*, Vol.6 No.1, 2004, page. 53-84

60 Syaifuddin Zuhdi., Ma Daphnee Alaba, Marisa Kurnianingsih, Andria Luhur Prakoso and Fahmi Fairuzzaman, The Comparative Study of Child and Women's Rights Protection After Marital Dissolution in Indonesia and Philippines, *Sakina: Journal of Family Studies*, Vol.9 No.2, 2025, page. 146-64

and Muslim communities. Inequality still persists in general due to the absence of a fair divorce mechanism. However, the Philippines' commitment to international human rights has provided an impetus for reform. Therefore, if we examine the practice of implementing marriage law in several countries within the jurisdiction of Southeast Asian countries, we can find fundamental differences between Muslim and non-Muslim citizens. The Indonesian government has a more progressive view because of the change in the minimum age for marriage, namely that both men and women must be 19 years old, as stipulated in the Marriage Law in Article 7 regulates that Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years, then In the event of a deviation from the age provisions as referred to, the parents of the man and / or the parents of the woman can request a dispensation from the Court on the basis of urgent circumstances accompanied by sufficient supporting evidence, then the next regulation regulates that the Granting of dispensation by the Court as referred to must consider the opinions of both prospective brides and grooms who will marry. Regarding marriage, only those who meet the age requirement are allowed to marry in the Philippines. Those who satisfy the age criteria can marry as expected, while those who do not can proceed with marriage if the court grants a marriage dispensation in accordance with the law.⁶¹

The position of Indonesian women in building a household in everyday life has been guaranteed by the constitution as regulated in Article 28I paragraph (2) which stipulates that *"Everyone has the right to be free from discriminatory treatment on any basis..."* Guaranteeing women's constitutional right to build a household equally and free from discrimination. However, in everyday life, society still frequently faces issues of polygyny and cultural bias.⁶² Where the majority of the Indonesian population is Muslim, most consider polygamy to be normal, legitimate, and even a symbol of social status or a form of religious obedience as long as they are able to act fairly.⁶³ A similar thing also happens in Malaysia, where the position of women is also very weak due to the patriarchal authority of the Sharia Court, even though there have been breakthroughs in the civil courts.

Paying attention to the position of women in marriage law in several Southeast Asian countries, namely Indonesia and Malaysia, by conducting A comparative analysis of Indonesian and Malaysian marriage laws shows that both countries attempt to balance women's normative needs and well-being through state control over practices such as polygyny, marriage age, divorce, maintenance, and child custody. This approach aligns with Bentham's principle of utilitarianism, which views law not merely as formal legitimacy but as a matter of principle.its impact on the welfare of the most. Women in particular, are often in vulnerable positions within traditional family structures. Through strict

61 Muhammad Fitratallah Dahlan, etc., The Role of Education as A Preventive Measure Against Early Marriage: A Family Law Perspective, *Eksekusi: Journal of Law*, Vol.7 No.2, 2025, page. 201-220

62 Tika Widiastuti et. al., Capturing the Barriers and Strategic Solutions For Women's Economic Empowerment In Indonesia. *Heliyon*, Vol.10 No.3, 2024, page. 1-18

63 Man Baker., Polygyny in Islam: A call for retrospection. *British Journal of Middle Eastern Studies*, Vol.50 No.2, 2021. page. 397-409.

regulations and court involvement, both Indonesia and Malaysia have made efforts to reduce suffering and strengthen protections for women within the institution of marriage, although implementation can vary based on social context. living laws show that state law cannot be ignored from living social values and practices, but must still function to maximize the real happiness of society as a whole.

However, from the point of view of feminist legal theory, the fundamental challenge remains the success of the law in reflecting substantive gender justice broader and not merely procedural. Normative studies show that although regulations such as polygamy permit requirements attempt to create a responsive oversight mechanism to harm and gender justice in ASEAN, there are still substantive gaps in achieving more effective gender equality, as cultural practices and interpretations of traditional law often benefit men and weaken women's bargaining position socially and legally.⁶⁴ In this context, marriage law is responsive to utilitarian while respecting living law must uphold the protection of women as part of the main objective of the law, not simply the reproduction of traditional norms that reinforce gender inequality.

4. CONCLUSION

A comparative study of women's status in marriage law in Indonesia, Malaysia, and the Philippines reveals complex dynamics influenced by the interaction of legal norms, socio-cultural practices, religious authority, and commitment to international instruments. Indonesia occupies a middle ground with progressive reforms, such as the 2019 revision of the Marriage Law that raised the minimum age for marriage, but still faces issues of polygyny, gender bias in divorce, and weak protection for victims of domestic violence. Malaysia remains dominated by conservative Sharia law that limits women's rights, despite breakthroughs through civil court jurisprudence, such as the case of Indira Gandhi, which opens up space for strengthening the principle of equality. Conversely, the Philippines exhibits an extreme dualism, where international commitments to CEDAW appear progressive, but the absence of a national divorce mechanism for the non-Muslim majority creates serious vulnerabilities for women, particularly victims of domestic violence, while the Muslim community still faces similar problems to Malaysia. Overall, all three countries still have significant gaps between normative human rights principles and their practical implementation, so urgent marriage law reforms are directed at eliminating gender bias, strengthening women's protection, and establishing a family law framework that balances local values and international standards.

64 Khoiriyah Shofiyah Tanjung, Ahmad Masum, Nispan Rahmi, and Ibbatul Mardiah., *A Normative Study on Polygamy and Gender Justice in Islamic Family Law: Insights from ASEAN Jurisprudence*. Vol.2 No.2, 2025, page. 211–235

BIBLIOGRAPHY

- Adi Syahputra Sirait, Nurhotia Harahap, Taufik Hidayat, Risalan Basri Harahap., Assessing Criminal Penalties in Marriage Law: a Comparative Study of Policy Frameworks within Indonesian and Malaysian Legislation, *Al-Manahij: Jurnal Kajian Hukum Islam*, Vol.18 No.2, 2024;
- Ahmad Agung Setya Budi., Kawin Paksa Dalam Perspektif Hukum Islam dan Konteks Kajian Hak Asasi Manusia, *Jurnal Dunia Ilmu Hukum*, Vol.1 No.2, 2023;
- Ahmad Muqaffi, Rusdiah Rusdiah and Diana Rahmi., Menilik Problematika Dispensasi Nikah Dalam Upaya Pencegahan Pernikahan Anak Pasca Revisi UU Perkawinan, *Journal of Islamic and Law Studies*. Vol.5 No.2, 2021;
- Ahmad Nawawi, Perlindungan Terhadap Perempuan Dan Anak Dalam Rancangan Undang-Undang Ketahanan Keluarga Perspektif Hak Asasi Manusia. *Sakina: Journal of Family Studies*, Vol.5 No.1, 2021;
- Albiruwahidhan Cahayarizputra., International Treaties in the Hierarchy of Legislations: Comparison Between Indonesia and France, *Uti Possidetis: Journal of International Law*, Vol.6 No.1, 2025;
- Anis Mashdurohatun., Reconstruction Of The Implementation Of Regional Head Elections Based On The Value Of Justice, *International Journal of Business, Economics and Law* Vol.28 No.1, 2022;
- Anis Shuhaiza Md Salleh, Najah Inani Abdul Jalil, Nor Ashikin Md Nasir and Syahmi Awang., Islamic Family Law on Polygamous Marriage in Malaysia: Between Roses And Thorns, *Jurnal Pembangunan Sosial (JPS)*, Vol.27, 2024;
- Arpangi, etc., Integrating Australian Employment Law Practice in Support of People with Disabilities in Indonesia, *Khazanah Hukum*, Vol.7 No.2, 2025;
- Awal Mukmin, Pertimbangan Hakim dalam Menolak Dispensasi Nikah Perspektif Teori Keadilan John Rawls (Studi Penetapan Pengadilan Agama Kabupaten Kediri Nomor 0158/Pdt.P/2018/PA.Kab.Kdr), *Al-Qadlaya*, Vol.2 No.2, 2023;
- Elvira Damayanti, Divani Divani, and Daffa Daffa., Perkawinan dalam Perspektif Hukum Adat Indonesia: Ragam Sistem, Tradisi, dan Tantangan Modern, *Taruna Law: Journal of Law and Syariah*, Vol.3 No.2, 2025;
- Esther Masri, Poligami Dalam Perspektif Undang-Undang Nomor I Tahun 1974 Tentang Perkawinan Dan Kompilasi Hukum Islam (KHI), *Krtha Bhayangkara*, Vol.13 No.2, 2019;
- Fahrudin Dama., Problematika Poligami Di Indonesia Analisis Normatif dan Sosiologis dalam Hukum Keluarga Islam, *HOKI: Journal of Islamic Family Law*, Vol.3 No.1, 2025;
- Ferry Irawan Febriansyah, etc., Legal Regulations Against Violence in Marriage, *International Journal of Law and Society (IJLS)*, Vol.3 No.1, 2024;

- Fransiskus AWJ., Procedural Problems in Indonesia's Treaty-Making Process: A Comparative Analysis, *Indonesian Comparative Law Review*, Vol.4 Issue.1, 2021;
- Gavin Willis Jones., Muslim and Non-Muslim Divorce Trends in Southeast Asia in The 21st Century, *Asian Journal of Social Science*, Vol.51 No.3, 2023;
- Hardianti Hardianti and Nurchaliq Majid., Rekonstruksi Konsep Nafkah Dalam Hukum Keluarga Islam: Perspektif Gender Dan Otonomi Perempuan, *Usrah: Jurnal Hukum Keluarga Islam*, Vol.6 No.3, 2025;
- Hayatullah Laluddin, et. al., The Contract of Marriage and Its Purposes from Islamic Perspective, *Asian Social Science*, Vol.10 No.2, 2014;
- Heppy Hyma Puspytasari, Alif Maulana, and Febi Agustina, Poligami dalam Hukum Islam dan Hukum Perkawinan, *Journal of Education Research*, Vol.4 No.4, 2023;
- I Made Ari Kapela., The Concept of Rwa Bhineda within the Balinese Hindu Society, *Bali Tourism Journal*, Vol.7 No.2, 2023;
- Ida Tutia Rakhmi, Rifka Safira, Anta Rini Utami, and Aldisa Melissa, Relasi Agama Dan Negara Dalam Hak Konstitusional Warga Negara Berdasarkan Pasal 300-305 KUHP 2023, *IURIS STUDIA: Jurnal Kajian Hukum*, Vol.6 No.2, 2025;
- Imaro Sidqi and Mhd. Rasidin, Prohibition of Interfaith Marriage in Indonesia: A Study of Constitutional Court Decision Number 24/PUU-XX/2022, *Jurnal Ilmiah Al-Syir'iah*, Vol.21 No.1, 2023;
- Jamila Hussain., More Than One Law for All: Legal Pluralism in Southeast Asia, *South Asian History and Culture*, Vol.10 No.2, 2011;
- John C. Titan., Exploring the Possibility of Divorce in the Philippines: A Legal Perspective, *International Journal of Law and Politics Studies*, Vol.7 No.8, 2025;
- Junaidi Junaidi, and Nadia Deby Sukanti., Perempuan dengan Peran Ganda dalam Rumah Tangga. *Saree: Research in Gender Studies*, Vol.4 No.1, 2022;
- Khalifi, A., OA Victoria, and Zukri FB Moh., Comparative Law of Islamic Inheritance and Civil Law Inheritance (West). *Sultan Agung Notary Law Review: Universitas Islam Sultan Agung*, Vol.1 No.2, 2020;
- Khoiriyah Shofiyah Tanjung, Ahmad Masum, Nispan Rahmi, and Ibnatul Mardiah., *A Normative Study on Polygamy and Gender Justice in Islamic Family Law: Insights from ASEAN Jurisprudence*. Vol.2 No.2, 2025;
- Luh Suryatni., Perkawinan Merubah Status Pria Dan Wanita Dalam Kehidupan Di Masyarakat, *Jurnal Ilmiah Hukum Dirgantara*, Vol.11 No.2, 2021;
- M. Iqbal Wibisono., Dinamika Politik Hukum Dalam Transformasi Kekuasaan Kehakiman Pasca Amendemen UUD 1945. *Sosio Dialektika*, Vol.10 No.2, 2025;

- Made Widya Sekarbuana, Ida Ayu Putu Widiawati, and I Wayan Arthanaya., Perkawinan Beda Agama dalam Perspektif Hak Asasi Manusia di Indonesia, *Jurnal Preferensi Hukum*, Vol.2 No.1, 2021;
- Man Baker., Polygyny in Islam: A call for retrospection. *British Journal of Middle Eastern Studies*, Vol.50 No.2, 2021;
- Mansur Mansur, Dekonstruksi Tafsir Poligami: Mengurai Dialektika Teks dan Konteks, *Ahwal*, Vol.1 No.1, 2008;
- Mufarochah, etc., Literature Study: Analysis of Polygamy Factors in Men, *Eduvest-Journal of Universal Studies*, Vol.5 No.3, March, 2025;
- Muhammad Adib, Dona Salwa, and Muthmainnah Khairiyah., Tukar Peran Suami Dan Istri Dalam Rumah Tangga Perspektif Hukum Keluarga Dan Gender. *Journal of Islamic and Law Studies*, Vol.8 No.1, 2024;
- Muhammad Al-Ghazalli Abdol Malek, Mohd Al Adib Samuri, and Muhammad Nazir Alias., Child Marriage in Malaysia: Reforming Law through the Siyasa al-Shar'iyya Framework, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol.7 No.1, 2023;
- Muhammad Aprizal Arsyita, Damrah Khair, Erina Pane, A. Kumedi Ja'far and Siti Mahmudah., Smuggling of The Law In Different Religious Marriage As A Legal Action In The State Of Pancasila, *Smart: Journal of Sharia, Tradition and Modernity*, Vol.1 No.1, 2021;
- Muhammad Fitratallah Dahlan, etc., The Role of Education as A Preventive Measure Against Early Marriage: A Family Law Perspective, *Eksekusi: Journal of Law*, Vol.7 No.2, 2025;
- Nina Nurmila., Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia, *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia*, 2009;
- Nurlaila Harun., Islamic Legal Education on the Rights and Obligations of Husbands and Wives in Building a Harmonious Family, *Global Sustainability and Community Engagement January*, Vol.2 No.1, 2026;
- Rebecca Foley., Muslim Women's Challenges to Islamic Law The Case of Malaysia, *International Feminist Journal of Politics*, Vol.6 No.1, 2004;
- Richard Gyan Aboagye, etc., Association between polygyny and justification of violence among women in sexual unions in sub-Saharan Africa, *BMC Public Health*, Vol.25 No.1719, 2025;
- Rinsofat Naibaho, and Indra Jaya M. Hasibuan., Peranan Mahkamah Agung Dalam Penegakan Hukum Dan Keadilan Melalui Kekuasaan Kehakiman. *Nommensen Journal of Legal Opinion*, Vol.2 No.2, 2021;
- Rustan Darwis, Penentuan Unsur Paksaan Dan Ancaman Sebagai Dasar Pembatalan Perkawinan Di Pengadilan Agama Masamba, *Maddika: Journal of Islamic Family Law*, Vol.1 No.1, 2020;
- Salvia Salsabila Putri Kastiady, etc., Protection of Human Rights Against Women in an International Legal Perspective, *International Law Discourse in*

Southeast Asia, Vol.3 No.2, 2024;

Sariati Sari., Analysis of Protection of Women's Rights in Marriage According to Islamic Law and Law in Indonesia, *Al-Qadha: Jurnal Hukum Dan Syar'iah*, Vol.1 No.2, 2025;

Selvyani., *The Concept of Rwa Bhineda as a Paradigm of Pluralism in Religious Diversity in Bali. ŚRUTI: Journal of Hinduism*, Vol.5 No.1, 2024;

Suparto Suparto., Perlunya Amendemen Terhadap Pasal 24 B Ayat (1) UUD 1945 Dalam Rangka Pengawasan Terhadap Hakim Konstitusi, *Borneo Law Review*, Vol.4 No.1, 2020;

Syaifuddin Zuhdi, Ma Daphnee Alaba, Marisa Kurnianingsih, Andria Luhur Prakoso and Fahmi Fairuzzaman., The Comparative Study of Child and Women's Rights Protection After Marital Dissolution in Indonesia and Philippines, *Sakina: Journal of Family Studies*, Vol.9 No.2, 2025;

Tika Widiastuti et. al., Capturing the Barriers and Strategic Solutions For Women's Economic Empowerment In Indonesia. *Heliyon*, Vol.10 No.3, 2024;

United Nations., Convention on the Elimination of All Forms of Discrimination against Women. *United Nations Treaty Series*, Vol.1249, 1979;

United Nations., Convention on the Elimination of All Forms of Discrimination against Women. *United Nations Treaty Series*, Vol.1249, 1979;

Wahda Hilwani Damanik., Dinamika Pembaharuan Hukum Keluarga Islam Dalam Hukum Nasional, *Jurnal Hukum Ekonomi dan Wakaf*, Vol.3 No.1, 2025;

Books:

Catharine A. MacKinnon., 1989, *Toward a Feminist Theory of the State*, Harvard University Press, Cambridge, Massachusetts;

Eugen Ehrlich., 1936, *Fundamental Principles of the Sociology of Law*, Harvard University Press, Cambridge, Massachusetts;

H. Moch. Isnaeni., 2016, *Hukum Perkawinan Indonesia*, 1st ed., PT. Refika Aditama, Bandung;

Hans Kelsen., 2017, *General Theory of Law and State, General Theory of Law and State*, 6th ed., The Lawbook Exchange, New York;

John Rawls., 2011, *Theory of Justice: The Basics of Political Philosophy to Achieve Social Welfare in the State*, Student Library, Yogyakarta;

John Stuart Mills., 1996, *On Liberty, or Concerning Freedom*, Trans. Yayasan Obor Indonesia, Jakarta;

Lenore J. Weitzman., 1981, *The Marriage Contract, Spouses, Lovers and the Law*, The Free Press, New York;

Mansour Fakihi., 2013, *Analisa Gender dan Transformasi Sosial*, Student Library, Yogyakarta;

Michael D. A. Freeman., 2007, *Understanding Family Law*, Oxford University

Press, New York;

Nina Nurmila., 2009, *Women, Islam and Everyday Life: Renegotiating Polygamy in Indonesia*. Routledge, London;

Republic of Indonesia., 1991, *Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law*. State Secretariat of the Republic of Indonesia, Jakarta;

Sujana, I Nyoman., 2021, *Legal Status of Children Born Out of Wedlock in the Perspective of Constitutional Court Decision Number 46/PUU-VIII/2010*, Aswaja Pressindo, Yogyakarta.