

A Constitutional Analysis of Women's Rights within Indonesia's Family Law Framework

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Abstract

The protection of women's rights within Indonesian family law continues to face fundamental challenges due to a legal framework that has yet to be fully aligned with the constitutional principles of equality, non-discrimination, and respect for human dignity. This study aims to examine women's rights within the constitutional architecture of Indonesian family law, identify the forms of constitutional dissonance and constitutional gaps that perpetuate gender inequality, and develop a constitutionalist model for the reconstruction of family law. Employing a normative juridical methodology, the research adopts statutory and constitutional approaches, with data analysed through constitutional interpretation, qualitative content analysis, and legal reasoning. The findings demonstrate that gender inequality in Indonesian family law is not merely attributable to the substantive content of legal norms but is systematically reproduced through the interaction of legislation, judicial institutions, administrative practices, and socio-cultural norms that have yet to fully internalise the constitutional principle of equality before the law. In response, this study proposes the Constitutional Family Equality Framework (CFEF) as a novel theoretical framework integrating constitutional supremacy, substantive equality, human dignity, responsive legal pluralism, and constitutional governance into the reconstruction of Indonesian family law. By repositioning constitutional family law from a predominantly normative reform agenda towards a broader programme of institutional transformation centred on substantive equality and human dignity, the framework advances constitutional scholarship on family law and provides a theoretically grounded foundation for developing a more inclusive, rights-oriented, and constitutionally coherent family law system in Indonesia.

Keywords: *Constitutionalism, Family law, Human dignity, Substantive equality, Women's rights*



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INTRODUCTION

Family law is a field of law with unique characteristics, as it lies at the intersection of state law, religious law, customary law and the social values that have developed within society (Kobko-Odarii et al., 2025). This complexity means that the framework of family law in Indonesia is not only based on a formal-legal paradigm, but is also influenced by colonial history, legal pluralism and developments in national legal policy. Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019, the Compilation of Islamic Law, various provisions of customary law, and the practices of religious and general courts form a pluralistic family law structure. On the one hand, this pluralism reflects respect for the diversity of Indonesian society. On the other hand, it also poses serious challenges when the norms embedded within these various legal regimes result in differing standards of protection for women's rights, thereby giving rise to legal uncertainty and treatment that is not always in line with constitutional principles.

Various current issues demonstrate that women still face structural barriers to obtaining equal legal protection within the family sphere (Fattah et al., 2025). Problems concerning the division of roles between husband and wife, the status of the head of the household, the division of joint property, post-divorce economic rights, child custody, the practice of polygamy, child marriage, domestic violence, and access to justice within the judicial process demonstrate that family law cannot be understood merely as a set of private norms, but also as a space where power relations between the state, religion, society and the individual are manifested (Karimullah, 2023). In this context, women often find themselves in a more vulnerable position because legal constructs remain influenced by a patriarchal paradigm that has developed historically. Consequently, there is a gap between the normative guarantees provided by the constitution and the empirical reality experienced by women in the practice of family law.

Changes in the national legal landscape over the past two decades indicate significant developments in strengthening the protection of women's rights (Wiranti et al., 2025). Constitutional reforms have expanded the catalogue of human rights in the 1945 Constitution of the Republic of Indonesia, whilst Indonesia has also ratified various relevant international instruments, notably the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which obliges the state to harmonise its entire legal system to ensure it is free from gender-based discrimination (Suwarni et al., 2024). Furthermore, developments in the case law of the Constitutional Court demonstrate an increasingly strong emphasis on a constitutional rights approach in interpreting various norms relating to family life (Sianipar et al., 2025). A number of Constitutional Court rulings concerning the status of children, marriage, citizens' rights, and the principle of equality before the law have shown a trend towards a more progressive constitutional interpretation. Nevertheless, these developments have not yet fully resulted in normative consistency, as there remain various provisions within family law that are contested from the perspective of gender equality and women's constitutional rights (Hayatullah et al., 2026; Karimullah, 2022).

This phenomenon has garnered increasing attention in a global context as the issue of gender equality has been positioned as an integral part of the Sustainable Development Goals (SDGs), particularly the goals concerning gender equality, peace, justice and strong institutions, as well as reduced inequalities (Fathony et al., 2024). Countries across various regions have begun to undertake constitutional reviews of family law, using the constitution as the primary benchmark for testing legal norms. The approach of the 'constitutionalisation of family law' has emerged as a new paradigm, holding that all family legal relationships must be interpreted in accordance with constitutional principles concerning equality, non-discrimination, human dignity, the protection of vulnerable groups, and proportionality. This development indicates that family law is no longer positioned as a private domain entirely beyond the reach of the constitution, but rather as part of the public sphere that must be subject to the principles of a democratic state governed by the rule of law.

In the Indonesian context, the discourse on women's rights in family law has developed significantly alongside growing attention to issues of gender justice (Karimullah, Mukhid, et al., 2024). However, the orientation of research in this area still reveals conceptual fragmentation. Most previous studies have focused on normative analyses of the Marriage Act, the Compilation of Islamic Law, or specific provisions of customary law, highlighting specific issues such as polygamy, child marriage, the division of joint property, maintenance rights, child custody, and divorce (Sakinah et al., 2026; Siregar et al., 2026). These studies have made an important contribution to identifying forms of discrimination and inequalities in legal protection for women. However, the majority still treat the constitution as a general basis for legitimacy without conducting an in-depth analysis of how the overall structure of family law interacts with constitutional norms and how the principles of constitutionalism operate in shaping the legal relationship between the state and its citizens in the sphere of the family.

A number of studies have also begun to integrate human rights and gender equality perspectives into the analysis of family law. These approaches generally emphasise the importance of harmonising national law with international standards through the implementation of CEDAW, the Beijing Platform for Action, and various other human rights instruments. The findings of these studies indicate that there are still legal norms with the potential to result in direct or indirect discrimination against women, particularly when the implementation of the law is influenced by social, cultural and religious interpretations that do not always align with the principle of equality (Ayu et al., 2026; Rifa'i et al., 2026). Nevertheless, the majority of studies still employ a human rights-based approach that is oriented towards the protection of human rights in general; consequently, they have not comprehensively explained the role of the constitution as the supreme norm, which serves as the primary parameter for testing the validity and legitimacy of the entire family law structure.

Developments in other studies indicate an increasing use of the socio-legal approach to explain the gap between legal norms and social practices in the protection of women's rights. These studies have successfully demonstrated that the effectiveness

of family law is significantly influenced by institutional factors, legal culture, the capacity of law enforcement officials, access to legal aid, and social constructions regarding gender relations within the family. This empirical approach provides a more comprehensive picture of the obstacles to the implementation of women's rights protection. However, the focus of research remains dominated by the evaluation of policy implementation and has thus not yet developed a theoretical framework regarding the relationship between constitutional supremacy, constitutional interpretation and constitutional rights as the normative foundation for reconstructing Indonesian family law.

International literature on constitutional family law shows increasingly progressive developments by positioning family law as part of constitutional governance. Various studies indicate that strengthening women's rights cannot be achieved through legislative reform alone, but requires a constitutional reinterpretation of the entire family law structure to align it with the principles of equality before the law, substantive equality, human dignity, and transformative constitutionalism (Groves, 2024; McCann, 2022). The transformative constitutionalism approach views the constitution as an instrument of social change that actively corrects legal structures producing systemic inequalities. Consequently, the analysis of family law no longer stops at formal compliance with legislation. Still, it must examine whether legal norms, institutions and practices truly reflect the constitutional values that underpin a modern democracy.

Although the literature in this field has developed rapidly, its application in the Indonesian context remains relatively limited. Most studies utilise constitutional rights merely as a basis for normative argumentation without developing an analytical framework capable of explaining how the entire structure of family law is formed, maintained, or even reproduced through the interplay between constitutional norms, legislation, judicial practice and legal pluralism. Consequently, the relationship between constitutional interpretation, constitutional supremacy, legal pluralism and the protection of women's rights has not yet been systematically mapped out. This analytical gap means that there is as yet no conceptual model available to explain why constitutional protection for women often suffers from inconsistencies when applied in family law practice.

The research gap in this study lies in the absence of a study that comprehensively analyses women's rights within the structure of Indonesian family law through a constitutional perspective that integrates the dimensions of constitutional norms, legal pluralism, the development of case law, and the dynamics of institutional implementation within a single, holistic analytical framework. Previous studies have tended to focus on sectoral issues such as marriage, divorce, child custody or polygamy in isolation, whilst studies employing a human rights perspective have generally not utilised the constitution as the primary instrument for evaluating the coherence of the entire family law structure. Furthermore, previous studies have not adequately explained how the interaction between state law, religious law and customary law affects the effectiveness of the protection of women's constitutional rights within the Indonesian family law system.

Building on these gaps, this study aims to develop a more integrative analytical perspective by positioning the constitution not only as a source of normative legitimacy, but also as an evaluative instrument for the entire family law structure in Indonesia. This approach enables the identification of points of inconsistency between constitutional norms and family law norms, whilst explaining how the principles of equality, non-discrimination, the protection of human rights, and substantive justice should serve as parameters in the formulation and interpretation of family law.

Based on the above, this study aims to comprehensively analyse women's rights within the Indonesian family law framework through a constitutional perspective by identifying the alignment between family law norms and the principles guaranteed in the 1945 Constitution of the Republic of Indonesia, examining the impact of legal pluralism on the effectiveness of the protection of women's constitutional rights, and formulating an analytical framework capable of strengthening the harmonisation between family law and constitutional values. The significance of this study lies in its ability to construct a more in-depth academic argument regarding the importance of the constitutionalisation of family law as a strategy for strengthening a democratic, inclusive and just rule of law.

METHODS

This study employs a normative legal approach with a prescriptive-analytical research design, combined with a conceptual approach, a statutory approach, a case-based approach and a limited comparative approach, as this study aims to analyse the compatibility of Indonesia's family law structure with constitutional principles regarding the protection of women's rights, as well as to formulate a legal framework that is more in line with the values of a democratic state governed by the rule of law. The focus of this study is women's constitutional rights within the Indonesian family law framework, which is operationally defined as the degree to which family law norms, principles and practices conform to the principles of equality before the law, non-discrimination, respect for human dignity, and the protection of human rights as guaranteed in the 1945 Constitution of the Republic of Indonesia. The data sources for this study consist of primary legal materials, including the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 1974 on Marriage as amended by Law No. 16 of 2019, the Compilation of Islamic Law, relevant rulings of the Constitutional Court and the Supreme Court, as well as international legal instruments, in particular the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), supplemented by secondary legal materials in the form of books, internationally recognised academic articles, previous studies and policy documents, as well as tertiary legal materials to support conceptual analysis.

The selection of legal materials was carried out purposively based on the substantive relevance to the issue of the protection of women's rights in family law, whilst the research instrument took the form of a normative analysis matrix developed through indicators of constitutionality based on the principles of constitutional supremacy, equality before the law, substantive equality, and non-discrimination. The

validity of the analysis is ensured through the triangulation of legal sources, systematic, historical, teleological and comparative interpretations, as well as peer debriefing on the construction of legal arguments to enhance the consistency and credibility of the interpretation. Data collection was carried out through a phased literature review encompassing the identification, inventory, classification, evaluation and synthesis of legal materials, which were subsequently analysed using qualitative legal analysis techniques (Azarian et al., 2023), including constitutional interpretation, content analysis and inductive-deductive legal reasoning to identify normative inconsistencies, explain the relationship between legal pluralism and the protection of women's rights, and formulate prescriptive arguments regarding the reconstruction of a more constitutional family law framework; consequently, this method is considered the most appropriate for producing a comprehensive and systematic analysis that makes both theoretical and practical contributions to the development of constitutional family law in Indonesia.

RESULTS AND DISCUSSION

Constitutional Dissonance between Constitutional Equality and the Structure of Family Law

The Indonesian Constitution establishes the principles of equality, respect for human dignity, and the protection of human rights as the cornerstones of the rule of law. Article 27(1) of the 1945 Constitution of the Republic of Indonesia affirms that every citizen has an equal standing before the law and the government, whilst Article 28D(1) guarantees recognition, protection and legal certainty under the law. Furthermore, Article 28H(2) and Article 28I(2) reinforce the state's obligation to provide equal treatment and prohibit all forms of discrimination on any grounds, including discrimination based on sex. Systematically, these constitutional norms collectively establish a paradigm whereby all branches of national law, including family law, must be formulated and applied in accordance with the principle of constitutional equality, which treats women and men as legal subjects possessing equal rights, obligations, capacities and access to protection.

From the perspective of modern constitutionalism, the constitution serves not only as the supreme law of the land but also as a substantive benchmark for assessing whether a legal norm provides fair protection or, conversely, perpetuates inequalities that run counter to the fundamental values of a democratic state governed by the rule of law. Nevertheless, the structure of Indonesian family law exhibits a normative configuration that diverges from this paradigm (Saputra & Sukriyani, 2025). The national family law system is shaped by the interplay between Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019, the Compilation of Islamic Law, various provisions of customary law, practices within both religious and general courts, and the social norms prevailing within society. On the one hand, this pluralistic character is a consequence of the diversity of Indonesia's legal system. On the other hand, it creates a very broad scope for the emergence of differing standards of protection for women's rights. These differences are not solely due to the diversity of legal sources, but also to

the existence of normative constructs that still place relations between men and women within the framework of traditional role division.

The concept of 'constitutional dissonance' in this study is understood as a situation where constitutional norms guaranteeing equality and non-discrimination are not fully reflected in the substance, structure or legal culture governing family relations (Karimullah, Sugitanata, et al., 2023). This dissonance does not always take the form of an explicit conflict between legislation and the constitution. Still, it is more often manifested through normative inconsistencies, ambiguities in interpretation, and institutional practices that result in women's constitutional rights not being effectively protected. In other words, a family law provision may be formally in force, yet substantively produce consequences that diverge from the aims of the constitution. It is this phenomenon that demonstrates that formal compliance with the legal system is not necessarily synonymous with alignment with constitutional values.

Such constitutional dissonance can be observed in the very foundations of legal relationships within the family, which still reflect a gender-based division of roles. Although social changes have shown an increase in women's participation in education, the workplace, public leadership and economic activities, some family law norms are still constructed on the assumption that men are the primary actors in the public sphere, whilst women are positioned as the primary actors in the domestic sphere (Wati et al., 2022). Such a construction is, in fact, a historical product born out of the social context at the time of the law's enactment, when the division of labour based on sex was viewed as natural. However, from the perspective of a constitution that has undergone reform and adopted modern human rights principles, this approach is no longer fully consistent with the concept of substantive equality, that is, equality which not only recognises equal legal status but also removes the structural barriers that place certain groups at a disadvantage.

This discrepancy has become increasingly apparent as family law has been confronted with significant societal changes. Indonesian women no longer merely fulfil the role of family members in a domestic sense, but also serve as primary breadwinners, organisational leaders, professionals, academics, entrepreneurs, and decision-makers across various strategic sectors. These shifts in social structure have transformed family dynamics towards greater equality. However, this social transformation has not yet been fully accompanied by a corresponding transformation of family law norms.

From the perspective of constitutional supremacy, all legal norms should derive their legitimacy from the constitution (Allan, 2023). Consequently, if a legal norm results in differential treatment of citizens without an objective and proportionate basis, then that norm has the potential to contravene the principle of equality before the law. However, in the practice of Indonesian family law, assessments of equality are often still carried out through a formal approach, namely by assuming that different distributions of rights and obligations between men and women do not automatically constitute discrimination as long as they are based on legislation.

Such an approach effectively disregards developments in the theory of constitutional equality, which prioritises substantive impact as the primary measure in

assessing whether a norm results in discrimination. Consequently, constitutional equality cannot be understood merely as equal treatment in the literal sense. Still, it must be analysed based on whether the norm genuinely provides equal opportunities, protection and access for every individual. In this context, a 'constitutional gap' is evident: a discrepancy between constitutional guarantees and the effectiveness of the protection of women's rights within the family law framework. This constitutional gap does not imply that the Constitution fails to provide protection, but rather indicates that the mechanisms for translating constitutional values into sectoral norms have not yet functioned optimally. The Constitution has enshrined universal principles of equality, justice and non-discrimination, but these principles have not yet been fully translated into all levels of regulation or family law practice.

This gap is also influenced by the nature of Indonesia's legal pluralism. Family life is governed by various legal regimes with different sources of legitimacy, namely state law, religious law and customary law. These three legal regimes do not always result in the same level of protection for women's rights. In many instances, religious and customary norms are interpreted dynamically and adaptively in response to societal developments. However, in other circumstances, conservative interpretations may lead to restrictions on women's scope of participation within the family. The state is thus faced with a dilemma between upholding respect for legal pluralism and fulfilling its constitutional obligation to protect the human rights of all citizens. This dilemma demonstrates that the 'constitutional gap' stems not only from the substance of the norms but also from coordination mechanisms between legal systems that are not yet fully integrated.

Developments in the Constitutional Court's rulings reveal progressive efforts to reduce this 'constitutional dissonance'. Through its various rulings, the Constitutional Court has affirmed that the Constitution must serve as the primary basis for interpreting all legal norms concerning citizens' rights. The 'living constitution' approach that has evolved in the practice of the Constitutional Court indicates that the meaning of the Constitution is not confined to its textual formulation, but must evolve in line with changes in society. Therefore, when there is a discrepancy between sectoral legal norms and constitutional values, constitutional judges have a duty to undertake a reinterpretation that ensures the protection of human rights remains guaranteed. Nevertheless, the impact of the Constitutional Court's rulings on the legal structure of the family has not yet been fully systemic, as changes to legal norms still require follow-up through the enactment of legislation, policy changes, or adjustments to institutional practices.

A constitutional gap is also evident in the dimension of implementation. The various legal protection mechanisms available in theory are not always accessible on an equal footing to women, as economic factors, education, legal culture, and the capacity of law enforcement institutions influence access. From the perspective of constitutional governance, the effectiveness of rights protection is measured not only by the existence of legal norms but also by the state's ability to guarantee effective access to justice (Khosla & Tushnet, 2022). Constitutional dissonance demonstrates that family law

reform cannot be achieved merely through editorial amendments to specific laws. The main problem lies in a legal paradigm that still views family relationships as a private sphere that is relatively separate from constitutional principles. However, developments in constitutional family law across various countries demonstrate that all family legal relationships form part of the public sphere and must be subject to the principles of human rights, proportionality and non-discrimination. This means that the constitution must not be treated merely as an abstract reference, but must serve as an evaluative instrument for every legal norm governing family relationships.

Constitutional dissonance in Indonesian family law is multidimensional. This dissonance arises not only at the level of the substance of regulations, but also in the processes of interpretation, implementation, institutional arrangements, and the interaction between legal systems. This situation results in a constitutional gap, revealing that the internalisation of constitutional values into the structure of family law has not yet been optimised. As long as this gap persists, women's constitutional rights will remain vulnerable to treatment that does not fully reflect the principles of equality, substantive justice and respect for human dignity, as guaranteed by the 1945 Constitution of the Republic of Indonesia. Therefore, the constitutional gap must be understood as a structural issue requiring a comprehensive approach to legal reform through the harmonisation of legislation, the strengthening of constitutional interpretation by the judiciary, capacity building for law enforcement institutions, and the development of a legal culture that places constitutional equality as a fundamental principle in all family legal relationships.

Structural Reproduction of Gender Inequality in Indonesian Family Law

Gender inequality in Indonesian family law cannot be understood solely as a consequence of the existence of specific legal norms that differentiate between the rights and obligations of women and men (Wahyuni & Kusrin, 2025). An approach that focuses solely on a textual analysis of legislation tends to yield a partial understanding, as it assumes that the primary source of inequality lies in the content of the norms. In fact, from the perspectives of constitutional institutionalism, feminist legal theory and new institutionalism, the persistence of inequality is determined to a greater extent by the way in which legal institutions operate in producing, interpreting, implementing and maintaining these norms through ongoing institutional mechanisms.

From the perspective of institutional reproduction theory, legal institutions never operate neutrally, as every institution carries assumptions, values and preferences shaped by the political history, culture and social structures within which it has developed. Douglas North (2025) explains that institutions are 'rules of the game' that guide the behaviour of actors through a set of formal and informal rules. However, formal rules are not always the dominant factor, as social norms, organisational customs and institutional culture often exert a stronger influence on how the law is applied. In the context of Indonesian family law, institutional structures have developed within a society historically influenced by patriarchal culture; consequently, various state institutions have indirectly internalised a worldview that places relations between men

and women within a hierarchical framework. Consequently, even though legislation has evolved towards the principle of equality, its implementation remains influenced by an institutional culture that perpetuates an unequal distribution of power.

This process of reproducing inequality can first and foremost be traced through the legislative process. The formulation of legislation is, in essence, not merely a technical activity of drafting norms, but a political process involving the negotiation of interests, ideologies, religious values, and social constructions regarding the family. Consequently, legislative outcomes often reflect a compromise between constitutional demands for equality and the social values that have developed within society. In many cases, such compromises result in norms that appear formally neutral but still perpetuate traditional role divisions between men and women. Legislation thus not only regulates family relationships but also establishes standards regarding who is deemed to hold authority within the family, who bears economic responsibility, who performs caregiving functions, and how these relationships are positioned within the national legal system (Bukido et al., 2025).

This phenomenon demonstrates that legislation serves a reproductive function in relation to social structures. From Pierre Bourdieu's perspective, the law is an instrument of symbolic power that not only regulates social behaviour but also legitimises certain social structures, making them appear as the norm. When a particular construction of gender relations is enshrined in law, that construction gains state legitimacy and is gradually accepted as a valid social standard (Malik et al., 2025). Thus, legislation not only reflects a society's culture but also serves as a mechanism that perpetuates that culture through legal legitimisation. This explains why changes to legal norms do not automatically alter social relations, as the patterns of thought shaped by legislation have become internalised within various other institutions.

In addition to legislation, the reproduction of inequality occurs significantly through the judiciary. Within the rule of law paradigm, judges are viewed as independent actors who interpret the law based on the constitution and statutory provisions. However, the socio-legal approach demonstrates that the process of legal interpretation is never entirely free from the values, experiences and social constructs held by judges, both as individuals and as part of the institution (Kurniawan et al., 2025). Consequently, court rulings are not merely the result of the application of legal norms, but also a reflection of the legal culture that has developed within the judicial system. When the interpretation of family law remains influenced by a patriarchal paradigm, court rulings have the potential to reinforce inequality, even though constitutional norms guarantee equal rights.

In this context, the reproduction of inequality does not always manifest through rulings that explicitly distinguish between the rights of women and men (Bermúdez-Figueroa & Roca, 2022). Still, it is more frequently embodied in the way judges interpret concepts such as the interests of the family, propriety, reasonableness, domestic responsibilities, and the division of domestic roles. Such interpretations result in legal standards that appear objective but are in fact constructed on the basis of specific gendered assumptions. Consequently, women are often positioned as the party

required to bear a heavier burden of proof or to face different moral expectations compared to men. This phenomenon demonstrates that the judicial institution can function as a mechanism for the reproduction of inequality through interpretative processes that unconsciously perpetuate institutional bias.

Developments within the Constitutional Court do indeed show a trend towards a more progressive form of constitutional equality (Pivoda, 2023). Several rulings demonstrate the courage to interpret family law norms on the basis of the principles of equality, the protection of human rights, and non-discrimination. However, this transformation has not yet been fully adopted by the judicial system as a whole. There are still variations in interpretation across different levels of the courts, which means that the protection of women's rights depends on the interpretative orientation of individual judges. These variations indicate that the shift in the constitutional paradigm has not yet been fully institutionalised within the organisational culture of the judicial system.

The next dimension that plays a key role in the reproduction of inequality is the bureaucracy. In a modern constitutional state, the bureaucracy is not merely an administrative body, but a key actor determining the effectiveness of the implementation of citizens' constitutional rights (Bertelli & Falletti, 2025). Administrative services relating to marriage, civil registration, family mediation, legal aid, the protection of women, and the enforcement of court rulings all depend entirely on the capacity of the bureaucracy. However, the bureaucracy often operates through procedures designed on the basis of certain institutional assumptions without taking into account the structural inequalities faced by women. Consequently, procedures that appear neutral actually have a disproportionate impact on groups in more vulnerable social positions.

In the theory of institutional bias, discrimination does not always stem from an intention to treat someone differently. Still, it can arise through standard procedures that disregard the actual circumstances of certain groups. When the bureaucracy assumes that all citizens possess the same economic capacity, educational background, or access to information, those in a less advantaged position will face greater obstacles in obtaining legal protection (Karimullah, 2024). Consequently, the bureaucracy can serve as a vehicle for the reproduction of inequality even when all its procedures meet the requirements of formal legality.

The reproduction of inequality occurs through the complex interplay between the bureaucracy and the judiciary. Progressive court rulings will not bring about substantive change if their implementation remains dependent on a bureaucracy that clings to outdated procedures. Conversely, a responsive bureaucracy cannot provide maximum protection if legal norms or court rulings remain ambiguous. Thus, legislation, the judiciary and the bureaucracy form an institutional chain in which each influences the others. Imbalances arising in any one link of this chain will result in the reproduction of inequality throughout the entire family law system. However, the state's institutional structure is not the sole factor perpetuating gender inequality. Social practices hold an equally important position, as family law essentially exists and

evolves within a social sphere permeated by cultural norms, religious values, local traditions and power relations within society. From the perspective of legal pluralism, the effectiveness of the law is determined not only by the state, but also by society's acceptance of those norms.

The reciprocal relationship between law and society creates a circular mechanism of reproduction. Legislation influences social practices through legal legitimisation, whilst social practices influence legislation through political and cultural pressure. Similarly, court rulings are influenced by evolving social values, whilst these rulings ultimately reshape society's perceptions of what constitutes legitimate family practices. This cycle explains why gender inequality often persists over the long term despite various legal reforms. Inequality is not merely perpetuated by any one specific institution, but by the multi-layered interaction between various institutions that reinforce one another.

From the perspective of feminist institutionalism, institutions consist not only of formal rules but also encompass informal institutions in the form of social norms, cultural expectations and unwritten organisational practices (Guido et al., 2023). It is precisely these informal institutions that often become the most dominant factor in perpetuating gender inequality (Karimullah, Ruchiat Nugraha, et al., 2023). For example, although there is no legal prohibition against women making strategic decisions within the family, social expectations regarding women's roles can limit the scope for the actualisation of these rights. Similarly, bureaucratic officials and judges may unconsciously bring these social values into the decision-making process. Consequently, discrimination is no longer explicit but manifests as implicit institutional bias, which is far more difficult to identify and rectify.

Institutional analysis also reveals that the reproduction of inequality does not always occur vertically from the state to society, but also horizontally through interactions between institutions. Legislation influences the bureaucracy; the bureaucracy influences judicial practice; the judiciary influences social practice; and social practice ultimately provides political legitimacy for subsequent legislation. These interactions result in 'path dependency'—that is, the tendency for institutions to maintain old patterns because changes in one sector require adjustments across all other sectors. Consequently, family law reform that focuses solely on amending legislation will not bring about substantive transformation unless it is accompanied by changes to the organisational culture of the judiciary, reforms to the public service bureaucracy, and the development of a more inclusive legal culture within society.

From the perspective of constitutional governance, the reproduction of such inequality demonstrates that the implementation of the constitution cannot rely solely on the existence of constitutional norms guaranteeing equality, but requires institutions capable of translating these values into the practice of state administration (Fiseha, 2024). Constitutional equality will only have substantive meaning if every institution consistently carries out its constitutional functions. Legislation must be developed through systematic gender impact assessments; the judiciary must develop methods of constitutional interpretation that are sensitive to human rights; the bureaucracy must

implement public services that are responsive to women's needs; and social practices must be guided through legal education and cultural transformation that place equality at the heart of family life.

Gender inequality in Indonesian family law needs to shift from a normative paradigm to a structural one. The main issue no longer lies in the presence or absence of discriminatory norms in the text, but rather in how the entire institutional structure simultaneously reproduces power relations that perpetuate gender inequality (Karimullah, Nugraha, et al., 2023; Karimullah & Aliyah, 2023). Legislation provides normative legitimacy, the judiciary provides interpretative legitimacy, the bureaucracy provides administrative legitimacy, whilst social practices provide cultural legitimacy to this structure. These four elements form a mutually reinforcing institutional ecosystem that results in the systemic reproduction of inequality.

Strengthening the protection of women's rights cannot be achieved solely through amendments to legal provisions; it requires a comprehensive transformation of the state's institutional architecture so that all institutions operate in accordance with the principles of constitutional equality, substantive justice and respect for human dignity. This shift in analysis from legal norms towards institutional structures demonstrates that the success of family law reform is ultimately determined not only by the quality of regulations, but by the state's ability to build institutions that consistently internalise constitutional values in every process of the formulation, interpretation, implementation and oversight of the law, so that the reproduction of gender inequality can be broken through systemic, sustainable and constitutional change.

Reconstructing Indonesian Family Law through Constitutionalism

The constitutional dissonance arising between the constitutional guarantee of equality before the law and the structure of family law, as well as the reproduction of inequality perpetuated through legislation, the judiciary, the bureaucracy and social practices, demonstrates that the issues faced are in fact structural and systemic in nature. Therefore, the reconstruction of Indonesian family law requires a new paradigm that no longer relies solely on normative reform (Al Kadumi et al., 2024). Still, rather on the constitutionalisation of family law, that is, the process of establishing the constitution as the epistemological, normative, institutional and operational foundation for the entire process of formulating, interpreting, implementing and evaluating family law.

This approach is based on the assumption that family law is not merely a branch of private law governing inter-individual relationships, but constitutes a constitutional space within which the state has a duty to guarantee the protection of human rights, substantive equality and human dignity. Recent developments in scholarship on family law reform in Indonesia, as well as trends in the case law of the Constitutional Court, indicate that the orientation of family law is increasingly shifting from a legalistic paradigm towards a constitutional paradigm that places substantive justice as the primary objective of legal reform (Maimun et al., 2024).

Constitutionalism in this study is not understood in a narrow sense as the doctrine of constitutional supremacy, which merely places the 1945 Constitution of the Republic of Indonesia as the highest norm in the hierarchy of legislation. Rather, constitutionalism is understood as a paradigm that integrates constitutional supremacy, constitutional morality, constitutional governance, constitutional interpretation and constitutional rights into the entire family law system. Thus, the constitution functions not only as a tool for testing the constitutionality of laws, but also as a source of values that guide policy-making, institutional behaviour and the legal culture of society.

This understanding is in line with contemporary developments in constitutionalism that position the constitution as an instrument of social transformation. That is, an approach which views the constitution not merely as a means of maintaining state stability, but as a catalyst for change to social structures that produce systemic injustice. In the Indonesian context, this approach is particularly relevant because various forms of gender inequality in family law do not stem from a single specific legal norm, but rather from the accumulation of legal structures that have developed within a configuration of legal pluralism and a long-standing patriarchal culture.

Based on this analysis, this study proposes a new conceptual model called the Constitutional Family Equality Framework (CFEF) as a theoretical framework for reconstructing Indonesian family law. This framework has been developed through a synthesis of modern constitutionalism, substantive equality theory, human dignity theory, legal pluralism, and new institutionalism. Unlike previous approaches, which generally focused solely on the harmonisation of norms or legislative reform, the CFEF views family law as a constitutional system comprising four interrelated dimensions: the normative dimension, the institutional dimension, the implementational dimension, and the transformational dimension. These four dimensions do not operate independently but form a constitutional cycle that determines the extent to which the principles of equality, substantive justice and human dignity are truly realised in the practice of family law.

The first dimension is the constitutional normative foundation, which requires all family law regulations to be based on the constitutional principles contained in Article 27(1), Article 28D(1), Article 28G, Article 28H(2), Article 28I(2) and Article 28J of the 1945 Constitution of the Republic of Indonesia. Within this framework, the formulation or amendment of legislation in the field of family law is no longer oriented solely towards internal consistency between regulations. Still, it must be tested against the 'constitutional equality test'. This test assesses whether a legal norm results in substantively equal treatment, respects human dignity, does not give rise to direct or indirect discrimination, and fulfils the principle of proportionality.

The second dimension is constitutional institutional alignment, namely the alignment of all institutions involved in the administration of family law so that they operate in accordance with the same constitutional values. The analysis in the previous section shows that legislation, the judiciary, the bureaucracy and administrative practice still operate within paradigms that are not yet fully integrated. Therefore, the reconstruction of family law must be directed towards institutional harmonisation so

that every institution has consistent standards of interpretation with regard to constitutional equality. Within this framework, the Constitutional Court functions as a constitutional guardian, developing principles of progressive interpretation; the Supreme Court plays a role in ensuring consistency in the application of the law through case law; the legislature conducts constitutional impact assessments on every draft regulation; whilst the family administration bureaucracy delivers public services based on constitutional rights. This institutional harmonisation shifts the orientation of family law from mere compliance with rules towards constitutional governance, ensuring that all institutions carry out their functions of protecting women's rights in an integrated manner.

The third dimension is the implementation of substantive equality, namely the application of the principle of substantive equality in every legal decision-making process. This approach differs fundamentally from the concept of formal equality, which merely requires equal treatment for every individual. From the perspective of substantive equality, the state is obliged to identify the structural barriers that prevent women from effectively enjoying their constitutional rights, and then to design corrective policies to remove these barriers. Thus, family law is assessed not merely on the basis of the uniformity of its normative wording, but on the actual consequences it produces regarding the distribution of rights, obligations, opportunities and legal protection. This approach enables the state to develop policies that are sensitive to the social context without compromising universal principles of equality and justice.

The fourth dimension is constitutional transformation, namely the process of legal cultural change that positions the constitution as the source of public ethics in family life. This study is based on the assumption that regulatory changes will not result in substantive transformation if the legal culture of society and the organisational culture of institutions continue to perpetuate hierarchical power relations. Consequently, constitutional transformation is directed towards the internalisation of the values of equality, respect for human dignity, shared responsibility within the family, and non-discrimination through legal education, training of officials, the renewal of higher education law curricula, the strengthening of constitutional literacy, and the development of administrative practices that are responsive to women's rights. Thus, the constitution does not merely exist within the judicial sphere, but becomes an integral part of society's legal culture.

The main advantage of the Constitutional Family Equality Framework over previous models lies in its ability to simultaneously link the normative dimension with the institutional dimension. Until now, most studies on family law reform have focused on changes to norms, whilst studies using a socio-legal approach have tended to highlight institutional implementation without developing an integrative model that explains the relationship between constitutional norms, state institutions, and legal culture. The framework proposed in this study fills this gap by demonstrating that the success of family law reform can only be achieved if all four dimensions operate in tandem. Legislative reform without institutional change will merely result in legal

symbolism, whilst institutional change without cultural transformation will lead to social resistance.

This model also positions human dignity as a central principle throughout the entire process of family law reconstruction. Human dignity is not positioned as an abstract moral concept, but as an operational standard for evaluating the validity of legal policies and practices. Every norm and state action must be assessed based on its ability to safeguard individual autonomy, avoid the objectification of women, and guarantee equal recognition as legal subjects with full legal capacity. From this perspective, women are no longer positioned as objects of state protection, but rather as holders of constitutional rights who are entitled to determine their own life choices freely within a framework of fair law.

This human dignity-based approach is consistent with the development of the Constitutional Court's jurisprudence, which increasingly places dignity as one of the fundamental values in the interpretation of constitutional rights. Furthermore, this framework integrates the principle of responsive legal pluralism as a mechanism for harmonising the relationship between state law, religious law, and customary law. This study does not proceed from the assumption that legal pluralism is an obstacle to the protection of women's rights, but rather views pluralism as a constitutional reality that must be managed through a responsive approach. Within this framework, each legal system is afforded the space to develop in accordance with its own characteristics, yet all interpretations remain bound by constitutional principles regarding equality, non-discrimination and human dignity.

The theoretical implications of the proposed model are significant, as it shifts the orientation of family law research from a doctrinal legal reform approach towards constitutional institutional reconstruction. This shift yields a new perspective: that the primary focus of reform is not merely legal norms, but the entire institutional architecture that shapes and implements family law. Consequently, the success of reform is no longer measured solely by the number of regulations amended, but by the extent to which these changes are able to reduce the constitutional gap, enhance constitutional coherence, and strengthen constitutional resilience within the national family law system.

This framework is also designed to be highly testable so that it can be developed in further research. Each dimension can be operationalised into both empirical and normative indicators. For example, the constitutional normative foundation can be measured by the degree to which regulations are harmonised with constitutional principles; constitutional institutional alignment can be analysed through the consistency of court rulings, bureaucratic policies and the legislative process; the implementation of substantive equality can be assessed through the tangible impact of policies on women's access to justice; whilst constitutional transformation can be measured through changes in legal culture, improvements in constitutional literacy, and changes in institutional practices.

A comparison with other jurisdictions reveals that the reconstruction of family law based on constitutionalism is not an idea existing in an isolated normative space, but

rather part of a broader development concerning the penetration of constitutional principles into the realms of family law, personal law and private relations. South Africa, India, Canada and Malaysia are four jurisdictions relevant for comparison with Indonesia, as each faces distinct challenges in reconciling equality, human dignity, legal pluralism, religion and state authority. The selection of these countries is not intended to facilitate a mechanical transplantation of law, but rather to employ functional comparative constitutional analysis to identify how different systems respond to issues that are structurally similar to those in Indonesia.

South Africa provides the strongest example of transformative constitutionalism in relation to family law and customary law (Diala, 2024). India demonstrates judicial constitutionalisation of personal laws through the doctrines of equality, dignity, autonomy and manifest arbitrariness (Roy, 2022); Canada offers a well-developed articulation of substantive equality within the framework of constitutional rights (Peker & Winter, 2024). Whilst Malaysia provides the closest institutional and sociological comparator, as it similarly exhibits a complex interplay between state law, religious law, jurisdictional pluralism and the supremacy of the constitution (Septiani et al., 2024). This comparison demonstrates that the fundamental question is not whether legal pluralism should be abolished, but rather how it can be maintained without allowing normative diversity to become a justification for constitutional inequality.

South Africa offers the model most closely aligned with the concept of the constitutionalisation of family law developed in this study. The South African Constitution explicitly enshrines equality and human dignity as fundamental principles in the Bill of Rights. Section 9 guarantees equality before the law whilst recognising that achieving equality may require special measures to redress the conditions of groups disadvantaged by discrimination. The Constitution even explicitly prohibits direct and indirect discrimination on the grounds of gender, sex, pregnancy and marital status.

Section 10 further affirms human dignity as an inherent right that must be respected and protected. This framework is significant because it shifts the concept of equality from merely formal, identical treatment to a constitutional obligation to rectify historically entrenched disadvantages. In the context of Indonesian family law, this framework offers the insight that Article 27(1), Article 28D(1), Article 28H(2) and Article 28I(2) of the 1945 Constitution should not merely be interpreted as textual prohibitions against discrimination, but can be developed as a basis for evaluating the structural effects of a regulation on women.

The relevance of South Africa is further strengthened by the fact that its constitution does not negate the existence of customary law. On the contrary, Section 211 recognises traditional leadership institutions and the application of customary law, but this recognition is explicitly subject to the supremacy of the constitution. The courts are obliged to apply customary law where relevant, but its application remains subject to the constitution and national legislation. This approach offers one of the most significant theoretical responses to the dilemma of legal pluralism: legal diversity need not be negated to achieve universal protection of rights, but all sources of normativity must operate within the same constitutional boundaries. Indeed, Section 15 of the South

African Constitution permits the recognition of marriages as well as systems of personal and family law based on tradition or religion, but requires that such recognition be consistent with other provisions of the Constitution.

This approach was subsequently translated into the reform of customary marriage law through the Recognition of Customary Marriages Act. The South African government explains that under this regime, wives in customary marriages acquire a status and capacity equal to that of their husbands in the management of property and in contractual matters. The comparative significance of this for Indonesia is considerable. Customary law or religious law need not be regarded as the antithesis of women's equality; the constitutional problem arises precisely when the state recognises a normative system without establishing a constitutional floor that that system cannot breach. In other words, the lesson from South Africa is not the uniformisation of family law, but the constitutional conditioning of legal pluralism: the state continues to recognise normative plurality, whilst equality and human dignity serve as the constitutional conditions for its application.

Whilst South Africa offers a model of transformative constitutionalism through explicit constitutional design, India demonstrates the transformation of family law through the highly active role of the judiciary. The Indian Constitution is the supreme legal authority and grants the judiciary the power to strike down legislation or government actions that violate fundamental rights; at the same time, the system recognises the diversity of laws and customs provided they do not conflict with legislation or the Constitution. This structure gives rise to tensions that are highly relevant to Indonesia, as the issue of personal law in India lies at the intersection of freedom of religion, community identity, equality, and the individual rights of women. In its development, the Supreme Court of India has established a series of doctrines that allow the Constitution to penetrate ever deeper into relationships previously regarded as belonging to the private sphere.

The ruling in *Shayara Bano v. Union of India* stands as a key example, as the practice of *talaq-e-biddat*—or 'instant triple *talaq*'—was assessed through the lens of Article 14 on equality and the doctrine of manifest arbitrariness. The Court classified actions that are capricious, irrational, or not based on adequate principles as constitutional issues, and subsequent developments in case law have confirmed that 'manifest arbitrariness' can serve as grounds for the annulment of legislation that contravenes Article 14. The significance of this case is not limited to the issue of Muslim divorce. Theoretically, the *Shayara Bano* case demonstrates that the label 'personal law' or the connection of a family institution to tradition does not, in itself, preclude the possibility of constitutional scrutiny. This is relevant to Indonesia because the reconstruction of family law should not stop at the question of whether a provision has historical or social legitimacy, but must proceed to the question of whether the resulting legal relationships can be justified on the basis of the principle of constitutional equality.

This transformation became increasingly clear in *Joseph Shine v. Union of India*. The Supreme Court of India struck down the criminal provision on adultery, which was based on a paternalistic construction of women within marriage. The judgement linked

equality to dignity and autonomy and rejected legal assumptions that positioned women as being under the control or ownership of their husbands. Indian case law subsequently evolved towards a conception of substantive equality that explicitly takes into account individual, institutional and systemic discrimination. In a Supreme Court judgement in 2026, the court reaffirmed that substantive equality is not sufficiently achieved merely by granting formal equality of treatment; the state must identify and remove the barriers that prevent certain groups from effectively enjoying their rights. This development reinforces one of the key premises of the Constitutional Family Equality Framework proposed by this study, namely that an analysis of inequality must shift from discriminatory text to discriminatory structure and effect.

India also provides an important methodological lesson regarding the use of stereotype analysis in constitutional adjudication. The Supreme Court has developed the understanding that laws which appear neutral may still be discriminatory if they result in an adverse impact on certain groups, that stereotypes can reinforce discrimination, and that the state has a positive obligation to prevent systemic discrimination. If this approach were applied to Indonesian family law, constitutional review would no longer be limited to identifying phrases that distinguish between women and men. Still, it would also encompass the question of whether a legal construct concerning the head of the family, the breadwinner, childcare, ownership, divorce, or family authority is based on gender stereotypes that subsequently result in disadvantage (Karimullah & Sugitanata, 2024).

Canada provides a different point of comparison because its system has developed equality jurisprudence through the Canadian Charter of Rights and Freedoms in a relatively structured manner. Section 15(1) guarantees that every individual is equal before and under the law and has equal rights to legal protection and benefits without discrimination, including on the basis of sex; Section 15(2), at the same time, recognises the legitimacy of programmes aimed at improving the conditions of disadvantaged groups. Furthermore, Section 28 explicitly states that the rights and freedoms in the Charter are guaranteed equally to men and women. The Canadian government explains that this provision serves as an interpretative and confirmatory principle for gender equality, particularly in conjunction with Section 15.

The comparative value of the Canadian model lies in the distinction between ‘equal treatment’ and the ‘equal benefit of the law’. This formulation demonstrates that the law may fail to meet constitutional equality not only when the state treats people differently, but also when rules that appear identical do not result in equal benefits of protection. For Indonesian family law, this perspective allows for a shift in evaluation from the question ‘do the norms apply equally?’ towards a more substantive question, namely ‘do women derive equal benefits, protection, agency and remedial capacity from those norms?’ This shift is fundamental because inequalities in family law often no longer operate in the form of explicit exclusion, but through the unequal distribution of benefits, burdens, economic risks, the burden of care, and access to remedies (Karimullah, Basuki, et al., 2024).

Canada also provides a comparative basis for the establishment of a positive constitutional obligation. The recognition of ameliorative measures in Section 15(2) demonstrates that equality need not be understood as an absolute prohibition on differentiation. Rather, differentiation may be justified when it is aimed at addressing real disadvantages. This principle has important implications for the framework of reconstruction proposed by this study: substantive equality in Indonesian family law need not result in regulations that are entirely gender-neutral if such neutrality merely perpetuates structural inequalities. In certain contexts, special protection, legal aid mechanisms, post-divorce economic policies, or specific remedial measures may in fact be required to achieve genuine equality (Karimullah, Efendi, et al., 2023). Consequently, constitutionalism is not synonymous with uniformity; constitutionalism requires proportional differentiation where necessary to redress inequalities.

Malaysia provides a structurally closer point of comparison with Indonesia as it demonstrates the coexistence of civil law and Islamic law, as well as the complexity of jurisdictional distribution. The Federal Constitution remains the supreme law of Malaysia, as is also demonstrated by the development of the Federal Court's case law on judicial review and the 'basic structure'. In the *Indira Gandhi* case, the Federal Court affirmed that the existence of Article 121(1A), which limits the jurisdiction of civil courts to matters falling within the jurisdiction of the Sharia Courts, does not preclude civil courts from interpreting the Constitution and statutes. The case concluded with the annulment of the unilateral conversion of the children without their mother's consent. Subsequent case law has also affirmed judicial review as a fundamental aspect of constitutional supremacy.

Malaysia's experience is significant as it demonstrates that jurisdictional pluralism can give rise to boundary disputes that directly affect the rights of women and children (Mohiuddin, 2024). Constitutional challenges are not merely about the content of religious or civil law, but also concern who has the authority to determine jurisdictional boundaries and guarantee remedies when fundamental rights are at stake. From an Indonesian perspective, this lesson is important because pluralism in family law requires not only the harmonisation of legal substance but also the design of constitutional jurisdictional safeguards that ensure there is no fragmentation of authority leading to constitutional rights being deprived of an effective forum for protection.

The experiences of South Africa, India, Canada and Malaysia point to a fundamental conclusion: the modernisation of family law cannot be adequately assessed solely on the basis of changes to the marriage age, divorce procedures, the distribution of assets, or the reform of specific rules in isolation. A more fundamental measure is the extent to which the legal system is capable of making the Constitution a 'living normative architecture' within family relations. South Africa demonstrates that pluralism can be recognised without having to detach it from the constitution. India shows that family law and personal law can be rectified when they perpetuate arbitrariness, stereotypes and subordination. Canada demonstrates that equality requires attention to substantive impacts and historical inequalities. Meanwhile,

Malaysia serves as a reminder that the supremacy of the constitution requires courts capable of upholding constitutional review when various jurisdictional regimes overlap.

A synthesis of these experiences confirms that the reconstruction of Indonesian family law should not be directed towards homogenisation, but rather towards the development of a pluralistic, constitutionally grounded order. Within such an order, diversity in religion, custom and tradition continues to have a legitimate place. Still, it cannot be used to lower the minimum standards of equality, dignity, autonomy and the protection of rights guaranteed by the constitution.

Through this model, constitutionalism is transformed from a doctrine concerning the supremacy of norms into a mechanism for structural transformation, whilst family law moves from a system regulating status and roles towards one that guarantees agency, equality and dignity for every family member. It is here that the Constitutional Family Equality Framework derives its theoretical significance: not by offering a single universal formula for family law, but by providing a framework for assessing when pluralism remains a legitimate expression of diversity and when it has become a mechanism for the reproduction of inequality that must be constitutionally rectified.

CONCLUSION

The issue of the protection of women's rights within the Indonesian family legal framework does not stem solely from the existence of specific legal norms that are potentially discriminatory, but rather from a constitutional dissonance between the principles of equality, human dignity, and non-discrimination guaranteed by the 1945 Constitution of the Republic of Indonesia and the configuration of legislation, the judicial system, the bureaucracy, and social practices which simultaneously reproduce structural inequality. These findings emphasise that family law reform is no longer sufficient if understood merely as textual amendments to legislation. Rather, it must be directed towards a process of the constitutionalisation of family law that integrates the supremacy of the constitution, substantive equality, responsive legal pluralism, and respect for human dignity into the entire family law ecosystem. In this context, this study both reinforces and develops the literature on constitutional family law by shifting the focus of analysis from normative evaluation towards constitutionalist-based institutional reconstruction, whilst proposing the Constitutional Family Equality Framework as a new theoretical framework that explains the dynamic relationship between constitutional norms, institutional structures, legal implementation, and social transformation.

This framework can be conceptually tested and further developed through normative, empirical, and cross-national comparative studies. The practical implications of this study call for the strengthening of constitutional impact assessments in the drafting of legislation, the harmonisation of inter-institutional powers, the development of methods of constitutional interpretation that are sensitive to gender equality, and reforms to the bureaucracy and legal education that prioritise women's constitutional rights as the key parameter in the administration of family law.

Meanwhile, the policy implications emphasise the need to design family law reforms that are oriented not only towards legal certainty but also towards the achievement of substantive justice. Nevertheless, this study has limitations as it focuses on constitutional-doctrinal analysis and has therefore not empirically examined how variations in institutional implementation and legal culture affect the effectiveness of the protection of women's rights across Indonesia's pluralistic regions.

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