Indonesian Journal of Gender Justice and Family Law
e-ISSN: 3124-7989
Vol. 1, No. 3, August 2026, pp. 228-243
DOI: 10.65586/ingefal.v1i3.26

The Legal Politics of Women's Empowerment in Indonesian Family Law

Mahrus Alwi Hasan Siregar[1], Rizqa Febry Ayu[2], Aufa Islami[3], Hijriatu Sakinah[4*]
[1] Sekolah Tinggi Agama Islam Samora, Pematang Siantar, Indonesia
[2] Sekolah Tinggi Agama Islam Nusantara, Banda Aceh, Indonesia
[3] Sekolah Tinggi Ekonomi dan Manajemen Bisnis Islam Al-Aziziyah Randudongkal, Pemalang, Indonesia
[4] Universitas Sunan Gresik, Gresik, Indonesia
**Corresponding author email:* h.sakinah@lecturer.usg.ac.id

Article Info
Received: 14 March 2026
Revised: 26 June 2026
Accepted: 10 July 2026
Published: 03 August 2026

Abstract
This study examines the legal politics of women's empowerment within Indonesia's family law system, using gender equality, women's agency, and legal pluralism as its principal analytical frameworks. Employing a qualitative, normative-doctrinal legal approach informed by legal policy analysis and socio-legal perspectives, the study identifies a gradual shift in Indonesian family law from protective paternalism towards substantive equality and empowerment. This transformation is reflected in legislative reforms, the constitutional entrenchment of non-discrimination, evolving judicial interpretations, and strengthened economic rights and access to justice. Nevertheless, persistent disparities between formal legal recognition and effective implementation continue to reinforce unequal familial power relations, particularly concerning marital responsibilities, marriage dispensations, polygamy, divorce, post-divorce maintenance, property rights, child custody, protection against violence, and judicial enforcement. The study conceptualises women's empowerment as transforming formal entitlements into material resources, individual agency, meaningful choices, and effective remedies within a plural legal environment encompassing state law, Islamic law, customary law, social practices, and international human rights standards. It argues that reconstructing Indonesian family law requires a gender-responsive approach to legal pluralism that establishes substantive equality, human dignity, meaningful consent, economic security, and effective access to justice as fundamental principles of legal reform.

Keywords: *Family law, Gender justice, Legal pluralism, Legal politics, Women's empowerment*

© 2026 by the author(s)
This is an open access article distributed under the Creative Commons Attribution-ShareAlike 4.0 International License (CC BY-SA 4.0)
(https://creativecommons.org/licenses/by-sa/4.0/)

INTRODUCTION

Indonesian family law has evolved through the interplay between state law, religious law, customary law, court rulings, and social practices. Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019, forms the national legislative framework, whilst for Muslim communities, various family matters are also influenced by the Compilation of Islamic Law and the jurisdiction of the Religious Courts (Nawir et al., 2024). At the same time, family practices cannot be separated from custom, religious interpretations, economic structures, and local social norms. An evaluation of five decades of Indonesia's Marriage Law reveals that the character of Indonesian marriage law is both national and pluralistic, as the general reforms introduced by the state continue to interact with a normative regime based on religion (Rifa'i et al., 2026). These conditions make Indonesia a key context for understanding how the state negotiates legal unity, normative pluralism, religion, and demands for gender equality in the formation of family law.

The legal-political orientation toward women's status has in fact undergone a significant transformation. The ratification of the Convention on the Elimination of All Forms of Discrimination against Women through Law No. 7 of 1984 provided an international basis for the state's obligation to eliminate discrimination against women (N. Putri et al., 2025). This orientation was reinforced through post-reform constitutional developments and various regulations that increasingly recognise women's rights to security, protection, equality and access to justice. Law No. 23 of 2004 on the Elimination of Domestic Violence, for example, explicitly frames domestic violence as a human rights issue and acknowledges that the victims of domestic violence are predominantly women who require state protection (Pasaribu & Hasibuan, 2025). Supreme Court Regulation No. 3 of 2017 further provides specific guidelines for judges in dealing with women who come into contact with the law (Fattah et al., 2025; A. Putri et al., 2026). This series of developments illustrates a significant shift from a paradigm that viewed the family as a private sphere relatively closed off from state intervention to one that recognises domestic relationships must also be subject to the principles of rights protection and justice.

This legal-political transformation is most concretely seen in changes to the minimum age of marriage. Before the 2019 amendment, the Marriage Act distinguished between the minimum marriage ages for men and women, setting the age at 19 for men and 16 for women. Constitutional Court Ruling No. 22/PUU-XV/2017 marked a pivotal point in this policy shift, as it challenged the constitutionality of gender-based differentiation that impedes the fulfilment of women's rights. The legislative response was subsequently realised through Law No. 16 of 2019, which equalised the minimum age of marriage for men and women at 19 years (Sakinah et al., 2026). The Act's explanatory memorandum links raising the marriage age for women to child protection, education, health, and preventing discrimination.

Legislative change does not take place in a vacuum. These changes were shaped by the strategies of the women's movement, which involved framing the issue of child marriage as a human rights issue, forming cross-group coalitions, and engaging state

institutions and religious actors (M. Ramadhan et al., 2026). Although progress has been made toward formal equality, Indonesia's family law framework still harbours normative tensions in how it constructs gender roles (Karimullah, 2026a). The Marriage Act recognises the balance of rights and status between husband and wife, as well as their respective capacities to perform legal acts. At the same time, it retains specific provisions regarding the division of family responsibilities. Article 34(1) requires the husband to protect his wife and provide for the household's needs to the best of his ability, while Article 34(2) sets out the wife's obligation to manage household affairs. These provisions demonstrate that formal equality and gender-based role differentiation can coexist within the same legal system.

The relevance of this issue is evident from Constitutional Court Ruling No. 159/PUU-XXIV/2026, handed down on 17 June 2026. In a case concerning Article 34(1) and (2) of the Marriage Act, the applicant challenged the division of obligations between husband and wife, arguing that it reflected a rigid separation of gender roles. The Court rejected the petition and held that regulating husbands' and wives' obligations cannot, in and of itself, be classified as discrimination, because the Marriage Act provides protective mechanisms for both parties and frames these obligations within a relationship of mutual complementarity (Jaffal et al., 2022). This ruling does not end the discourse on gender in family law. Rather, it highlights the existence of a more complex conceptual issue involving the principles of equality, functional differentiation, complementarity, individual freedom and substantive justice (Suyahman et al., 2025; Wu, 2024). Contemporary debate has therefore moved beyond the question of whether men and women are subject to the same legal norms towards the question of whether different normative structures result in substantively equal opportunities, capabilities and protection (Wiranti et al., 2025).

The gap between normative change and social transformation becomes increasingly apparent when legislative achievements are compared with empirical data. Although the minimum age for marriage has been standardised at 19 years since 2019, marriage before 18 has not yet been fully eliminated. Data from the Central Statistics Agency (BPS), based on the National Socio-Economic Survey (Susenas), show that in 2025, 4.56 per cent of women aged 20 to 24 in Indonesia had married or lived together before age 18. This figure also reveals substantial regional variation, ranging from 0.79 per cent in the Special Region of Yogyakarta and 0.86 per cent in DKI Jakarta to 12.25 per cent in West Papua and 12.94 per cent in South Papua. These disparities show that a national norm can produce vastly different outcomes when it interacts with economic, geographical, educational, institutional, and socio-cultural contexts.

Similar tensions exist within the marriage dispensation mechanism. Setting a minimum age of 19 represents progress from the perspective of formal equality and child protection. However, the law still permits applications for dispensations to be made to the courts based on specific circumstances (Hayatullah et al., 2026). This mechanism places judges in a crucial position to balance child protection, the family's specific circumstances, social consequences, and legal norms (Fadilah et al., 2026). Marriage dispensations highlight the complexity of gender dimensions within the

Indonesian Religious Courts. Alongside cases of polygamy, divorce linked to domestic violence, and post-divorce maintenance, cases involving dispensations demonstrate that legal texts do not operate mechanically, but acquire concrete meaning through institutional interpretation and the judges' approach.

Previous studies have overall enriched our understanding of these dimensions, but developments in the literature reveal significant analytical fragmentation. Studies on the reform of the Marriage Act have primarily focused on the process of legislative change, the women's movement, the minimum age for marriage, and advocacy politics (Fanani et al., 2026; Ikpebe, 2026). Studies on the judiciary have largely focused on feminist judging, marriage dispensations, polygamy, divorce, *'nushūz'*, maintenance, or women's rights following divorce. (Karimullah, 2021b; Sugitanata & Karimullah, 2023). Studies on legal pluralism highlight the contestation between state law, religious law and customary law, whilst studies on empowerment tend to centre on women's socio-economic conditions and their participation in household decision-making (Lenggono, 2025; Luntajo & Hasan, 2025). Each area generates important knowledge. However, this compartmentalisation has meant that the formation of norms, state policy orientations, judicial interpretations, normative pluralism, access to resources, and women's actual ability to exercise their rights have not yet been fully understood as part of a single continuum of legal politics.

This study addresses a research gap a lack of research explaining the legal politics of women's empowerment as a comprehensive configuration linking the law-making process, the normative structure of spousal relations, institutional interpretation, the implementation of rights, and women's capacity to convert legal recognition into substantive agency. This distinction has fundamental consequences. Protection is oriented towards the prevention or mitigation of harm; formal equality relates to the granting of equal status and rights; whilst substantive equality takes into account social conditions that may cause seemingly neutral rules to produce unequal outcomes. Empowerment goes a step further by questioning whether women have the knowledge, resources, decision-making capacity, bargaining power, institutional access, and enforcement mechanisms needed to exercise those rights. From this perspective, protective legislation is not necessarily empowering if women remain positioned solely as recipients of protection. Conversely, equal norms do not necessarily result in justice when individuals enter into relationships from vastly different socio-economic positions (Bukido et al., 2025).

This study aims to analyse the direction of the legal politics of women's empowerment within Indonesia's family law system by examining the relationship between normative constructions, the dynamics of legislative reform, judicial interpretation, legal pluralism, and the realisation of women's rights in family life. This study's significance lies in bringing legal politics together with theories of empowerment and substantive equality within a single analytical framework for the family law system. Theoretically, this approach broadens legal politics beyond studying the state's choices in formulating regulations to analyzing how legal choices shape the distribution of capacity, resources, and agency within family relationships.

Conceptually, the study positions protection, formal equality, substantive equality, and empowerment as distinct yet interrelated categories, enabling a more precise evaluation of legal developments. Practically, this framework provides a basis for identifying instances where normative recognition has not yet translated into real access to justice, as well as parts of the legal system that require institutional, interpretative, or regulatory strengthening.

METHODS

This study employs a qualitative approach, using a normative-doctrinal legal research design enriched by legal-political analysis and socio-legal perspectives to examine how the state constructs, interprets, and implements women's empowerment within Indonesia's family law system. The focus of the study is operationalised through four main dimensions, namely the direction of legal policy; equality and the distribution of rights and obligations within family relationships; judicial interpretation of women's rights; and the legal capacity to promote substantive empowerment, encompassing agency, access to resources, and access to justice. The study population comprises all legal sources and policy documents relating to family law and the protection of women in Indonesia, whilst the units of analysis were selected purposefully based on their relevance, authority, timeliness and contribution to the study's focus, including legislation, rulings of the Constitutional Court and relevant courts, policies of the Supreme Court, international human rights instruments, and relevant reputable academic literature.

The research instrument is a document analysis matrix developed around the categories of legal policy, formal and substantive equality, protection, empowerment, legal pluralism, and access to justice (Sakinah et al., 2026). Data validity is ensured through triangulation of legal sources, cross-document comparison, interpretative consistency, and cross-checking between norms, rulings, policies, and academic literature. Data were collected in stages through the identification, selection, classification, critical reading and coding of documents, and were subsequently analysed using qualitative content analysis, systematic and teleological legal interpretation, and critical comparative analysis to identify patterns of continuity, change, tensions and gaps between normative constructs and the objectives of women's empowerment; thus, this method enables a comprehensive assessment of the coherence and direction of Indonesian family law policy in its transition from a paradigm of protection towards equality and the substantive empowerment of women.

RESULTS AND DISCUSSION

The Political-Legal Transformation of Gender Equality in the Indonesian Family Law System

The political-legal transformation of gender equality in the Indonesian family law system does not unfold linearly from inequality to equality, but as a multi-layered, negotiated normative change that, at certain points, retains elements of the previous paradigm. This character reflects family law's position as a legal field where state

authority, religious norms, social traditions, gender constructions, and constitutional demands for equality and non-discrimination converge. The Marriage Act's original structure reveals significant ambivalence in gender legal policy (Yang, 2026). Article 31(1) affirms that the rights and status of the wife are equal to those of the husband in domestic and social life, whilst paragraph (2) recognises the capacity of each party to perform legal acts. However, the next paragraph designates the husband as the head of the family and the wife as the housewife, while Article 34 imposes on the husband the duty to protect his wife and provide for the household's needs, and on the wife the duty to manage household affairs.

Conceptually, this configuration brings together two distinct normative logics. The first is formal legal equality, which recognises the wife as a legal subject with an equal status, whilst the second is gendered functional differentiation, which distributes domestic and economic responsibilities according to gender (Chowdhury et al., 2026). Legal policy at this stage therefore was not yet fully based on equality of roles, but instead employed a model of equality combined with complementarity (Cooper, 2022). Women gained legal recognition as subjects, but this status remained within a family structure that defined husbands' and wives' functions differently.

A significant shift in this orientation emerged through the internationalisation of the principle of non-discrimination. Indonesia ratified CEDAW through Law No. 7 of 1984, giving the elimination of discrimination against women an increasingly important foothold in national policy development. Following amendments to the 1945 Constitution, the constitutional foundation was strengthened by guaranteeing equal treatment before the law in Article 28D(1), protecting against discriminatory treatment in Article 28I(2), and affirming the state's responsibility to promote, protect, enforce, and fulfil human rights. These amendments have broader implications than merely adding new normative references. The constitutionalisation of rights creates an evaluative standard that allows the previous construction of family law to be re-examined not only for consistency with the doctrine of marriage, but also for compatibility with equality, human dignity, non-discrimination, and the protection of rights.

The post-reform phase has seen a gradual shift from protective familialism towards rights-based family governance. One indicator of this is Act No. 23 of 2004 on the Elimination of Domestic Violence. This Act explicitly recognises domestic violence as a violation of human rights and a form of discrimination, whilst also acknowledging that, in many cases, the victims are women who require state protection. From a legal-political perspective, this change is highly significant because it corrects the assumption that the household is a private domain relatively immune to state intervention. The state is no longer solely concerned with safeguarding the formation and survival of the family, but also has a duty to ensure that family relationships do not become a space where violence and subordination are protected in the name of privacy. Law No. 12 of 2022 on Sexual Violence Offences has expanded this approach by integrating prevention, response, protection, victim recovery, government coordination, and community participation into a single, more comprehensive framework.

An even more marked transformation is evident in the change to the minimum age for marriage. The original provisions of Article 7 of the Marriage Act distinguished between the minimum ages for men and women, set at 19 and 16 years respectively. Through Ruling No. 22/PUU-XV/2017, the Constitutional Court declared that the provision setting the minimum age at 16 years for women was contrary to the 1945 Constitution and ordered the legislature to amend this provision. Legislators responded to this through Act No. 16 of 2019 by setting the minimum age at 19 years for both women and men (Bukido et al., 2023). The explanatory notes to the Act explicitly link this change to child protection, the prevention of discrimination, education, health, and the reduction of the risk of maternal and child mortality (Hennessy, 2023). From a legal-political perspective, this change signals a shift from gender-based legal differentiation towards a universal standard that is closer to formal equality, whilst also demonstrating the growing influence of rights-based arguments in family law reform (Fathony et al., 2024; Sugitanata & Karimullah, 2023). However, interpreting the 2019 revision solely as a victory for constitutional logic would oversimplify the political complexities that gave rise to it.

When legislative reform reached an impasse, the Supreme Court and the Constitutional Court played a crucial role through their rulings, constitutional reviews and chamber guidelines in developing family law norms that are more responsive to the rights of women and children (Suleman et al., 2023). Supreme Court Regulation No. 3 of 2017 represents a significant institutional development, providing judges with guidelines for adjudicating cases involving women and remaining in force as a judicial framework (Kania et al., 2025). In subsequent developments, the Supreme Court's chamber rulings have expanded protections for women's rights following divorce. For example, the 2018 chamber ruling allows a wife in a divorce case where 'nushūz' (disobedience) has not been proven to receive *'mut'ah'* and *'nafkah iddah'*, while the 2019 ruling strengthens mechanisms to protect women's rights after divorce.

Legal policy formation can no longer be reduced to legislators enacting laws, as the judiciary also produces norms through interpretation. Consequently, analyzing gender equality requires attention to how judges produce norms. Women's rights, which are abstract at the level of legislation, acquire concrete substance through the way judges interpret *'nushūz'*, maintenance, domestic violence, polygamy, dispensations for marriage, joint property, and the various consequences of divorce (Karimullah, 2024, 2026b). Nevertheless, progress towards substantive equality has not eliminated the paradigm of complementarity from Indonesian family law. This contestation emerged most poignantly in Constitutional Court Ruling No. 159/PUU-XXIV/2026, handed down on 17 June 2026. The petition challenged Article 34(1) and (2), which distinguish between the husband's duty as protector and provider for the household and the wife's duty to manage the household. The petitioner argued that this construction creates a rigid division of gender roles, while the Court rejected the petition in its entirety. In its reasoning, the Court interpreted Article 34 systematically alongside Articles 30, 31, and 33. It affirmed that the Marriage Act places husbands and wives in a balanced, mutually supportive and complementary relationship. The Court also held that such differences

in obligations do not, in themselves, constitute discrimination or preclude a wife's contribution to the household's economic needs (Yanti et al., 2026).

This judgement matters because it shows that Indonesia's legal politics does not simply move from differentiation toward absolute symmetry. The emerging model more closely resembles constitutionalised complementarity, a construct that maintains certain differentiations whilst interpreting them through the principles of balance, reciprocity and shared responsibility. In this interpretation, equality is not understood as the obligation to have identical duties, but as the equal recognition of legal standing within a structure of differing responsibilities. At the same time, this approach leaves open a substantive question that textual analysis alone cannot resolve: whether normative differentiation produces equal effects when applied within a social structure that divides reproductive labour, income, property, and bargaining power asymmetrically. This issue highlights the distinction between equality of status and equality of effects. Legal norms may construct both partners as complementary parties. However, an assessment of substantive equality still requires an examination of the social and economic consequences of such a division of responsibilities (Karimullah et al., 2024).

This dimension also explains the tension between domestic legal policy and the development of international human rights standards. In its 2021 Concluding Observations, the CEDAW Committee acknowledged certain developments but expressed concern regarding discrimination in marriage and family relations, including the existence of exemptions from the minimum age of marriage, polygamy, the construction of men as heads of households, unregistered marriages, and several other family law consequences (Karimullah, 2021a). The Committee recommended a more systematic strategy to eliminate discrimination in marriage and family relations. These recommendations should be situated within an appropriate methodological framework. The Committee's views constitute an interpretation by an international treaty body regarding the implementation of CEDAW, whilst the Constitutional Court carries out constitutional interpretation within the national legal system. The difference between the two is not merely a conflict of norms. Still, it demonstrates a multi-level normative dialogue that brings together international standards, the national constitution, religious law, and democratic politics.

Legal Pluralism in Human Rights and the Reconstruction of Gender-Responsive Family Law

State law, Islamic law, customary law, social norms, community practices, court rulings and international human rights standards operate simultaneously, each with varying levels of authority, legitimacy and effectiveness (Karimullah, 2023). Consequently, women's position within the family is determined not only by what is stipulated in legislation, but also by which norms are deemed valid by the family and the community, which forum is chosen in the event of a dispute, how judges interpret religious and state legal provisions, and the extent of women's bargaining power when multiple legal orders provide differing answers to the same issue (Ayu et al., 2026). In

this sense, legal pluralism is not merely the existence of multiple legal orders, but a structure for distributing normative authority that determines who can define justice, which laws command compliance, and which parties have the greatest capacity to choose among these normative regimes.

This pluralistic character is embedded in how national marriage law is constructed. Law No. 1 of 1974 sought to establish a general framework for marriage in Indonesia while linking a marriage's validity to each party's religious law. For Muslims, this configuration was subsequently reinforced through the Compilation of Islamic Law, promulgated by Presidential Instruction No. 1 of 1991, which covers the areas of marriage, inheritance and waqf (Lenggono, 2025). Indonesian marriage law is thus both general and pluralistic. The Marriage Act introduced far-reaching reforms, but many rights, obligations, and consequences of family relationships remain bound by individual citizens' religious legal regimes. Following the 1991 Compilation of Islamic Law, legislative reform of Islamic family law reached an impasse due to irreconcilable differences of opinion, yet change did not cease (Jones, 2024). Reform has, in fact, progressed through Supreme Court rulings, constitutional reviews by the Constitutional Court, and legal guidelines produced through the Supreme Court's chamber system (Sufriadi, 2024).

Within the state legal system, several arenas produce legal norms that can shape family law in different ways. Legislators produce general norms, the Constitutional Court reviews their compatibility with the constitution, the Supreme Court shapes interpretations through case law and chamber policies, whilst the Religious Courts translate this entire framework into individual judgements. Outside the state structure, religious scholars, families, traditional leaders, and communities can generate social norms that, in everyday life, command greater compliance than formal law.

For women, pluralism can have two opposing consequences. On the one hand, multiple normative regimes can create space for agency, as women have more than one legal language in which to formulate claims for justice. Religious norms can be used to challenge customary practices; state law can be used to claim rights not recognised by the community, whilst certain customary values can provide stronger protection than a formal interpretation of state law. On the other hand, pluralism can increase vulnerability if the most dominant norm within the community offers less protection, or if individuals with the greatest social resources can engage in forum shopping, whilst women who are economically and socially weaker are bound to the forum chosen by their family or community (Karimullah et al., 2023).

Women in Banda Aceh live in a normative environment where customary law, Sharia and state law intersect. Still, the choice of which regime to follow does not always adhere to a simple formal hierarchy. Social relationships, belonging, kinship structures, and the context of the dispute influence the choice of law. No single legal system fully controls what communities consider good or fair in inheritance matters, and they may turn to state law or sharia law when relational mechanisms no longer yield a resolution (Muttaqin et al., 2025). However, evidence from other communities suggests that customary norms can also perpetuate structures that restrict women's rights.

The Tolaki community has found that customary divorce settlement mechanisms can reduce a widow's bargaining power and disregard certain post-divorce rights (Syahril et al., 2025). Consequently, resolution through state mechanisms remains necessary to ensure that the rights of women and children receive enforceable protection (Yazid et al., 2023). In societies characterised by high social and religious pluralism, normative homogenisation can generate resistance and undermine the social legitimacy of the law (Parhi et al., 2025). Conversely, the acceptance of pluralism without evaluative standards may allow practices that diminish women's autonomy and protection to persist in the name of culture or religion (Haerozi et al., 2023). The legal-political challenge, therefore, lies in developing a model of rights-compatible legal pluralism that is, a form of pluralism that acknowledges variations in sources of legitimacy whilst placing human dignity, free consent, protection from violence, the best interests of the child, access to justice, and substantive equality as normative boundaries that cannot be negotiated solely based on traditional authority.

The relationship between Islamic law and human rights is also unproductive if framed as an opposition between religious particularism and the universality of rights. Global scholarship on Islamic family law is increasingly shifting from doctrinal analyses focused on the abstract compatibility between sharia and human rights towards interdisciplinary studies of institutions, gender, legal pluralism, interpretation, and the social processes through which norms are applied (Mohamad et al., 2026; Siregar et al., 2026). A 2026 survey of the global literature identified a structural shift from predominantly doctrinal analysis towards socio-legal approaches, alongside growing attention to institutional processes, gender issues and legal pluralism, with Indonesia and Malaysia featuring prominently in indexed publications (Alhaq et al., 2025; Fathni et al., 2026). This shift matters because debates about family law can no longer be resolved by asking what a text says; they must instead ask how the text is interpreted, by whom, through which institutions, and with what consequences for women's lives.

Indonesia offers a clear example of this interpretive nature. The Compilation of Islamic Law holds considerable practical authority within the Religious Courts, but this does not mean that all its provisions are applied rigidly (Fardiansyah et al., 2025). Reforms emerging through the Supreme Court demonstrate the possibility of reinterpreting Islamic family norms by using the protection of women and children as a legal consideration. A study by Sururie and colleagues in 2025 showed that the Supreme Court plays a significant role in the reform of Islamic family law through progressive rulings and the formulation of plenary session resolutions, particularly in strengthening the rights of women and children (Sururie et al., 2025). However, implementation still varies by judges' levels of compliance, and public access to these legal formulations remains limited.

This potential for reinterpretation is crucial to avoid the tendency to equate criticism of gender injustice with a rejection of religion. Some norms that, in contemporary practice, produce inequality are not always an inevitable consequence of sharia's fundamental principles, but may instead reflect the history of codification, patriarchal social structures, interpretative choices, or a combination of religious and cultural

norms (R. G. Ramadhan et al., 2025). The growing body of literature on the reform of Islamic family law in Indonesia increasingly demonstrates that the concepts of *maqāṣid al-sharīʿah*, public interest, the prevention of harm, human dignity and justice can be utilised as internal sources for the development of a more gender-responsive family law (Ibrahim et al., 2025; Karimullah & Mahesti, 2021). Indeed, a study of the Supreme Court's legal rulings between 2012 and 2022 shows that SEMA-driven developments have become an important channel for family law reform and can be interpreted through the lens of maqāṣid.

Gender-responsive family law in a pluralistic society does not eliminate religion and custom from lawmaking; rather, it holds every normative source accountable for its consequences for the people living under it. Sustainable reform requires linking the maqāṣid al-sharīʿah with human dignity and harm prevention, custom with agency and relational justice, state law with certainty and effectiveness, and CEDAW with substantive equality and access to justice. Through this configuration, pluralism ceases to be merely a sociological fact or a historical compromise, but can be developed into a normative infrastructure for the protection of rights. Ultimately, success is not determined by the elimination of differences between Islamic law, customary law, state law and international human rights, but by the system's overall ability to ensure that these differences do not diminish women's capacity to give free consent, determine family choices, achieve economic security, be free from violence, access divorce and fair custody arrangements, and obtain redress when their rights are violated. At this point, legal pluralism shifts from an arena of normative contestation to a mechanism for substantive empowerment and gender justice.

CONCLUSION

Legal policies on women's empowerment within the Indonesian family law system have shifted from a paradigm of protection towards equality and substantive empowerment. However, this transformation has been multi-layered and non-linear, and has not yet fully altered the structure of power relations within the family. Changes in legislation, the constitutional enshrinement of the principle of non-discrimination, developments in judicial interpretation, and the strengthening of protection for economic rights and access to justice demonstrate progress from mere recognition of status towards the expansion of women's agency, whilst the persistence of role differentiation, issues regarding the enforcement of rights following divorce, resource inequalities, marital dispensations, polygamy, and the complexity of normative pluralism highlight the gap that remains between formal equality and the effective enjoyment of rights; indeed, constitutional developments confirm that the debate regarding the balance of rights and obligations between husband and wife remains open within the Indonesian legal system.

These findings expand upon previous studies by framing women's empowerment as an integrated process of transition from the recognition of rights towards resources, agency, meaningful choices and effective redress within a pluralistic configuration that brings together state law, Islamic law, customary law, social practices and international

human rights standards, the relevance of which remains pertinent in the context of Indonesia's CEDAW review in 2026. Theoretically, this framework shifts legal-political analysis from norm production to the legal system's capacity to produce substantive equality. In practical and policy terms, reforms must be directed towards consistency in interpretation, the effective implementation of economic rights, access to legal aid, protection from violence, and the harmonisation of pluralism based on dignity and agency. The study's limitations lie in its reliance on normative-doctrinal analysis and institutional documents, so it has not yet fully captured women's social experiences. Future research needs to test this framework empirically, comparatively and across regions to assess the extent to which legal pluralism truly functions as a source of empowerment or, conversely, reproduces gender inequality.

ACKNOWLEDGEMENTS

The authors sincerely thank everyone who contributed to preparing, editing, and publishing this manuscript.

REFERENCES

Alhaq, A. A. M. A., Mutawali, M., & Zein, A. (2025). Pluralism and justice in Indonesian Inheritance Law: a comparative analysis of customary, Islamic, and civil systems. *KALOSARA: Family Law Review*, *5*(2), 43–50. https://doi.org/10.31332/kalosara.v5i2.11434

Ayu, R. F., Hassanal, M., Obubakar, M., & Sholehoddin, S. (2026). Legal Analysis of the Position of Women as Heads of Households in National Law. *Indonesian Journal of Gender Justice and Family Law*, *1*(1), 52–68. https://doi.org/10.65586/ingefal.v1i1.4

Bukido, R., Haris, C., Rosyadi, M. A. R., & Suleman, Z. (2023). Reception of Marriage Age Limit in Marriage Law in Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, *7*(1), 146–174. https://doi.org/10.22373/sjhk.v7i1.15245

Bukido, R., Muslihin, M. A., & Karimullah, S. S. (2025). Family Economic Empowerment Strategies in Gangga II Village: A Maqashid Shariah Perspective. *Al-Mujtahid: Journal of Islamic Family Law*, *5*(1), 1–12. https://doi.org/10.30984/ajifl.v5i1.3438

Chowdhury, T. A. M., Al Mahmud, A., & Mostofa, S. M. (2026). Evolution of Gender Roles in Islam: Navigating Diversity, Flexibility, and Harmony within Muslim Family Values. *Jurnal Lentera Insani*, *2*(1), 1–14. https://doi.org/10.65586/jli.v2i1.60

Cooper, D. (2022). What does gender equality need? Revisiting the formal and informal in feminist legal politics. *Journal of Law and Society*, *49*(4), 800–823. https://doi.org/10.1111/jols.12393

Fadilah, N., Maulida, H., Touré, I., & Diallo, K. (2026). Regulatory Reform of Child Marriage Dispensation in Indonesia: Advancing a Women's Protection Framework. *Indonesian Journal of Gender Justice and Family Law*, *1*(2), 149–170. https://doi.org/10.65586/ingefal.v1i2.20

Fanani, F., Yuwono, T., Hasfi, N., & Erowati, D. (2026). Policy Networks Analysis in Advocacy of Indonesian Marriage Law Amendment to Raise the Minimum Marriage Age. *INJECT (Interdisciplinary Journal of Communication)*, *11*(1), 1081–1106.

https://doi.org/10.18326/inject.v11i1.6573

Fardiansyah, M. F., Rabbi, F. D., & Majid, I. A. (2025). Reconstruction of Inheritance Dispute Resolution in Religious Court Decisions in Indonesia. *Al-Hurriyah: Jurnal Hukum Islam*, *10*(1), 117–136. https://doi.org/10.30983/al-hurriyah.v10i1.8605

Fathni, I., Najwan, J., Nikma, S., Mujiburrohman, M., & Hassan, L. (2026). Islamic Legal Philosophy in the Context of Normative Pluralism among Southeast Asian Muslims. *Insani: Jurnal Pranata Sosial Hukum Islam*, *2*(1), 29–45. https://doi.org/10.65586/insani.v2i1.87

Fathony, M. R., Khiyaroh, L., Karimullah, S. S., & Kustiawan, M. T. (2024). Resistance to Gender Equality: Criticism of Physical Violence from the PKDRT Law Perspective. *Indonesian Journal of Islamic Law*, *7*(1), 105–124. https://doi.org/10.35719/1xjdkk59

Fattah, A. A., Jumiyah, R., Alam, Z. S., Mediana, A. N., & Rauf, I. J. (2025). Negotiating Women's Reproductive Rights Within the Framework of Islamic Law. *Insani: Jurnal Pranata Sosial Hukum Islam*, *1*(2), 178–193. https://doi.org/10.65586/insani.v1i2.57

Haerozi, Winengan, Fakhri, M., Sugitanata, A., & Karimullah, S. S. (2023). Preserving Cultural Heritage in Marriage: Exploring Meanings of Kebon Odeq Tradition in the Sasak Community of Lombok Tengah, Indonesia. *AL-HUKAMA: The Indonesian Journal of Islamic Family Law*, *13*(2), 202–228. https://doi.org/10.15642/alhukama.2023.13.2.202-228

Hayatullah, M., Nasir, M., Kumala, N., & Noval, N. (2026). Implementation of Gender Equality Principles in Religious Court Decisions Related to Divorce. *Indonesian Journal of Gender Justice and Family Law*, *1*(1), 36–51. https://doi.org/10.65586/ingefal.v1i1.3

Hennessy, R. (2023). Exploring the role of social protection interventions in preventing child labour: reinforcing the case for a human rights-based model of intervention. *Journal of Human Rights Practice*, *15*(1), 262–283. https://doi.org/10.1093/jhuman/huac064

Ibrahim, Z., Karimullah, S., Assaad, A., Septiani, R., & Okur, H. (2025). Integration of Maqasid al-Shariah in the Criminal Law Reform to Achieve Justice and Human Dignity. *Jurnal Hukum Islam*, *23*(1), 105–144. https://doi.org/10.28918/jhi.v23i1.04

Ikpebe, E. (2026). The minimum marriageable age policy process in the United States: An advocacy coalition framework analysis. *Review of Policy Research*, *43*(1), e70013. https://doi.org/10.1111/ropr.70013

Jaffal, Z., Shawabkeh, F., & Al Obeidi, A. H. (2022). Toward constructive harmonisation of Islamic family law and CEDAW: a study on the UAE's reservation to CEDAW Article 16 and equal rights to marriage and family relations. *Australian Journal of Human Rights*, *28*(1), 139–162. https://doi.org/10.1080/1323238X.2022.2122689

Jones, J. (2024). Muslim feminism as Islamic modernism: Women's activism in India between the Quran and the Constitution. *Modern Asian Studies*, *58*(2), 421–447. https://doi.org/10.1017/S0026749X23000495

Kania, D., Fatoni, S. N., Kusmayanti, H., & Rahmanillah, V. (2025). Gender Equality Implementation in Women's Legal Cases in Religious Courts. *Kosmik Hukum*, *25*(2), 205–220. https://doi.org/10.30595/kosmikhukum.v25i2.25472

Karimullah, S. S. (2021a). Pembaruan Islam Bidang Keluarga dan Relevansinya dengan Peraturan Poligami di Indonesia. *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law*, *2*(2), 61–81.

Karimullah, S. S. (2021b). Poligami Perspektif Fikih dan Hukum Keluarga Negara Muslim. *MADDIKA: Journal of Islamic Family Law*, *2*(1), 7–20. https://doi.org/https://doi.org/10.24256/maddika.v2i1.2118

Karimullah, S. S. (2023). From Tradition to Mainstream: Understanding the Integration of Islamic Law in Various Global Settings. *Justicia Islamica*, *20*(2), 214–240. https://doi.org/10.21154/justicia.v20i2.6478

Karimullah, S. S. (2024). A Feminist Critique of the Practice of Polygamy in the Context of Islamic Law and Human Rights. *Indonesian Journal of Law and Islamic Law (IJLIL)*, *6*(1), 38–53.

Karimullah, S. S. (2026a). Harmonising Islamic Law with Gender Equality Principles in Indonesia's Family Law. *Indonesian Journal of Gender Justice and Family Law*, *1*(2), 104–123. https://doi.org/10.65586/ingefal.v1i2.18

Karimullah, S. S. (2026b). The Politics of Family Law Legislation in Advancing Gender Justice. *Indonesian Journal of Gender Justice and Family Law*, *1*(2), 171–191. https://doi.org/10.65586/ingefal.v1i2.21

Karimullah, S. S., Basuki, N. A., Sugitanata, A., & Aminah, S. (2024). The Concept of Nāfaqah in Islamic Law and Women's Right to Financial Support. *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law*, *5*(2), 222–242. https://doi.org/10.24042/el-izdiwaj.v5i2.23534

Karimullah, S. S., Efendi, B., Sattar, S., & Ningsih, T. W. (2023). The Role of the Family in Instilling Islamic-based Business Ethics in Children. *HAKAM: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam*, *7*(2), 270–287. https://doi.org/10.33650/jhi.v7i2.6972

Karimullah, S. S., & Mahesti, L. E. (2021). Tinjauan Maqashid Al-Syariah Terhadap Perilaku Berutang Masyarakat Desa Sukawangi Pada Masa Pandemi Covid-19. *Tahkim*, *4*(1), 79–98. https://doi.org/10.29313/tahkim.v4i1.7274

Lenggono, R. P. (2025). Islamic Inheritance Law in Practice Among Multiethnic Muslim Families in Indonesia. *Insani: Jurnal Pranata Sosial Hukum Islam*, *1*(2), 127–143. https://doi.org/10.65586/insani.v1i2.39

Luntajo, M. M., & Hasan, F. (2025). Inheritance across faiths in Muslim Minahasa families: Legal pluralism and cultural adaptation in Manado, Indonesia. *Journal of Islamic Economics Lariba*, *11*(1), 617–644. https://doi.org/10.20885/jielariba.vol11.iss1.art24

Mohamad, A. H. H., Wahid, H., Azhar, N. A. A. N., & Esa, M. S. M. (2026). Mapping global scholarship on Islamic family law through analysis of marriage divorce and family relations in Muslim societies. *Discover Global Society*, *4*(1), 83. https://doi.org/10.1007/s44282-026-00435-1

Muttaqin, M. A., Rifa'i, S. D., Yahya, H., & Sakinah, H. (2025). The Dynamics of the Relationship between Islamic Law and Customary Law in Inheritance Disputes in Indonesia. *Insani: Jurnal Pranata Sosial Hukum Islam*, *1*(1), 80–95.

https://doi.org/https://journal.mahkotascience.org/index.php/insani/article/view/6

Nawir, A., Suarning, S., Aris, A., & Haq, I. (2024). Comparative Analysis of The Family Law Systems in Indonesia and Saudi Arabia in The Context of Unregistered Marriage: Maqashid Al-Syari'ah Perspective. *International Journal of Health, Economics, and Social Sciences (IJHESS)*, *6*(4), 1075–1084. https://doi.org/10.56338/ijhess.v6i4.5772

Parhi, N. Z., Hudafi, H., Pangestu, R., & Elmurtadho, F. (2025). Tension between Islamic Law and Human Rights in Child Marriage Cases in Indonesia. *Insani: Jurnal Pranata Sosial Hukum Islam*, *1*(1), 96–110. https://journal.mahkotascience.org/index.php/insani/article/view/3

Pasaribu, R. N. S., & Hasibuan, A. R. H. (2025). Legal Protection of Children as Victims of Domestic Violence. *International Journal of Health, Economics, and Social Sciences (IJHESS)*, 379–383. https://doi.org/10.56338/ijhess.v7i1.6966

Putri, A., Azzahra, N., Akmal, N., & Diarra, O. (2026). Gender Justice in the Regulation of Joint Marital Property Following Divorce in Indonesia. *Indonesian Journal of Gender Justice and Family Law*, *1*(2), 86–103. https://doi.org/10.65586/ingefal.v1i2.17

Putri, N., Martin, A., Rahman, O., Aini, N., & Rahmawati, A. (2025). Moral Militarisation in the Implementation of Islamic Law in Public Dress Code Raids. *Insani: Jurnal Pranata Sosial Hukum Islam*, *1*(2), 194–210. https://doi.org/10.65586/insani.v1i2.77

Ramadhan, M., Taufik, M., Hossein, M., & Fatima, M. (2026). A Constitutional Analysis of Women's Rights within Indonesia's Family Law Framework. *Indonesian Journal of Gender Justice and Family Law*, *1*(2), 124–148. https://doi.org/10.65586/ingefal.v1i2.19

Ramadhan, R. G., Rafii'Hibatullah, M., Farichudzaki, W. K., & Aji, R. H. (2025). Patriarchal Structures in Islamic Law and Indonesian Positive Law: A Comparative Legal Analysis from a Gender Justice Perspective. *Komparatif: Jurnal Perbandingan Hukum Dan Pemikiran Islam*, *5*(2), 150–173. https://doi.org/10.15642/komparatif.v5i2.3126

Rifa'i, S. D., Luthfi, M. H., Noer, M. A., & Layla, O. N. (2026). Reformulation of Marriage Law Based on a Gender Justice Perspective. *Indonesian Journal of Gender Justice and Family Law*, *1*(1), 69–85. https://doi.org/10.65586/ingefal.v1i1.5

Sakinah, H., Syaiful, A., Malik, A., Nurhayati, N., & Hossain, A. (2026). Legal Policy on Women's Protection in the National Family Law System. *Indonesian Journal of Gender Justice and Family Law*, *1*(1), 19–35. https://doi.org/10.65586/ingefal.v1i1.2

Siregar, M. A. H., Abdeldzhalil, A., & Hamim, M. (2026). Reconstructing the Concept of Gender Justice in Indonesia's Family Law System Based on Constitutional Values. *Indonesian Journal of Gender Justice and Family Law*, *1*(1), 1–18. https://doi.org/10.65586/ingefal.v1i1.1

Sufriadi, Y. (2024). The progress of Indonesian law enforcement reform after 25 years of the reform movement. *Asian Affairs: An American Review*, *51*(1), 28–54. https://doi.org/10.1080/00927678.2023.2268491

Sugitanata, A., & Karimullah, S. S. (2023). Nalar Kritis Poligami Sebagai Kekerasan Dalam Rumah Tangga: (Analisis Terhadap Undang-Undang KDRT Nomor 23

Tahun 2004). *HUNILA: Jurnal Ilmu Hukum Dan Integrasi Peradilan*, *1*(2), 63–76. https://doi.org/10.53491/hunila.v1i2.515

Suleman, F., Arifuddin, Q., Saifudin, S., Khasanah, F., & Karimullah, S. S. (2023). The Review of the Maslahah Mursalah Related to Early Marriage: Implementation and Orientation. *Jurnal Dinamika Hukum*, *23*(3), 573–586. https://doi.org/10.20884/1.jdh.2023.23.3.3783

Sururie, R. W., Fautanu, I., Saepulah, U., & Gumilar, G. (2025). The Supreme Court and Islamic family law reform: A review of policy direction and implementation challenges. *Jurnal Hukum Dan Peradilan*, *14*(3), 677–700. https://doi.org/10.25216/jhp.14.3.2025.677-700

Suyahman, S., Karimullah, S. S., & Syahril, M. A. F. (2025). Intersectionality in Social Justice: Unpacking the Complexity of Oppression. *Jambura Law Review*, *7*(1), 275–308. https://doi.org/10.33756/jlr.v7i1.27828

Syahril, M. A. F., Zainuddin, Z., Krivins, A., Wiwin, W., Hasan, N., & Hafid, H. L. A. (2025). Reconstructing Women's Status in Mowea Sarapu: Customary Divorce, Maqasid al-Shari'ah, and Gender Justice in Tolaki Muslim Legal Pluralism, Indonesia. *Jurnal Theologia*, *36*(2), 311–326. https://doi.org/10.21580/teo.2025.36.2.29864

Wiranti, B., Latif, F. A., Hibbatulloh, I., Sakinah, H., & Hidayatullah, M. W. (2025). Political Feminism and Women's Representation in Public Policy in Indonesia. *Jurnal Pelita Raya*, *1*(1), 1–16. https://journal.mahkotascience.org/index.php/jpr/article/view/11

Wu, Z. (2024). Universal justice and differential Justice. In *Why is social justice possible? Social justice issues during China's period of transition* (pp. 347–372). Springer. https://doi.org/10.1007/978-981-97-5380-2_17

Yang, Y. (2026). Ambivalent effects of anger in Chinese feminists' refusal to patriarchal marriage and family. *Social Movement Studies*, *25*(1), 40–56. https://doi.org/10.1080/14742837.2024.2369603

Yanti, N., Candra, E., Hafiz, M., Siregar, I. P., & Anggriani, I. V. (2026). Patterns and Determinants of Judicial Reasoning in Deciding Women Economic Rights in Religious Courts. *Islamica: Jurnal Studi Keislaman*, *20*(2), 212–242. https://doi.org/0.15642/islamica.2026.20.2.212-242

Yazid, A., Karimullah, S. S., & Sugitanata, A. (2023). Comparative Study On Childfree Marriage In Some Selected Countries. *Jurnal Al-Hakim: Jurnal Ilmiah Mahasiswa, Studi Syariah, Hukum Dan Filantropi*, *5*(2), 267–284. https://doi.org/10.22515/jurnalalhakim.v5i2.7869