

## Legal Analysis of the Position of Women as Heads of Households in National Law

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### Abstract

Rapid social changes in Indonesian society have underscored the urgency of discussing women's position as heads of households. The purpose of this study is to analyse the legal position of women as heads of households in Indonesian national law and to examine the compatibility between applicable legal norms and the principles of gender equality and the social reality of society. This study uses a normative legal approach with a descriptive-analytical research design. The results show that the head of the family in Indonesian national law is not merely an administrative label, but rather a normative technology that locks in the distribution of authority, recognition, and resources through the patriarchal assumption that family leadership is synonymous with men, so that when social reality presents more and more women as primary caregivers, the law actually produces new injustices. At this point, the sharpest contradiction is not only between the marriage law and the constitution, but also between the state's promise of equality and the design of a bureaucracy that still operates on a normative family model increasingly incompatible with the diversity of contemporary Indonesian families. As a result, discrimination does not always manifest as overt prohibitions, but rather as procedures that appear neutral yet systematically exclude female heads of households from social assistance, administrative recognition, and legal protection.

**Keywords:** *Head of family, Legal protection, Marriage law, National law, Position of women*



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## INTRODUCTION

In Indonesia's national legal system, the status of husbands and wives in the family is explicitly regulated in law no. 1 of 1974 on marriage, as amended by law no. 16 of 2019. Article 31(3) of the law states that the husband is the head of the family and the wife is the housewife (Nurdiansyah & Izzuddin, 2024). For decades, this provision has been the normative basis for various public policies, including population administration policies, social welfare programmes, and the family recognition system in various state institutions. However, in practice, this provision is often at odds with social reality, which shows that many women actually perform the function of head of the family. This phenomenon demonstrates the tension between positive legal norms and the social reality that is developing in society.

Rapid social changes in Indonesian society have underscored the urgency of discussing women's position as heads of households. Data from the central statistics agency in recent years shows an increase in the number of households headed by women (Trias-Prats & Esteve, 2025). This phenomenon is not only found in urban areas but also in rural areas with diverse socio-economic backgrounds (Malik et al., 2025). This condition shows that women no longer solely perform domestic roles, but also bear economic and social responsibilities as family leaders. In this context, questions arise about how Indonesia's national legal system positions women who perform the function of head of the family and to what extent the existing legal framework provides adequate legal recognition and protection for them.

The issue of women's position as heads of households is also closely related to the principle of gender equality, which has become part of Indonesia's national and international legal commitments. Indonesia has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) through Law No. 7 of 1984. This ratification means that the state is obliged to eliminate all forms of discrimination against women, including in family life and legal relationships within the household (Al Ayubi & Zumrotun, 2025). In addition, the principle of equality before the law is also guaranteed in Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that every citizen has the same status before the law and the government.

The discourse on women as heads of families from a legal perspective has been the focus of numerous academics and researchers in recent decades. Several previous studies have highlighted this issue from various perspectives, including sociological, family law, and gender studies. Studies conducted by several legal scholars show that the construction of family law in Indonesia remains heavily influenced by patriarchal values that place men as the primary authority in the household (Al Kadumi et al., 2024). Other studies also show that the provisions regarding the head of the family in the marriage law are often used as the basis for various administrative policies that indirectly limit the recognition of women as heads of families (Haerozi et al., 2023).

Studies conducted by several researchers on the implementation of family law in Indonesia show that in practice, many women perform the function of head of the family but do not receive formal recognition in the legal or state administrative systems.

This situation has various implications, including difficulties in accessing social assistance programmes, obstacles in processing identity documents, and limitations in obtaining adequate legal protection. Several studies also highlight that female heads of households are often in a vulnerable economic and social position, requiring legal policies that are more responsive to their needs.

Several studies have also examined this issue through the lens of Islamic law and customary law as developed in Indonesia. In certain indigenous communities, women actually play an important role in the family structure and can even become heads of households in certain situations (Letiecq, 2024; McKinley, 2023). Similarly, in some contemporary interpretations of Islamic law, there are more flexible views on the division of roles within the family that do not necessarily place men as the head of the household in all situations (Karimullah et al., 2024). These findings show that the social and cultural realities of Indonesian society are actually quite diverse and do not always align with the normative constructs found in legislation.

Most previous studies have tended to emphasise the social, economic, or gender aspects of women as heads of households. In contrast, studies that specifically examine women's position as heads of households from a comprehensive national legal perspective remain relatively limited (Abadi et al., 2022; Gaddis et al., 2022). Several studies have examined the implications of the marriage law for women's position in the family (Kurniawan et al., 2025; Yazid et al., 2023). Still, the discussion is often partial and does not examine in depth the relationship between various national legal instruments on the recognition and protection of female heads of households. In addition, there is still little research that systematically analyses the compatibility between national legal norms and the principles of gender equality guaranteed in the constitution and by various international legal instruments ratified by Indonesia (Fathony et al., 2024).

These limitations indicate a research gap in studies on the position of women as heads of families in Indonesian national law. First, there is still a lack of comprehensive legal analysis of how various laws and regulations in Indonesia regulate or influence the recognition of women as heads of families. Second, there is a discrepancy between the applicable legal norms and social reality, indicating that more and more women are performing the function of head of family. Third, there have not been many studies that critically examine the implications of this discrepancy on the legal protection and fulfilment of women's rights in the national legal system.

Based on these conditions, a study is needed that specifically analyses the position of women as heads of households under Indonesian national law through a comprehensive legal approach. This study aims not only to examine the applicable legal norms but also to assess their compatibility with constitutional principles and Indonesia's international commitments in the field of gender equality. The novelty of this study lies in its attempt to integrate an analysis of various national legal instruments related to the position of women in the family, including the Marriage Law, regulations in the field of population administration, and public policies on the recognition of heads of families. Through this approach, this study seeks to identify more comprehensively

how national legal constructs shape women's position as heads of families and how this affects the protection of women's rights in family life.

Based on this background, this study focuses on a juridical analysis of the position of women as heads of families in Indonesia's national legal system. The scope of the study includes an examination of the legal norms governing the roles and positions of husbands and wives in the family, an analysis of the legal recognition of women as heads of households in various laws and regulations, and an examination of the compatibility of these legal norms with the principle of gender equality guaranteed in the constitution and international legal instruments. Based on this focus, the objectives of this study are to conduct a legal analysis of the position of women as heads of families in Indonesian national law and to examine the compatibility between applicable legal norms and the principles of gender equality and the social reality of society. Through this study, it is hoped that a deeper understanding can be gained of how the national legal system positions women who perform the function of head of the family, and of how laws can be developed that are more responsive to evolving social dynamics.

## **METHODS**

This study uses a normative juridical approach with a descriptive-analytical design chosen because it aims to systematically examine the construction of legal norms governing the position of women as heads of households in Indonesian national law and to assess their compatibility with the principles of gender equality and evolving social realities. The study instruments consist of documentation and study guidelines, and a legal materials analysis matrix developed conceptually to identify norms, principles, and legal interpretations related to the recognition of women as heads of families. At the same time, data validity is ensured through source triangulation techniques and critical analysis of the consistency of legal norms with constitutional principles and international legal instruments. The data collection procedure was carried out in stages through the inventory, classification, and systematisation of relevant legal materials, followed by an in-depth literature review to find doctrinal constructs and developments in legal thinking related to the research issue (Romero et al., 2019). Data analysis was conducted using qualitative methods, including a legal interpretation approach, systematic and conceptual interpretation, and legal argumentation, to examine the relationship between norms in the national legal system and assess their compatibility with the principle of gender equality.

## **RESULTS AND DISCUSSION**

### **National Legal Construction Regarding the Head of the Family and the Position of Women**

Normatively, the national legal construction regarding the head of the family is most clearly reflected in law no. 1 of 1974 on marriage, as amended by law no. 16 of 2019. Article 31(3) of the law states that the husband is the head of the family and the wife is the housewife. This provision explicitly establishes a hierarchical division of roles within the family, in which men are positioned as the head of the family and

women as those who perform domestic functions. This formulation not only has symbolic meaning but also broad normative implications, as it serves as a reference point for various legal and administrative policies related to the family.

This paradigm did not emerge suddenly, but was the result of a long historical process in the formation of the family law system in Indonesia. During the colonial period, the legal system in force in the Dutch East Indies recognised various forms of family arrangements based on classifications of customary law, Islamic law and Western law (Al Hamid et al., 2025; Muhajir et al., 2023). In many of these legal systems, men were generally positioned as the head of the family with authority in household decision-making. When the 1974 Marriage Law was drafted as an effort to unify national family law, lawmakers adopted many of the social values that had long existed in society, including the concept of male leadership in the family. As a result, the resulting legal norms tended to reproduce gender relations that placed men as the head of the family and women as domestic supporters.

This normative construction did not stop at the provisions of the Marriage Law, but also influenced various other legal regimes. In the field of population administration, for example, the concept of the head of the family became an important element in the state's family registration system. The family card, as an official population administration document, placed the head of the family as the main figure representing the family unit in the state administration system. In practice, the position of head of the family in these documents is traditionally filled by men, so that women are often not recognised as heads of families except in certain circumstances, such as being widowed due to divorce or the death of a spouse. This shows that the legal construction of the head of the family not only functions as a domestic norm in family law, but also has administrative implications that affect the legal recognition of women in various aspects of social life.

Apart from the field of population administration, the paradigm of the head of the family being synonymous with men is also reflected in various social welfare policies implemented by the state. Many social assistance programmes and family protection policies implicitly rely on the concept of the head of the family to determine beneficiaries. Within this framework, the head of the family is often assumed to be a man who is responsible for meeting the family's economic needs (Bukido et al., 2025). As a consequence, women who are in fact the main breadwinners of the family often face administrative barriers in accessing various social assistance programmes because the bureaucratic system still operates based on the normative assumption that the head of the family is a man.

From the perspectives of legal and gender theory, the normative construction that places men as heads of households can be understood as part of a legal structure that reflects power relations in society. Feminist legal theory, for example, shows that the law is not always gender neutral, but often reproduces social values that place women in a subordinate position (Karimullah & Aliyah, 2023). In the context of family law, the division of roles between the husband as head of the family and the wife as homemaker can be seen as the institutionalisation of traditional gender roles that limit women's

mobility within the family structure (Rubio-Marín, 2015). However, social developments in Indonesian society in recent decades have shown significant changes in family structures.

Modernisation, urbanisation, increased access to education for women, and changes in the economic structure have encouraged more women to engage in economic and public activities (Karimullah, Nugraha, et al., 2023; Sugitanata et al., 2024; Suwarni et al., 2024). These conditions have gradually changed the pattern of relationships within the family, where women no longer solely perform domestic roles, but also act as the main breadwinners and decision-makers in the family. In many cases, women have even become the only ones to bear the family's economic and social responsibilities.

This social reality is reflected in the increasing number of households headed by women in various regions of Indonesia. This phenomenon occurs not only in the context of families experiencing divorce or the death of a spouse, but also in situations where the husband works outside the region or abroad for long periods of time, forcing women to take over the responsibility of managing the family. In addition, structural poverty often forces women to become the main breadwinners of the family when men are unable to perform their economic functions optimally (Karimullah, Efendi, et al., 2023). In this context, women effectively perform the function of family leadership even though normative constructions in positive law still place men as the head of the family.

The tension between social reality and normative legal constructions raises various legal implications that are important to analyse. When the law continues to uphold the concept of the head of the family as synonymous with men, while social reality shows the diversity of family structures, there is potential for injustice in the legal recognition and protection of women who perform the function of head of the family. Women in this position often face various administrative and social obstacles because the legal system does not yet fully accommodate their existence as legal subjects with authority in the family.

From a constitutional law perspective, this condition can be viewed as an issue related to the principle of equality before the law. The 1945 Constitution of the Republic of Indonesia affirms that every citizen has the same status under the law and government. This principle implies that the law must not create gender-based discrimination in the recognition of citizens' rights and obligations. If the legal construct of the head of the family systematically places women in a lower position or limits their recognition as heads of families, then this has the potential to conflict with the constitutional principle of equality.

Indonesia's international commitments in the field of gender equality also provide an important normative framework for assessing the national legal construct of the head of the family. Through the ratification of the Convention on the Elimination of Discrimination Against Women (CEDAW), Indonesia has declared its commitment to eliminating all forms of discrimination against women, including in family life. The convention emphasises the importance of conventional rights and responsibilities between men and women in family relationships. In this context, legal provisions that

rigidly place men as heads of families can be seen as norms that need to be reviewed to be in line with the principle of equality recognised in international law. However, it is important to understand that changes in family law are not only related to normative aspects but also to the social and cultural dynamics developing in society.

In many communities in Indonesia, traditional values regarding the division of roles between men and women still strongly influence family life. Therefore, efforts to reconstruct the concept of the head of the family in national law need to consider the balance between respect for social values that exist in society and the need to ensure equality and the protection of women's rights. In this context, a more adaptive and responsive legal approach to social realities is becoming increasingly important. The law should not only reflect existing social structures but also respond to social changes occurring in society.

In several laws and administrative policies, the state has begun to provide space for the recognition of women as heads of families under certain conditions. For example, in the population administration system, widows or those who are the family's breadwinners are registered as heads of family on their family cards. This shows that there is a certain degree of flexibility in the application of the concept of head of family in legal practice, even though, normatively, the head of family being synonymous with men remains quite strong.

This phenomenon shows that the legal construction of the head of the family in Indonesia is actually undergoing a process of transformation influenced by social, economic and political dynamics. On the one hand, existing legal norms still maintain the traditional paradigm regarding the division of roles within the family. On the other hand, social practices and administrative policies are beginning to recognise the diversity of family structures developing in society. This transformation process shows that national law is facing the challenge of adapting to social changes.

### **Tension Between the Principle of Gender Equality in the Constitution and the Patriarchal Family Law Structure**

The Indonesian Constitution explicitly affirms the principle of equality of citizens before the law. Article 27, paragraph (1), of the 1945 Constitution of the Republic of Indonesia states that all citizens are equal before the law and the government and are obliged to uphold the law and government without exception. This principle is the foundation for the recognition of citizens' rights without distinction based on gender, social background, or other conditions. In addition, the guarantee of equality is reinforced in various provisions on human rights in Chapter XA of the 1945 Constitution, which, among other things, guarantees the right of every person to obtain fair legal protection, freedom from discriminatory treatment, and equal opportunities in various aspects of life (Hibbatulloh et al., 2025; Prianto et al., 2024). These provisions show that, constitutionally, the Indonesian state recognises and upholds the principle of equality between men and women as part of its respect for human dignity.

The constitutional commitment to gender equality is also reinforced through Indonesia's participation in various international legal instruments that promote the

elimination of discrimination against women. One of the most important instruments is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Indonesia ratified through Law No. 7 of 1984. The ratification of this convention marks the state's commitment to taking the necessary steps to eliminate discrimination against women in various areas of life, including in the family sphere. The convention affirms that men and women should have equal rights and responsibilities in family relationships, including in decision-making, the management of family resources, and the care of children (Karimullah, 2022; Parhi et al., 2025). However, the national family law structure still contains several provisions that reflect a hierarchical gender relations paradigm.

One of the most frequently highlighted examples is the provision in Law No. 1 of 1974 on Marriage, which states that the husband is the head of the family and the wife is the housewife (Haerozi et al., 2023; Suleman et al., 2023). This provision explicitly establishes an asymmetrical division of roles within the family, in which men are positioned as leaders and women as managers of the household. This normative formulation not only regulates domestic relations between husband and wife but also influences the way the state and society view the position of women in the family structure. In this context, family law functions not only as an instrument for regulating personal relationships but also as a mechanism that shapes the structure of gender relations in society.

When analysed from the perspective of legal and gender theory, provisions that place men as the head of the family can be understood as a form of institutionalised patriarchy in positive law. Patriarchy in this context refers to a social system that places men in a dominant position in various aspects of life, including the family structure. Feminist legal theory argues that the law is often not entirely neutral towards gender, but rather reflects the social values that developed in society at the time the law was formed (Karimullah, 2024; Wiranti et al., 2025). In many legal systems, including in Indonesia, family law norms are built on assumptions about traditional gender roles that place men as breadwinners and heads of the family (Retnowulandari, 2018). At the same time, women are considered to have a primary role in managing the household. As a result, the law can indirectly reinforce social structures that place women in subordinate positions.

Provisions regarding the husband as head of the family also have broad implications in legal practice and state administration. In various public policies, the concept of head of the family is often used as the basis for administrative arrangements and the distribution of state resources. For example, in the population administration system, the head of the family is the figure who represents the family unit in various official documents, such as the family card. In developed bureaucratic practices, the position of head of the family is traditionally identified with men, so that women are often not recognised as heads of families except in certain circumstances, such as divorce or the death of a spouse.

This condition shows that the normative construction found in family law not only affects domestic relationships within the family but also has an impact on the

administrative recognition of women in various aspects of social life. Another implication of this regulation can also be seen in various social welfare programmes that use the concept of head of household as the basis for determining beneficiaries. Many social assistance programmes are designed on the assumption that the head of the family is responsible for the family's economic welfare (Rembulan et al., 2025). As a result, women who are in fact the main breadwinners of the family often face obstacles in accessing these programmes because the administrative system does not fully accommodate their existence as heads of families. In this context, legal structures that maintain the patriarchal paradigm can create indirect discrimination against women, especially those who play a leadership role in the family in social reality.

The tension between the principle of gender equality in the constitution and the patriarchal family law structure can also be analysed through the perspective of legal norm hierarchy theory (Kobko-Odarii et al., 2025). In a legal system that adheres to the principle of constitutional supremacy, all laws and regulations must be in line with the values contained in the constitution. If legal norms conflict with constitutional principles, they can, in principle, be challenged through a constitutional review mechanism. In this context, provisions that place men as the head of the family can be seen as norms that potentially conflict with the principle of equality guaranteed by the constitution, as they create a division of roles based on gender (Zumrotun & Muna, 2025). However, the debate over these provisions is not always straightforward, as it involves complex social, cultural, and religious dimensions.

Some argue that the division of roles between husband and wife in the Marriage Law reflects the social and religious values that exist in Indonesian society. In this view, the provision regarding the husband as head of the family is considered a form of regulation that reflects the traditional family structure that has long been part of society's culture. Therefore, changes to these norms are often viewed as a sensitive issue because they relate to the moral and religious values embraced by society.

On the other hand, there is also a growing view that emphasises the importance of reinterpreting family law norms to bring them more in line with the principles of gender equality recognised in the constitution and international law. This view stems from the premise that the law must be able to adapt to social changes in society. In recent decades, the role of women in social and economic life has undergone a significant transformation (Nurizka et al., 2025). Women no longer perform only domestic roles; they also act as primary breadwinners, leaders of organisations, and decision-makers in various areas of life. These changes require the reconstruction of legal norms that are more responsive to evolving social realities.

Social reality shows that more and more women are taking on leadership roles in the family, whether due to divorce, the death of a spouse, labour migration, or economic conditions that force women to become the main breadwinners for their families. In such situations, women effectively act as heads of households, even though normative constructions in positive law still place men as the main figures in the family structure. When the law does not adequately recognise this reality, a gap emerges between legal

norms and social practices, which can have an impact on the protection of women's rights.

This gap shows that family law in Indonesia is in a process of transition between the traditional paradigm and the increasingly strong demands for gender equality in modern society (Karimullah, Ruchiat Nugraha, et al., 2023). On the one hand, the law still maintains gender relations based on traditional role divisions between men and women. On the other hand, the principle of equality guaranteed by the constitution and international commitments to eliminate discrimination require an evaluation of legal norms that may perpetuate gender inequality. This transition process reflects the complex dynamics between cultural values, social developments, and demands for the protection of human rights.

Within this framework, it is important to note that efforts to harmonise family law with the principle of gender equality do not necessarily entail eliminating all traditional values in society. Instead, harmonisation can be achieved through a more contextual approach that emphasises the principles of substantive justice and recognition of the diversity of family structures in society. This approach allows the law to continue to respect evolving social values while ensuring that women do not experience discrimination in the recognition of their rights and roles within the family.

### **Legal Recognition of Women as Heads of Households and Its Impact on Access to Socio-Economic Rights**

Within the framework of Indonesian positive law, the concept of head of household was initially constructed through the traditional family paradigm, which placed men as leaders of the household. This paradigm is normatively reflected in Law No. 1 of 1974 on Marriage, which affirms that the husband is the head of the family and the wife is the housewife. This provision not only shapes the division of domestic roles between husband and wife, but also forms the basis for various administrative practices and public policies that associate the status of head of the family with male identity.

This normative construction then influences various administrative systems used by the state in managing the relationship between families and public policy. In the population administration system, for example, the head of the family is an important category in recording family data through documents such as the family card. The position of head of the family in these documents not only serves an administrative function as an indicator of family structure, but also forms the basis for various public policies that target the family unit as the focus of government programmes (Devaney et al., 2023). In developing bureaucratic practices, the head of the family is often associated with men as the main breadwinners, so that women who are in fact responsible for the family do not always receive formal recognition as heads of the family.

The implications of this administrative construct become particularly significant when the status of head of the family is used as the basis for the distribution of various social assistance and welfare programmes. Many government programmes are designed with a family-based approach, in which the head of the family serves as the representative of the family unit in receiving the benefits of state policies. In this context,

the status of head of the family is not only related to social identity within the family but also serves as a mechanism that determines access to various economic resources provided by the state. When women are not formally recognised as heads of families, their position in accessing these programmes can become more vulnerable.

This phenomenon becomes increasingly relevant as social reality shows that the number of women who are the family's main breadwinners continues to rise. Women can become heads of households for various reasons, such as divorce, the death of a spouse, a husband's migration for work, economic conditions that force women to become the main breadwinners, or life choices that do not always follow traditional family patterns. In such situations, women not only perform domestic roles but also bear economic and social responsibilities that are usually associated with the head of the family (Gashi Nulleshi & Kalonaityte, 2023). However, when the legal and bureaucratic systems still maintain the assumption that the head of the family is male, women who perform this function often face various administrative barriers in accessing socio-economic rights.

These administrative obstacles can take various forms. One of the most common forms is the difficulty in obtaining formal recognition as the head of the family in population documents. In some cases, women who are still administratively married cannot be registered as heads of families even though they are in fact the main breadwinners (Zumrotun & Muna, 2025). This often occurs in situations where the husband no longer fulfils his economic responsibilities or has been away from the household for a long period of time. This situation creates a gap between the social reality faced by women and an administrative structure that is still based on traditional family assumptions.

This gap then has an impact on women's access to various welfare programmes that use head of household status as an administrative criterion. Social assistance programmes, economic subsidies, and various forms of welfare interventions are often designed on the assumption that the head of household is the person who represents the family in receiving assistance (Wang et al., 2024). When women are not registered as heads of households, they may face difficulties in accessing such assistance, even though they are in fact responsible for their families' welfare. This situation shows that the legal recognition of head-of-household status has real consequences for the distribution of resources in society.

Beyond the context of social assistance, recognition of women as heads of households also has implications for access to family asset ownership. In many legal systems and social practices, the head of the family is often considered the authority in the management and ownership of family assets (S. Wong, 2024). When women are not formally recognised as heads of households, their position in accessing or managing family assets can be weakened, especially in situations of family conflict or legal disputes. This condition can exacerbate women's economic vulnerability, especially for those who are in fact the main breadwinners of the family.

Another impact of the non-recognition of women as heads of households is seen in legal protection. In some situations, the status of head of household can affect a person's

position in decision-making processes related to the family, including in relations with state institutions (J. S. Wong & Daminger, 2024). When women are not recognised as heads of households, they may face obstacles in representing the family's interests in various administrative and legal matters. This shows that the legal recognition of women as heads of households is not only a matter of legal symbolism, but also has practical implications for women's ability to exercise leadership roles within the family.

From a social justice perspective, this condition can be understood as a form of structural inequality in the distribution of resources. Distributive justice theory emphasises that legal systems and public policies should be designed to ensure the fair distribution of resources to all members of society (Stivers et al., 2023). When administrative systems are based on assumptions about the family that no longer fully reflect social reality, the distribution of resources can become uneven and potentially create injustice for certain groups, including women who are heads of households.

The core issue in this context concerns how the national legal system constructs mechanisms for recognising heads of households and how these constructions affect the distribution of rights and resources in society. Head-of-household status is not only a neutral administrative category but also a mechanism that determines how the state interacts with family units as subjects of public policy (Turisno et al., 2025).

This double marginalisation occurs because women in this position face two layers of vulnerability at once. First, they are in a social position that has historically experienced gender inequality in various aspects of life. Second, they bear the economic and social responsibilities of the family without always receiving adequate formal recognition in the legal system and public policy. The combination of these two factors can exacerbate women's vulnerability in accessing the various socio-economic resources that should be available to the families they lead.

The debate over the recognition of women as heads of households in the national legal system essentially revolves around two different policy approaches. The first approach emphasises that the recognition of women as heads of households should be limited to certain conditions, such as when women are widowed, divorced, or in situations where the husband is no longer part of the family structure. This approach stems from the assumption that the traditional family structure, which places men as heads of households, remains a normative model in family law.

The second approach offers a more flexible perspective by emphasising that the status of head of the family should be based on the reality of economic and social responsibilities within the family, not solely on gender or marital status. In this approach, women who actually perform the function of family leadership should receive formal recognition as the head of the family, regardless of whether they are still married. This approach stems from the view that laws and public policies must be able to adapt to social changes in society.

The debate between the two approaches reflects a broader tension between the traditional family paradigm and the demands for gender equality in modern society (Karimullah, Nugraha, et al., 2023). On the one hand, there is a desire to preserve family values that have long been part of society's social structure. On the other hand, there is

a need to ensure that the legal system and public policy can provide fair recognition of an increasingly diverse social reality.

In this context, it is important to understand that the recognition of women as heads of households is not merely a matter of changing administrative terminology, but also related to efforts to ensure that the legal system can guarantee equal access to various socio-economic rights. Such recognition can be an important step in reducing the administrative barriers that women who are the main breadwinners of their families have faced. In addition, this recognition can also help ensure that the distribution of social assistance and state resources reaches those who are truly in need.

## **CONCLUSION**

The Indonesian national legal system still constructs the concept of the head of the family within a normative framework historically influenced by a patriarchal paradigm that places men as the main figure in the family structure, as reflected in various laws and regulations, particularly the marriage law. At the same time, the constitution and Indonesia's international legal commitments affirm the principle of gender equality and the elimination of discrimination against women. The tension between hierarchical legal norms and the social reality of women increasingly becoming the main breadwinners reveals a gap between positive legal constructs and social dynamics, which, in practice, results in limited administrative recognition and access for women to various socio-economic rights, such as social assistance, legal protection, and the management of family resources.

The status of head of the family in national law is not merely a domestic category, but a legal mechanism that determines the distribution of recognition, rights, and resources in the relationship between the family and the state. Therefore, the recognition of women as heads of families needs to be understood as part of an effort to harmonise the principle of constitutional equality with the family law structure, which is still normatively patriarchal. These findings implicitly enrich the study of family law and gender law by emphasising the importance of a conceptual reconstruction of the head of the family based on the reality of socio-economic responsibilities, not merely on gender identity, while also opening up space for the development of theories on the relationship between law, social structures, and distributive justice in the context of the welfare state.

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## **REFERENCES**

Abadi, M., Dirani, K. M., & Rezaei, F. D. (2022). Women in leadership: a systematic literature review of Middle Eastern women managers' careers from NHRD and institutional theory perspectives. *Human Resource Development International*, 25(1),

- 19–39. <https://doi.org/10.1080/13678868.2020.1840847>
- Al Ayubi, S., & Zumrotun, S. (2025). Optimization of the Convention on Elimination of All Forms of Discrimination Against Women in Divorce Cases in Indonesia. *FiTUA: JURNAL STUDI ISLAM*, 6(1), 1–13. <https://doi.org/10.47625/fitua.v6i1.914>
- Al Hamid, R., Jamil, M. S., Nimah, R., & Siregar, M. A. H. (2025). Political Conflict between Islamic Law and National Law in Indonesia. *Insani: Jurnal Pranata Sosial Hukum Islam*, 1(1), 48–62. <https://doi.org/10.65586/insani.v1i1.4>
- Al Kadumi, F., Seff, N., & Hakim, A. (2024). The Reconstruction of Islamic Family Law in Indonesia: A Normative-Comparative Analysis of Gender Justice and Legal Modernity. *ASEAN Journal of Islamic Studies and Civilization (AJISC)*, 1(1), 1–19. <https://doi.org/10.62976/ajisc.v1i1.1404>
- 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>
- Devaney, C., Christiansen, Ø., Holzer, J., MacDonald, M., Matias, M., & Salamon, E. (2023). Child, parent or family? Applying a systemic lens to the conceptualisations of Family Support in Europe. *European Journal of Social Work*, 26(2), 335–347. <https://doi.org/10.1080/13691457.2022.2146308>
- 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>
- Gaddis, I., Lahoti, R., & Swaminathan, H. (2022). Women’s legal rights and gender gaps in property ownership in developing countries. *Population and Development Review*, 48(2), 331–377. <https://doi.org/10.1111/padr.12493>
- Gashi Nulleshi, S., & Kalonaityte, V. (2023). Gender roles or gendered goals? Women’s return to rural family business. *International Journal of Gender and Entrepreneurship*, 15(1), 44–63. <https://doi.org/10.1108/IJGE-09-2021-0152>
- 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>
- Hibbatulloh, I., Najhan, A. S., Dzulfikar, M. L., & Mabror, R. (2025). The Secularisation of Islamic Criminal Law and Its Implications for the Protection of Human Rights in Indonesia. *Insani: Jurnal Pranata Sosial Hukum Islam*, 1(1), 17–31. <https://doi.org/10.65586/insani.v1i1.7>
- Karimullah, S. S. (2022). The Urgency of Building Legal Awareness on Care of Children in the Family. *Amsir Law Journal*, 3(2), 76–86. <https://doi.org/10.36746/alj.v3i2.66>
- 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., & Aliyah, S. R. (2023). Feminist Criticism of Traditional Understanding of Women’s Roles in Islam. *An-Nisa’: Journal of Gender Studies*, 16(2),

- 195–214. <https://doi.org/10.35719/annisa.v16i2.177>
- 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., Mukhid, Ibrahim, Z. S., & Muhajir. (2024). Rethinking Gender In Islamic Law. *Musāwa Jurnal Studi Gender Dan Islam*, 23(1), 99–113. <https://doi.org/10.14421/musawa.2024.223.99-113>
- Karimullah, S. S., Nugraha, A. R., Nisa, I. S., & Andini, Y. (2023). The relevance of feminism in promoting gender reform in the context of progressive Islam. *Jurnal Anifa: Studi Gender Dan Anak*, 4(2), 1–15. <https://doi.org/10.32505/anifa.v4i2.7187>
- Karimullah, S. S., Ruchiat Nugraha, A., Andini, Y., & Shofiyatun Nisa', I. (2023). The Changing Role of Gender in Contemporary Muslim Families. *Martabat: Jurnal Perempuan Dan Anak*, 7(2), 167–188. <https://doi.org/10.21274/martabat.2023.7.2.167-188>
- Kobko-Odarii, V., Leheza, Y., Sokolovskiy, K., Tatarenko, H., & Nestertsova-Sobakar, O. (2025). Reconstructing Gender Equality in Family Law: A Normative and Comparative Analysis of European Family Law Systems in Religious Context. *Syariah: Jurnal Hukum Dan Pemikiran*, 25(1), 195–214. <https://doi.org/10.18592/sjhp.v25i1.17694>
- Kurniawan, M. R., Fathony, M. R., Yasin, D. T., Jibu, S. A., & Shamat, A. (2025). Political Analysis of Islamic Law on the Regulation of Interfaith Marriage in Indonesia. *Insani: Jurnal Pranata Sosial Hukum Islam*, 1(1), 32–47. <https://doi.org/10.65586/insani.v1i1.2>
- Letiecq, B. L. (2024). Theorizing white heteropatriarchal supremacy, marriage fundamentalism, and the mechanisms that maintain family inequality. *Journal of Marriage and Family*, 86(5), 1184–1204. <https://doi.org/10.1111/jomf.12971>
- Malik, I., Karimullah, S. S., Okur, H., & Rahman, R. (2025). Gender Analysis in the Islamic Law-Based Ecofeminism Movement for Ecosystem Protection. *El-Mashlahah*, 15(1), 101–124. <https://doi.org/10.23971/el-mashlahah.v15i1.9040>
- McKinley, C. E. (2023). “She Always Knows What to Do”: Mothers Maintaining Central Roles in Family. In *Understanding Indigenous gender relations and violence: Becoming gender awake* (pp. 333–341). Springer. [https://doi.org/10.1007/978-3-031-18583-0\\_32](https://doi.org/10.1007/978-3-031-18583-0_32)
- Muhajir, M., Nisa, I. S., Munawar, A., & Karimullah, S. S. (2023). Agus Moh Najib’s Thoughts on the Interconnection of Islamic Law and National Law. *Jurnal Ilmiah Al-Syir’ah*, 21(1), 86–103. <https://doi.org/10.30984/jis.v21i1.2321>
- Nurdiansyah, P. P. D., & Izzuddin, A. (2024). Equality of rights and obligations of husband and wife in the kinship system: A perspective of Indonesian positive law. *Jurnal Hukum Islam*, 24(1), 52–69. <https://doi.org/10.24014/hi.v24i1.30980>
- Nurizka, M. S., Islami, A., Rofi’ieh, M., & Dzulfikar, M. L. (2025). Criticism of the Neoclassical Approach in Islamic Economic Policy in Indonesia. *Jurnal Pelita Raya*, 1(1), 17–30. <https://doi.org/10.65586/jpr.v1i1.9>
- 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://doi.org/10.65586/insani.v1i1.3>
- Prianto, A. L., Karimullah, S. S., Idri, I., Ibrahim, Z. S., Nugraha, A. R., & Gönan, Y. (2024). Hijacking of State Power on Religious Freedom by Community Organizations in Indonesia. *Jurnal Ilmiah Islam Futura*, 24(2), 348–367. <https://doi.org/10.22373/jiif.v24i2.17916>
- Rembulan, C., Maghfur, I. R., Siregar, M. A. H., Jakfar, M. A., & Solehah, S. (2025). The Impact of the Digital Economy on Economic Empowerment Models for Muslim Youth in Indonesia. *Jurnal Lentera Insani*, 1(1), 48–63. <https://doi.org/10.65586/jli.v1i1.17>
- Retnowulandari, W. (2018). A review of the “head of the family” concept from the family law, gender perspective. *SHS Web of Conferences*, 54, 2008. <https://doi.org/10.1051/shsconf/20185402008>
- Romero, D., Kwan, A., & Suchman, L. (2019). Methodologic approach to sampling and field-based data collection for a large-scale in-depth interview study: The Social Position and Family Formation (SPAFF) project. *PloS One*, 14(1), e0210776. <https://doi.org/10.1371/journal.pone.0210776>
- Rubio-Marín, R. (2015). The (dis) establishment of gender: Care and gender roles in the family as a constitutional matter. *International Journal of Constitutional Law*, 13(4), 787–818. <https://doi.org/10.1093/icon/mov059>
- Stivers, C., Pandey, S. K., DeHart-Davis, L., Hall, J. L., Newcomer, K., Portillo, S., Sabharwal, M., Strader, E., & Wright, J. (2023). Beyond social equity: Talking social justice in public administration. In *Public Administration Review* (Vol. 83, Issue 2, pp. 229–240). Wiley Online Library. <https://doi.org/10.1111/puar.13620>
- Sugitanata, A., Hasan, F., Kurniawan, M. R., & Aminah, S. (2024). Pemberdayaan Perempuan melalui Pendidikan Islam Progresif Suud Sarim Karimullah: Analisis Strukturalisme dan Implikasinya. *Muadalah*, 12(1), 1–13. <https://doi.org/10.18592/muadalah.v12i1.12151>
- Suleman, F., Arifuddin, Q., Saifudin, S., Khasanah, F., & Karimullah, S. S. (2023). The Review of the Masalah 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>
- Suwarni, S., Karimullah, S. S., Kaniah, K., Amanat, T., Safar, M., & Tjahyadi, I. (2024). Inclusive Sexual Education: Integrating Gender Approaches in Learning. *AL-ISHLAH: Jurnal Pendidikan*, 16(1), 416–427. <https://doi.org/10.35445/alishlah.v16i1.4690>
- Trias-Prats, R., & Esteve, A. (2025). Rising Female-Headed Households: Shifts in Living Arrangements or Heightened Gender Symmetry? *Population and Development Review*, 51(2), 889–917. <https://doi.org/10.1111/padr.12692>
- Turisno, B. E., Natalis, A., Asy’Arie, M. A. H. Al, & Anggayasti, U. H. (2025). Beyond Textual Reform: A Semiotic and Feminist Critique of Indonesian Civil Code. *International Journal for the Semiotics of Law-Revue Internationale de Sémiotique Juridique*, 38(7), 2261–2291. <https://doi.org/10.1007/s11196-025-10314-8>

- Wang, J. S., Abe, A., Kang, J. Y., Ku, I., Ng, I. Y. H., Peng, C., & Zhao, X. (2024). Social safety net features in East Asia: A comparative analysis using the model family approach. *International Journal of Social Welfare*, 33(4), 1168–1185. <https://doi.org/10.1111/ijsw.12678>
- 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://doi.org/10.65586/jpr.v1i1.11>
- Wong, J. S., & Daminger, A. (2024). The myth of mutuality: Decision-making, marital power, and the persistence of gender inequality. *Gender & Society*, 38(2), 157–186. <https://doi.org/10.1177/08912432241230555>
- Wong, S. (2024). The applicability of Asian family values to other sociocultural settings. In *In search of an East Asian development model* (pp. 134–152). Routledge. <https://doi.org/10.4324/9781003575719-10>
- 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>
- Zumrotun, S., & Muna, M. Y. (2025). Marriage Disrupted: A Sociological and Legal Examination of Women's Ascendance as Family Heads. *JURIS (Jurnal Ilmiah Syariah)*, 24(1), 85–100. [https://doi.org/Marriage Disrupted: A Sociological and Legal Examination of Women's Ascendance as Family Heads](https://doi.org/Marriage%20Disrupted%3A%20A%20Sociological%20and%20Legal%20Examination%20of%20Women%27s%20Ascendance%20as%20Family%20Heads)