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Paradox of Marriage Law Reform: Progressive Statutes versus Ingrained Indonesian Legal Culture

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Abstract

Marriage law reform constitutes part of the state's effort to develop a unified national legal system while responding to evolving social challenges related to marital practices. The enactment of Law Number 1 of 1974 concerning Marriage marked an important milestone in the unification of marriage law in Indonesia, replacing the previously pluralistic legal framework influenced by customary, religious, and colonial legal traditions. This study examines the dynamics of marriage

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law reform in Indonesia, particularly the minimum marriage age, and its implications for society's legal culture, using a normative legal approach based on statutory, conceptual, and literature analysis. The findings show that the reform of marriage law, particularly the amendment of the minimum marriage age through Law No. 16 of 2019, reflects an effort to align legal regulations with constitutional principles of equality and non-discrimination while enhancing legal protection for women and children. Nevertheless, the study reveals that changes in legal substance do not automatically translate into uniform compliance in societal practices, as customary traditions, religious interpretations, and living social norms continue to influence the implementation of marriage regulations across both rural and urban contexts. Therefore, the effectiveness of marriage law reform is not determined solely by legislative changes, but also by the extent to which new legal norms are understood, accepted, and internalized within the legal culture of society. In this context, strengthening public legal awareness and encouraging cultural acceptance of these norms are crucial steps to ensure that marriage law reform can function effectively as an instrument for meaningful and sustainable social change.

Keywords

Marriage Law Reform, Legal Culture, Family Law.

A. Introduction

Law Number 1 of 1974 concerning Marriage explains the fundamental regulations for marriage under Indonesian positive legal system. Based on Article 1 of this law, marriage is a physical and spiritual relationship of a man and a woman as husband and wife with a purpose of creating a pleasant, eternal family or family based on the One Almighty God. This description shows that marriage is seen as a social institution with moral, spiritual, and cultural elements in communal life as well to functioning as a legal relationship between individuals.

As a basic social institution, marriage is important for maintain social order. The legitimacy of a marriage is rather than considered as an administrative issue in Indonesia's implementation of Islamic law, but it also has a significant connection to commitment to the state and spiritual regulations. Consequently, the legitimacy of marriage is essential because it indicates that the husband-wife relationship is recognized from religious perspective and a social and legal perspective. The husband and wife, with their children, already receive a clear legal standing and legal protection due to this legal recognition.[1]

The creation of the Marriage Law was one of the government's steps toward achieving national legal unification in the area of marriage. However, the process was not without various responses and debates within the community. Some groups demanded that the provisions of the law exclude articles deemed contrary to Islamic teachings. The Muslim community's reaction at the time was quite strong, demonstrated through critical responses from Islamic community organizations, religious leaders, and even student demonstrations.[2]

Political configurations and social developments impacted the formulation of marriage laws, as well as the direction of Indonesian marriage law rules. Similarly, the marriage age of 19 for men and 16 for women was a compromise based on a range of conditions at the time. These provisions were impacted not only by the opinions of the government and legislative bodies, but also by the community's plans and social realities, which shaped the regulation-making process.

This historical compromise shows that Indonesian marriage law has always been the outcome of balancing legal principles with sociocultural factors. These former arrangements might no longer reflect modern principles as society changes, especially when it comes to gender equality and the protection of children's rights. As a result, continuing legal reform is required to guarantee that marriage laws

[1] Siska Ayu Anggraini dan Rachmat Panca Putera, "Konsep legalitas perkawinan dalam Kompilasi Hukum Islam: Kajian hukum dan sosial," *Al Fuadiy Jurnal Hukum Keluarga Islam* 5, no. 2 (2023): 71–83.

[2] Ahmad Masfuful Fuad, "Ketentuan Batas Minimal Usia Kawin: Sejarah, Implikasi Penetapan Undang-Undang Perkawinan," PETITA 1 (2016): 20.

maintain constitutional values while being relevant to contemporary social circumstances. In order for the law to serve as both a reflection of current practices and a catalyst for progressive social reform, it is also crucial to regularly reevaluate legal standards in light of societal change.[3]

The requirement that women marry at the legal age of 16 has raised a number of issues over the years. This age still qualifies as a kid under various other rules and regulations, such as Law No. 35 of 2014 on kid Protection, which has been revised several times. This situation causes a lack of synchronization in legal norms, as the rules in Law No. 1 of 1974 Governing Marriage are interpreted to indirectly allow for child marriage.

This normative inconsistency not only weakens legal certainty but also poses challenges for the effective protection of children's rights. When different legal frameworks define age and protection standards differently, it creates ambiguity in implementation and enforcement. As a result, there is a pressing need to harmonize these regulations to ensure coherence within the legal system and to reinforce the commitment to safeguarding children from premature marriage and its associated risks.[4]

The Constitutional Court's Decision Number 22/PUU-XV/2017, which declared that the previous law's regulation of the difference in the age limit for marriage between men and women was deemed inconsistent with the principle of constitutionality, is permanently connected with the change in provisions regarding the minimum age for marriage. The Law Number 35 of 2014 concerning Child Protection, which defines a child as any individual under the age

[3] Sebastiaan Pompe dan Jan Michiel Otto, "Some comments on recent developments in the Indonesian marriage law with particular respect to the rights of women," *Verfassung und Recht in Übersee/Law and Politics in Africa, Asia and Latin America*, 1990, 415–33; Endang Sumiarni, "Historical Study of Marriage Law Between the Norms and the Problematics," *Revista de Gestão Social e Ambiental* 18, no. 5 (2024): 1–19.

[4] Erma Hari Alijana, "Marriage from the Perspective of Child Protection Law and Human Rights," *Annujum: Journal of Humaniora and Law* 2, no. 1 (2026): 1–10.

of 18 and emphasizes the responsibility of parents to prevent marriage at a young age, was determined to be in conflict with this provision.[5]

Following the Constitutional Court's recommendation, the legislators revised the marriage age limit regulation to set the same minimum age for both men and women, 19 years. This modification was officially enacted in Law Number 16 of 2019 Concerning Amendments to Law Number 1 of 1974 Concerning marital as a means of incorporating the concepts of child protection and equality into marital law regulation.

According to Rini Heryanti's academic article "Implementation of Changes to the Marriage Age Limit Policy," the provisions in Law Number 16 of 2019 concerning Amendments to the Marriage Law are primarily implemented by relevant agencies, including the Office of Religious Affairs and the Population and Civil Registration Service. However, the policy's implementation isn't considered suitable currently. This was demonstrated by the continued high number of marriage dispensation applications submitted when applying for permission to marry before reaching the legal minimum age restriction.[6]

At the Religious Courts Judicial Development event, held virtually on April 23, 2021, Aco Nur, Director General of the Religious Courts of the Supreme Court of the Republic of Indonesia, showed that, following the enactment of changes to the provisions of Law Number 16 of 2019 concerning Amendments to the Marriage Law, there has been a significant increase in the number of marriage dispensation applications submitted to Religious Courts throughout Indonesia. Within about a month of the law's approval, the number of marriage dispensation cases increased significantly, from 2,029 in October 2019 to 7,574 in November 2019.[7]

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[5] Artha Febilla Pasaribu, "Dispensasi Perkawinan Anak Di Bawah Umur Pasca Berlakunya Undang-Undang Nomor 16 Tahun 2019 Tentang Perkawinan," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 8, no. 2 (2025).

[6] Rini Heryanti, "Implementasi Perubahan Kebijakan Batas Usia Perkawinan," *Jurnal Ius Constituendum* 6, no. 1 (2021): 120–43.

[7] Lisman Lubis, "Dispensasi Kawin Jelang Dua Tahun Pasca Perubahan Undang-Undang Perkawinan," *Law Jurnal* 2, no. 1 (2021): 1–9.

This fact demonstrates a discrepancy between the reform of the substance of marriage law and the legal culture developing within society. This situation indicates that changes in legal norms are not always directly followed by changes in societal legal behavior. In principle, an effective legal rule should align with the values and social practices that exist within society. Law is fundamentally born from social life, develops, and functions within society itself. Therefore, legal reform efforts intended to encourage social change cannot be separated from the context of society, because the success of legal implementation is greatly influenced by the level of societal acceptance of new legal norms.

This research is a normative legal research that aims to analyze the dynamics of marriage law reform and its implications for the legal culture of society. The approaches used include a statute approach and a conceptual approach. The statutory approach is carried out by examining various regulations related to marriage law, specifically Law Number 1 of 1974 concerning Marriage and its amendments in Law Number 16 of 2019 concerning Amendments to the Marriage Law, as well as relevant constitutionality review decisions such as Constitutional Court Decision Number 22/PUU-XV/2017.

The legal materials used consist of primary, secondary, and tertiary legal materials obtained through literature review. These legal materials are then analyzed qualitatively using descriptive-analytical methods to examine changes in marriage legal norms and their implications for the legal culture of society.

B. Unification of Marriage Law in Indonesia

Mochtar Kusumaatmadja argues that areas of social life requiring legal regulation can be divided into two main categories based on their degree of connection to a nation's cultural and spiritual aspects. According to him, in a developing society, issues requiring legal regulation can be broadly grouped into two groups. First, issues directly related to the individual's personal life and closely related to the cultural and spiritual values prevalent in society. Second, issues related to

broader social interests and the progress of society in general, which are generally relatively neutral from a cultural perspective.[8]

In general, it can be argued that legal reform in relatively "neutral" areas, such as corporate law, contract law, and traffic law, tends to be easier to implement and more quickly accepted by society. This is because these areas are not strongly linked to cultural values or spiritual beliefs. Determining whether a legal area is neutral or not depends largely on the attention and views of the community and its social leaders.

Although not explicitly stated as to which areas of law are not neutral, in this context, marriage law can be understood as one area of law closely linked to cultural values, religion, and the private lives of the community. Therefore, several legal experts warn that the formation and reform of laws that touch on the realm of private life should be carried out carefully, especially if the changes are intended to bring about fundamental restructuring or reform in that area.[9]

In the case of Islamic countries, marriage law reform was promoted by Turkey in 1917, and there was the Ottoman marriage law or *Qanun Qarar al-Huquqal`A'ilahal-Ottoman*. In addition, after the Turkish marriage law reform, there were many others, namely Lebanon in 1919, Jordan in 1951 and Syria in 1953. Turkey, in fact, is one of the Islamic countries that radically reformed marriage law and replaced it with European civil law.[10]

Conversely, other Islamic nations only tried to codify marriage law while maintaining the fundamental principles of the Quran and Hadith. In 1920 and 1929, for example, Egypt, Tunisia, Pakistan, Jordan, Syria, and Iraq. The majority of Indonesians are Muslims, despite the country's non-Islamic classification; however, Islamic reform scholars and local and international organizations are working to

[8] Satjipto Rahardjo, "Hukum dan perubahan sosial: suatu tinjauan teoretis serta pengalaman-pengalaman di Indonesia," 1979, 221.

[9] Rahardjo, "Hukum dan perubahan sosial: suatu tinjauan teoretis serta pengalaman-pengalaman di Indonesia," 223.

[10] Abdul Manan, "Reformasi Hukum Islam Di Indonesia: Tinjauan Dari Aspek Metodologis," *Legalisasi Dan Yurisprudensi," Jakarta: Raja Grafindo Persada*, 2006, 239–242.

change the country's marital laws. Muhammad Abduh (1849–1905), Qasim Amin (1863–1908), Rifa al-Tatawi (1801–1874), and Fazul Rahman (1919–1988) should also be included overseas. Islamic reformers in Indonesia include Nur Cholis Majid, Munawir Syadzali, Harun Nasution, and Mukti Ali.[11]

It is well recognized that Munawir Syadzali's persona is powerful in motivating Muslims to do Ijtihad bravely and honestly, particularly with regard to inheritance law. His well-known theory is that inheritance laws should be changed, particularly with regard to a more equitable and proportionate allocation of spouses (caregivers). In actuality, the goal of marriage law reform from a legislative standpoint is typically to "improve" women's "status" in all facets of life and marriage law, including inheritance law. The legal resources typically created to produce marriage law address various requests for women's status about justice for them, even though this purpose is not mentioned openly. It is evident that Egyptian and Indonesian marriage laws accomplish this goal. Additionally, they implement changes to marriage law, specifically.[12]

It is clear that both Egyptian and Indonesian marriage laws accomplish this goal. They also implement improvements to marital law, such as legal unity. The community's diverse religious beliefs and schools of thinking contribute to this legal unity. Similar to Tunisia, all members of the community, regardless of religion, are the target of this endeavour. Reforms are also encouraged to be implemented due to the demands of the times. Human requirements have changed as a result of advancements in a variety of fields, which has an effect on all facets of human activity.[13]

The enactment of Law No. 1 of 1974 concerning Marriage resulted in the elimination of various provisions concerning marriage that previously applied in the Indonesian legal system. The enactment

[11] Manan, "Reformasi Hukum Islam Di Indonesia: Tinjauan Dari Aspek Metodologis."
[12] Rizqi Suprayogi, "Reformasi Hukum Perkawinan Islam Di Indonesia," *Indonesia Of Journal Business Law* 2, no. 1 (2023): 29–37.
[13] Suprayogi, "Reformasi Hukum Perkawinan Islam Di Indonesia."

of this law was inseparable from the government's policy at the time, which sought to modernize various national legal instruments, like developments in several Western countries. The introduction of this marriage law was one manifestation of legal reform that aligned with modern values in the administration of national life.[14]

The government is also striving to build a higher quality of family life and enhance the dignity of Indonesian society. Through more systematic regulation of marriage, it is hoped that outdated practices that are less suited to current developments can be redirected toward establishing a more structured family institution that meets modern standards. Thus, these marriage law reforms are expected to make a positive contribution to social development and national life more broadly.[15]

The placement of Law No. 1 of 1974 concerning Marriage in the context of Indonesian society, which at that time still relied heavily on kinship ties and tribal (clan) structures, can be seen as an instrument for encouraging social change. The presence of this law has the potential to shift social relations patterns, previously based on traditional structures, toward more institutionalized relationships within the national legal framework. Thus, the reform of marriage regulations not only has a legal dimension but is also related to the process of social transformation within society.[16]

A significant turning point in the unification of national marriage law was Law No. 1 of 1974. This law created a more equal family law system by combining Islamic law, customary law, and contemporary legal ideas. Law No. 1 of 1974 established the concept of open

[14] Article 66 of the Marriage Law states that "with the enactment of this Law, the provisions regulated in the Civil Code (Burgerlijk Wetboek), the Indonesian Christian Marriage Ordinance (Huwelijks Ordonantie Christen Indonesiers S. 1933 Number 74), the Mixed Marriage Regulations (Regeling op de Gemengde Huwelijken S. 1898 Number 158), and other regulations governing marriage to the extent regulated in this Law, are declared null and void." Warkum Sumitro dan KN Sofyan Hasan, *Dasar-dasar memahami hukum Islam di Indonesia* (Usaha Nasional, 1994), 264.

[15] Sumitro dan Hasan, *Dasar-dasar memahami hukum Islam di Indonesia*, 264.

[16] Rahardjo, "Hukum dan perubahan sosial: suatu tinjauan teoretis serta pengalaman-pengalaman di Indonesia," 223.

monogamy, which states that although polygamy is permitted under certain restrictions, marriage is essentially based on one husband and one woman. This statute highlights the significance of marriage registration as an administrative prerequisite for state recognition of marriage. Registration reduces the practice of unregistered weddings, which are likely to cause harm, by acting as a tool of legal protection for women and children.[17]

When the provisions of the marriage law are compared with the characteristics of the modern-industrial family as proposed by William J. Goode, several aspects of the agreement are apparent, reflecting a shift from traditional family patterns to a more modern model. This comparison can be seen in the following table.

Table 1. Comparison between Provisions in the Marriage Law and Characteristics of the Modern Family according to William J. Goode

Provisions in the Marriage Law	Characteristics of the Modern-Industrial Family according to William J. Goode
Marriage aims to establish a family or household (Article 1).	The nuclear family functions as the primary residential unit responsible for daily living arrangements and child-rearing.
Husband and wife must have a permanent residence, which is determined jointly (Article 32).	Monogamy and freedom in choosing a spouse.

[17] Khairatun Nisa, Ibnu Radwan Siddik Turnip, dan Rahmad Efendi Rangkuti, "Pembaruan Hukum Perkawinan di Indonesia," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 6794–804; Busriyanti Busriyanti, Pujiono Pujiono, dan Umar Chamdan, "Marriage Law Reform in Indonesia A Maqasid Al-Usrah Perspective on Legal Adaptation," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 631–49.

Provisions in the Marriage Law	Characteristics of the Modern-Industrial Family according to William J. Goode
In principle, a man is allowed to have only one wife (Article 3 paragraph (1)).	Equality in the relationship between husband and wife.
Marriage must be based on the consent of both prospective spouses (Article 6 paragraph (1)).	Bilateral lineage without clan-based lineage structures.
The rights and position of the wife are balanced with those of the husband (Article 31 paragraph (1)).	-
Both parents are obligated to nurture and educate their children to the best of their ability (Article 45 paragraph (1)).	-

Source: Compiled from various sources by authors.

Based to this comparison, some clauses in Law Number 1 of 1974 regulating Marriage seem to promote the development of a more modern family structure, as represented by William J. Goode's modern-industrial family. This is evident from the recognition of the balance of rights and status between husband and wife, the declaration of the goal of marriage to create a nuclear family, the application of the monogamous principle, and the significance of the permission of both prospective bride and groom.

These provisions indicate the state's efforts to reorganize the family structure in society to be more in line with the principles of equality, shared responsibility within the family, and childcare by both parents. Thus, marriage regulations not only function as a legal instrument that regulates the relationship between husband and wife, but also to encourage social transformation from traditional family

patterns to a more modern and institutionalized family model within the national legal system.

The state prioritizes legal unification as a key priority to construct a national legal system. Creating national legal unity, especially in marriage law, necessitates altering historical legal traditions. Within the concept of developing an integrated national legal system, legal unification is regarded as an unavoidable step; nevertheless, in practice, this policy has sparked opposition from various groups who believe their interests are not effectively accommodated.[18]

Ratno Lukito argues that customary law was one of the most impacted parties in this process by the legal unification policy implemented during the New Order era in Indonesia. During that period, the development of a unified national legal system was seen as a crucial part of the country's modernization agenda. From this perspective, various legal practices and traditions alive within indigenous communities were often perceived as symbols of backwardness. As a result, although customary law is part of the indigenous cultural expression of Indonesian society, its existence is often considered a traditional system and seen as inconsistent with the ideals of establishing a modern society.[19]

This statement shows that the process of national legal unification is more than just an agenda for developing a uniform legal system; it is also part of a sociopolitical strategy to shape the identity of a contemporary nation. Although this policy unifies various legal systems, it may ignore common principles and practices, including customary law. In this setting, one of the challenges when designing national law is finding a balance between the requirement for a unified legal system and the legal heterogeneity inherent in Indonesian culture. Taking a more inclusive approach to customary law and local norms can help connect legal reform with the community's legal culture.

[18] Ratno Lukito, *Hukum sakral dan kukum sekuler: Studi tentang konflik dan resolusi dalam sistem hukum Indonesia* (Pustaka Alvabet, 2008), 232.
[19] Lukito, *Hukum sakral dan kukum sekuler: Studi tentang konflik dan resolusi dalam sistem hukum Indonesia*.

Law Number 17 of 2007 concerning the 2005-2025 Long-Term growth Plan outlines the path of political and legal growth, which we can evaluate to see how the government's legal policy is carrying out legal reform. The following is the course of legal evolution that will be followed:[20]

a. The development of national law is directed at establishing a strong legal system based on Pancasila and the 1945 Constitution, encompassing legal material, structure, and culture in order to realize a just and democratic state of law, and guarantee legal certainty and protection amidst the influence of globalization;
b. The development of legal materials is focused on updating legislation, replacing colonial laws, and adapting to the needs of society and developments over time, including filling legal gaps through the process of legal planning, formation, and research;
c. The development of legal structures aims to strengthen law enforcement institutions and officers through increasing professionalism, education, and integrity, by upholding the values of honesty, justice, and freedom from the practices of corruption, collusion, and nepotism; and
d. Law enforcement and human rights are carried out firmly, professionally, transparently and non-discriminatory while still respecting human rights, in order to create social order and support national stability.

According to this line of legal development, Indonesian marriage law reform is essential to adjusting legal standards to societal realities. Law No. 1 of 1974 was amended through Law No. 16 of 2019, reflecting the state's attempts to improve legal clarity, protect women and children, and raise public awareness of the law. These modifications also show that marriage law is dynamic and keeps changing to

[20] Saptono Jenar, "The Acceleration Development of Disadvantaged Regions Policy in Post-Pandemic Covid-19," *International Journal of Business, Economics, and Social Development* 4, no. 3 (2023): 175–84; Erdianto Effendi, *Hukum pidana Indonesia: suatu pengantar* (Refika Aditama, 2011), 210–12.

accommodate issues like early marriage, gender equality, and calls for family justice.

According to Nasaruddin Umar, the state's role in marriage should extend far beyond mere administrative matters. He asserts that the state must actively engage in nurturing and preserving the integrity of households. This stance is rooted in the reality that divorce does not merely end a spousal relationship, but also spawns broader social issues that adversely affect women, children, and societal resilience at large.[21]

This idea calls for repositioning the state's role from a mere recorder of legal events into a proactive and sustainable facilitator of social resilience. Practically speaking, this active involvement demands strengthening the pre- to post-marital ecosystem through non-formalistic family counseling programs, accessible conflict mediation services, as well as economic and legal safety nets that protect vulnerable groups. By viewing the family as the fundamental unit of national stability, state intervention in safeguarding domestic integrity is not an intrusion into the private sphere, but a strategic preventive measure to forestall the degradation of women's and children's welfare, which would ultimately burden the nation's socio-economic system in the future.

The regulation regarding the minimum age for marriage is essentially part of a government policy to address various issues arising in marriage practices, particularly those related to child marriage. Furthermore, the establishment of this age limit is also related to efforts to achieve unification of marriage law within the national legal system. Through this policy, the government seeks to align marriage regulations with the spirit of national unity based on the values of Pancasila, while adapting them to developments in modern society, as has been implemented in various other countries.[22]

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[21] Nila Fadlilatul Husna, "Relevansi Kebijakan Kenaikan Usia Pernikahan terhadap Kesiapan Berkeluarga: Analisis Pemikiran Prof. Nasaruddin Umar," *Tadabbur: Jurnal Integrasi Keilmuan* 4, no. 2 (2025).

[22] Sidriman Tebba, *Perkembangan Mutakhir Hukum Islam di Asia Tenggara: Studi Kasus Hukum Keluarga dan Pengkodifikasiannya* (Penerbit Mizan, 1993), 27.

Therefore, establishing a minimum marriage age is a component of a larger national legal development initiative as well as a legal tool to prevent child marriage. This policy demonstrates the state's dedication to upholding people' rights, especially those of women and children, and to establishing a judicial system that is consistent with Pancasila ideals. In the end, it is anticipated that marriage law reform will reinforce the foundations of social life within the framework of Indonesia's rule of law and produce a more prosperous, just, and high-quality family structure.

C. Update on the Minimum Marriage Age and its Impact on Society's Legal Culture

In the judges' considerations in Constitutional Court Decision Number 22/PUU-XV/2017 concerning changes to the minimum age for marriage, it was emphasized that Pancasila constitutes philosophical and cultural values that are fundamental to the life of the nation and state. Therefore, the development of a national legal system should begin with development in the cultural aspect, particularly in the formation of a national legal culture. The values contained in Pancasila are seen as the basic foundation and soul that animates the national legal system. Therefore, efforts to develop and reform the national legal system must essentially begin with the renewal of basic values or fundamental ideas that serve as the main foundation in the formation of law.[23]

If there are laws and regulations that contain different treatment based on race, religion, ethnicity, skin color, or gender, then these provisions need to be updated to align with the principles contained in the 1945 Constitution of the Republic of Indonesia which upholds the value of equality and rejects all forms of discrimination. One of the provisions that is considered to contain different treatment based on gender is Article 7 paragraph (1) of Law Number 1 of 1974 concerning Marriage. This provision is considered discriminatory because it sets

[23] Rafiah Septarini dan Ummi Salami, "Analisis putusan mahkamah konstitusi nomor 22/puu-xv/2017 tentang batas usia nikah bagi perempuan," *Ulumul Syar'i: Jurnal Ilmu-Ilmu Hukum Dan Syariah* 8, no. 1 (2019): 51–68.

different minimum marriage ages for men and women, thus potentially giving rise to unequal treatment of women in fulfilling their constitutional rights, both those related to civil and political rights as well as economic, social, and cultural rights, solely because of differences in gender. Therefore, changing the provisions regarding the minimum marriage age is seen as a legal reform step aimed at aligning marriage regulations with constitutional values that uphold the principles of equality and anti-discrimination as mandated in the 1945 Constitution.

Legal culture is a crucial element of the legal system. Although not explicitly stated, the drafters of the 1945 Constitution of the Republic of Indonesia, through its explanatory section, have provided a picture of the existence of legal culture in national life. Indonesian legal culture does not exist in isolation but is influenced by various interrelated factors. These factors include the incompletely structured legal system, both due to a lack of norms and the persistence of a number of colonial-era regulations.

Furthermore, legal culture is also influenced by various factors outside the legal field, including social and political dynamics within society. Other influences that contribute to the development of legal culture include the negative impact of economic development, the decline in public respect for legal institutions, often characterized by various forms of legal abuse, and the influence of global conditions that shape broader patterns of societal life.[24]

Legal culture is not formed separately from the social, political, and economic dynamics that develop within society.[25] The quality of the legal system, the influence of non-legal sectors, the process of economic development, the level of respect for legal institutions, and global developments all shape societal attitudes and behaviors toward the law. Therefore, efforts to reform the law cannot be achieved solely

[24] Muslih Muslih, "Posisi dan Implemetasi Pancasila dalam Pembangunan/Pembaharuan Hukum Nasional, Pendidikan Hukum Nasional dan Budaya Hukum Nasional.," *Lex Specialist*, no. 19 (2017): 28–37.

[25] Syafri Hariansah, "Analisis Implementasi Nilai-Nilai Budaya Hukum dalam Kehidupan Berbangsa dan Bernegara: Studi Kritis Pendekatan Masyarakat, Budaya dan Hukum," *Krtha Bhayangkara* 16, no. 1 (2022): 121–30.

through changes to norms or regulations; they must also be accompanied by strengthening the legal culture of society so that the law can function effectively in social life.[26]

Every member of society holds a role, and thus they are expected to fulfill their role expectations. Because the legal culture most influences role holders, inequality arises in their implementation. This creates a mismatch between expected roles and actual roles (role performance).[27]

In an effort to reduce the effects of child marriage, the government revised the marriage age limit. However, public comprehension, acceptability, and compliance are necessary for its implementation. This is particularly true in rural communities where child marriage is still encouraged by cultural and customary considerations.[28]

The regulation of the minimum age for marriage in legislation has not been fully followed by increased public legal awareness of these provisions. The regulation of the minimum age for marriage in legislation has not been fully matched by an increase in public legal awareness. This gap is evidenced by official demographic data from the Central Statistics Agency (BPS), which recorded that the prevalence of child marriage stood at 10.82% in 2019 and experienced only an insignificant decline to 10.18% in 2020.[29] Legal reforms that raise the minimum age for marriage have not been readily accepted and complied with by the wider community. Although these changes aim to provide better protection, particularly for women and children, in practice, various discrepancies between legal norms and social behavior remain. The phenomenon of child marriage continues to occur in a number of regions, indicating a gap between the substance of the updated law and the legal culture of society.

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[26] Irgi Setiawan dkk., "Juridical study of customary law in the Indonesian national legal system," *Asian Journal of Social and Humanities* 2, no. 8 (2024): 1824–31.

[27] Esmi Warassih, Karolus Kopong Medan, dan Mahmutarom, *Pranata Hukum: sebuah telaah sosiologis* (Suryandaru Utama, 2005), 83.

[28] Guo Kasara Rose, *Cultural norms and early child marriage*, 2023; Heryanti, "Implementasi Perubahan Kebijakan Batas Usia Perkawinan."

[29] Pasaribu, "Dispensasi Perkawinan Anak Di Bawah Umur Pasca Berlakunya Undang-Undang Nomor 16 Tahun 2019 Tentang Perkawinan."

For example, in the Bantul region, marriage is still practiced at very young ages, often between 12 and 15, especially when boys are considered capable of working or are not yet able to do anything. Furthermore, some parents also marry off their daughters around 12 to 13 years old, after their first menstruation. This practice is influenced by the widespread belief that if a girl rejects a marriage proposal, she will have difficulty getting one in the future. This situation indicates that cultural factors and local beliefs still have a strong influence on marriage practices in society.[30]

Examining the phenomenon of child marriage in Probolinggo Regency, where the local livelihood is predominantly driven by the agricultural sector with relatively low economic levels, poverty does not constitute the primary determinant behind the high prevalence of child marriage in the area. Data from the Kraksaan Religious Court through September 2023 recorded 292 cases of child marriage, in which cultural motives under the guise of religious norms emerged as the dominant trigger, particularly the pretext of preventing adultery (*zina*). Of the total 722 marriage dispensation applications received, economic factors accounted for merely one case, in sharp contrast to the 371 cases citing the prevention of adultery.[31] This empirical reality reinforces the conclusion that early marriage in Probolinggo Regency is fundamentally propelled by local cultural and customary constructs rather than economic pressure alone.[32]

The practice of child marriage remains prevalent in the Lokapaksa Customary Village, Bali. This condition is deeply rooted in local socio-cultural norms that consider a child, particularly a girl, ready for

[30] Mochammad Arifin, "Tradition vs. Administration: Challenging the Cultural Barriers to Marriage Registration in Indonesia," *Sakina: Journal of Family Studies* 9, no. 2 (2025): 213–25; M. Muhtarom M. Muhtarom, "Pengaruh Budaya Hukum Terhadap Kepatuhan Hukum Dalam Masyarakat," *Suhuf* 27, no. 2 (2015): 121–44.

[31] Uswatun Hasanah, Fathullah Fathullah, dan Irzak Yuliardy Nugroho, "Peran Pendidikan Pra Nikah Dalam Mencegah Pernikahan Dini di Kantor Urusan Agama (KUA) Kecamatan Krejengan Kabupaten Probolinggo," *Al-'Adalah: Jurnal Syariah dan Hukum Islam* 8, no. 1 (2023): 141–54.

[32] Fauziyah Putri Meilinda, "Budaya dan perkawinan anak di Kabupaten Probolinggo," *Al-Mada: Jurnal Agama, Sosial, Dan Budaya* 7, no. 1 (2024): 73–86.

marriage once she reaches *menarche* (the first menstrual cycle) or is deemed mature by the family. Furthermore, marriage is frequently used as an instant solution to safeguard family reputation from the social stigma of unplanned pregnancies or premarital relations.The dominance of a culture of shame and the demands of family honor compel parents to marry off their children hastily, often completely disregarding the child's physical readiness and psychological maturity.[33]

When observing the tradition of child marriage in Sumenep, it is inextricably linked to the value system and patrilineal social structure of the Madurese community. Within this patrilineal framework, women are often perceived as familial liabilities that must be swiftly relinquished through marriage. Furthermore, marriage is regarded as an act of filial piety toward parents and a mechanism for safeguarding family honor. Religious values also exert a significant influence, wherein marriage is conceptualized as an imperative measure to prevent adultery (*zina*).[34]

Research findings in Muaro Jambi Regency reveal that most adolescents do not yet comprehend the underlying rationale for setting the minimum marriage age at 19 years as an instrument to protect children from multidimensional social, economic, health, and educational risks. Consequently, they assume that marriage remains valid and acceptable prior to reaching the statutory age, provided parental consent is obtained or it is driven by circumstances deemed urgent. The limited legal literacy of parents, pervasive peer influence, and local cultural constructs that normalize early marriage ultimately compel adolescents to conform more to prevailing community customs than to state legal norms.[35]

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[33] Luh Kartika Dewi, Luh Gede Hadriani, dan Ida Bagus Wika Krishna, "PERKAWINAN DI BAWAH UMUR DI DESA ADAT LOKAPAKSA, KECAMATAN SERIRIT, KABUPATEN BULELENG, BALI," *Widya Dana: Jurnal Penelitian Ilmu Agama dan Kebudayaan* 3, no. 1 (2025): 89–95.

[34] Muhammad Nafis, "Analisis Sosial-Budaya Terhadap Eksistensi Perkawinan Anak Di Masyarakat Sumenep," *USRAH: Jurnal Hukum Keluarga Islam* 5, no. 2 (2024): 310–20.

[35] Yuslistia Opeska, "ANALISIS KESADARAN HUKUM REMAJA PELAKU PERNIKAHAN DINI DI DESA TANTAN KECAMATAN SEKERNAN

In Bugis society, early marriage is often viewed as a preventive measure to protect the family's honor and reputation from the risk of deviant behavior resulting from inter-gender relationships before marriage. Furthermore, strong traditional and patriarchal views lead some parents to believe that daughters who have reached puberty (*macca'*) should be married off promptly. These values place a woman's primary role within the domestic sphere, such as managing the household and caring for the family, so higher education is not considered a priority, which ultimately drives high rates of early marriage.[36]

Furthermore, looking at Tolai Village in Central Sulawesi, the community is characterized by a deeply entrenched customary (*adat*) system. In local tradition, marriage is seen not merely as a bond between two individuals, but as the union of two extended families. The practice of child marriage remains frequent, largely driven by motives such as preserving family honor, easing economic burdens, and preventing promiscuity. Traditional leaders hold significant influence in legitimizing these social practices. Consequently, their role often perpetuates early marriage in the name of local wisdom, causing the phenomenon to be normalized and passed down across generations.[37]

This phenomenon demonstrates that marriage practices in society are influenced not only by applicable legal provisions, but also by cultural values, local beliefs, and socioeconomic conditions. In such situations, changing legal norms often faces challenges because they must confront long-standing traditions and mindsets. Therefore, the success of legal reforms regarding the minimum age for marriage depends not only on regulatory changes but also requires efforts to

KABUPATEN MUARO JAMBI," *Didaktik: Jurnal Ilmiah PGSD STKIP Subang* 12, no. 03 (2026): 339–53.

[36] Fitria Ramadhani, Asriati Asriati, dan Adnan Lira, "Praktik Perkawinan Anak Dibawah Umur Berdasarkan Perspektif Hukum Adat Suku Bugis; Antara Tradisi dan Pelanggaran Hak Anak," *LEGAL DIALOGICA* 1, no. 2 (2026).

[37] Delon Oktavian, Susi Susilawati, dan Mohammad Saleh, "Pelaksanaan Perkawinan Usia Anak Di Desa Tolai, Sulawesi Tengah," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 4 (2026): 1306–17.

increase public legal awareness through education, outreach, and strengthening the values of protecting children and women.

The disparity between formal statutory regulations and communal values demonstrates that the law never operates in a vacuum. Drawing upon the sociological framework of legal effectiveness, reforming statutory norms (law in books) merely addresses the legal substance, whereas its practical efficacy (law in action) remains profoundly contingent upon law enforcement structures, infrastructural readiness, and the prevailing legal culture (living law).[38] When the 19-year statutory threshold is enforced without well-conceived social engineering, rural and customary societies tend to perceive the regulation as an alien bureaucratic imposition detached from local moral orders. Consequently, rather than fostering voluntary compliance, this policy often provokes legal circumvention, manifested in the surge of marriage dispensation petitions in Religious Courts and the proliferation of unregistered (*siri*) marriages to preserve deep-seated traditions.

As a corollary, safeguarding the statutory marriage age policy demands a paradigm shift toward a culturally responsive approach. Reshaping societal perspectives cannot be achieved through top-down normative sanctions alone; instead, it requires engaging religious authorities and customary leaders as pivotal facilitators of grassroots dialogue. The child protection discourse must be aligned with the critical deconstruction of local religious narratives—particularly by reorienting interpretations regarding the deterrence of fornication (*zina*) and expanding the parameters of maturity (*baligh*) to encompass psychological readiness, reproductive health, and economic independence. Through this synergy of constitutional rights protection and the reinterpretation of customary values, new legal norms can be organically internalized into societal consciousness, thereby curbing child marriage in a sustainable manner.

Several primary issues within the culture of legal development need to be addressed, including cultural resistance, low civic

[38] Galih Orlando, "Efektivitas hukum dan fungsi hukum di Indonesia," *Tarbiyah bil Qalam: Jurnal Pendidikan Agama dan Sains* 6, no. 1 (2022).

engagement, and conflicting normative pressures. Addressing these structural and cultural challenges is crucial to ensure that legal reforms translate into tangible social order rather than merely symbolic statutory instruments:[39]

1. Cultural resistance to legal reform**.** Customary law (*hukum adat*) and local traditions exert a powerful influence across various communities, frequently conflicting with national and international legal standards. This friction between traditional norms and formal regulations impedes the acceptance and enforcement of new legislation;
2. Low public participation**.** Civic engagement in the legislative and law enforcement processes remains minimal.This condition is driven by limited legal literacy, which is further exacerbated by inadequate legal education across different strata of society; and
3. The influence of internal and external factors. Internally, law enforcement is hindered by moral degradation and low public legal consciousness. Externally, the rapid pace of technological advancement alongside the influx of foreign ideologies and cultural perspectives continues to shape and challenge legal paradigms in Indonesia.

To address these structural and cultural barriers, the trajectory of national legal development must be transformed through a more inclusive, adaptive, and humanistic approach. The strategic frameworks and their concrete operational steps at both doctrinal and practical levels are outlined in the following table:

[39] Any Ismayawati, "Pengaruh Budaya Hukum Terhadap Pembangunan Hukum Di Indonesia (Kritik Terhadap Lemahnya Budaya Hukum di Indonesia)," *Jurnal Pranata Hukum* 6, no. 1 (2011).

Table 2. Strategic Harmonization and Reinforcement of Legal Culture

No.	Legal Cultural Obstacles	Strategic Framework	Practical Implementation Steps
1.	Cultural Resistance to Formal Regulations	Normative Accommodation and Value Harmonization	Integrating aligned customary law (*hukum adat*) values into the national legal system (such as the recognition of living law in the reformed Criminal Code), thereby minimizing the alienation of formal law and securing sociological legitimacy at the grassroots level.
2.	Low Public Participation	Strengthening Legal Literacy and Procedural Transparency	a. Intensifying community-based legal education and awareness programs evenly down to the rural village level. b. Institutionalizing transparent and accountable meaningful participation mandates throughout the entire legislative cycle.

No.	Legal Cultural Obstacles	Strategic Framework	Practical Implementation Steps
3.	Distortions from Internal and External Factors	Structural Integrity Reform and Ideological Filtration	a. Accelerating structural ethical and integrity reforms among law enforcement personnel. b. Operationalizing Pancasila principles as a critical filter against foreign doctrinal infiltration and value disruptions driven by globalization and digital transformation.

Source: Compiled from various sources by authors.

Legal substance reform must be accompanied by legal culture reform so that the law can run according to what is desired. Law is expected to have an optimal role in encouraging and becoming a tool for engineering social changes according to what is desired and desired by society. In this context, of course, law cannot be separated and far from the life of society. That is, good law must be in accordance with the law that lives in society. Law originates from society and lives and processes within society. Therefore, legal reform in the context of making changes in society cannot be completely separated from society as a unified social system.[40]

To set up new values into society, a process of socialization and integration is necessary to develop legal awareness.[41] The effectiveness of implementing a policy can be interpreted as the attainment of excellent outcomes through the application of human resources, tools,

[40] Arief Sidharta dan Lili Rasjidi, "Filsafat Hukum Mazhab dan Refleksinya," *Bandung: Remaja Rosda Karya*, 1994, 75.
[41] Warassih, Medan, dan Mahmutarom, *Pranata Hukum: sebuah telaah sosiologis*, 83.

organizations, and methods to introduce and sustain a new institution or regulation in society. In this sense, the use of human resources refers to how successfully the administrative system regulates and enforces policies.

Changing society's legal culture in the area of marriage is not an easy process, considering that marriage practices have long been based on customs and values that have developed within society over many years. In the early stages of legal reform, people tend to continue to behave in accordance with deeply rooted norms and traditions, so that provisions in the law often do not fully serve as guidelines for daily life. Values and beliefs that have been deeply ingrained in society generally cannot be easily replaced by new values introduced through legal regulations. Therefore, efforts to establish a new legal culture require a continuous and serious institutionalization process, so that the values embodied in the legal regulations can be gradually accepted and practiced by society.

D. Harmonizing Living Law with Marriage Law Reform

Marriage law reform in Indonesia through formal legislative instruments, particularly following the enactment of Law Number 16 of 2019 amending Law Number 1 of 1974 on Marriage, frequently reaches a formidable impasse when running diametrically opposed to sociological realities, traditional cultural frameworks, and the deeply rooted living law within society.[42] Legal reforms designed progressively on paper by lawmakers do not automatically reshape the legal consciousness of rural, coastal, and marginalized communities that have sustained child marriage traditions for centuries as an ancestral norm.[43] Therefore, a comprehensive, multidimensional, and sustainable structural intervention strategy must be formulated to bridge the profound chasm between state positive law and local legal

[42] Nisa, Turnip, dan Rangkuti, "Pembaruan Hukum Perkawinan di Indonesia."

[43] Elisabeth Putri Lahitani Tampubolon, "Permasalahan perkawinan dini di Indonesia," *Jurnal Indonesia Sosial Sains* 2, no. 5 (2021): 465434.

consciousness.[44] This intervention demands a fundamental paradigm shift from a rigid, legalistic-repressive approach toward holistic institutional reform, the strengthening of family socioeconomic safety nets, and the active engagement of cultural and religious actors as strategic partners for change within the national child rights protection framework.

1. Standardizing Judicial Discretion Under Supreme Court Regulation No. 5 of 2019

The first crucial step in constructing this structural intervention strategy is directly linked to optimizing law enforcement and judicial administration within the religious court environment. Following the amendment of the minimum age for marriage—equalizing the age for women with men at 19 years—Religious Courts across the country face a highly complex legal, philosophical, and sociological dilemma. On one hand, this legislative instrument carries a constitutional moral mandate to close the legal loopholes that have historically legitimized child marriage, thereby safeguarding children's developmental rights and protection. On the other hand, daily empirical data demonstrates a surge in marriage dispensation applications inundating religious courtrooms across various regions.[45] This paradoxical phenomenon forcefully indicates that Supreme Court Regulation (PERMA) No. 5 of 2019 on Guidelines for Adjudicating Marriage Dispensation Applications has not yet fully functioned as a strict screening mechanism; instead, its normative function is frequently reduced, trapping it as an emergency legalization doorway for underage child marriage.

From a normative-doctrinal standpoint, Supreme Court Regulation (PERMA) No. 5 of 2019 provides a comprehensive substantive protection mechanism. It obligates judges to hear directly from the child, involve professionals to assess psychological readiness

[44] Tin Yuliani dan Rena Aminwara, "Legal Review of Marriage Dispensation Following the Amendment to the Minimum Age of Marriage," *Lex Journal: Kajian Hukum dan Keadilan* 10, no. 4 (2026).

[45] Endang Wijaya dan Lina Kushidayati, "The Implementation of PERMA No. 5 of 2019 on Marriage Dispensation Based on the Principle of Gender Equality at the Jepara Religious Court," 4, no. 1 (2026): 224–29.

and reproductive health, and evaluate the prospective couple's economic preparedness. Nevertheless, in first-instance court practice, the judicial discretion of religious civil judges is often distorted by pragmatic considerations and local emergency situations. Judges frequently find themselves trapped in a moral-juridical dilemma when confronted with cases where the prospective bride is already pregnant or where there is intense social pressure from extended family and the community, both of which regard out-of-wedlock pregnancy as a severe social disgrace that must be rectified immediately through legal marriage.[46]

Consequently, driven by cultural pressure and pragmatic expediency, the principle of child protection is frequently compromised to avert perceived social dishonor. Courts often grant marriage dispensation requests based merely on procedural and administrative formalities, failing to rigorously examine the long-term psychological vulnerability, mental well-being, and reproductive health risks borne by underage brides.[47] This reality exposes a troubling judicial compromise, wherein court rulings inadvertently legitimize customs that undermine children's fundamental rights. Ultimately, the dispensation mechanism originally conceived as an exceptional legal remedy has transformed into an institutional gateway that normalizes child marriage.

To structurally mitigate this phenomenon, the implementation of Supreme Court Regulation (PERMA) No. 5 of 2019 demands systematic internal reform. First, the professional capacity of religious civil court judges must be continuously upgraded through multidisciplinary training involving child psychologists, reproductive health experts, and legal sociologists. Judges must not treat dispensation petitions merely as routine administrative motions; they must grasp the broader sociological consequences, including maternal and infant mortality, acute vulnerability to domestic violence, and the

[46] Dede Kania dan Siti Nur Fatoni, "Protecting Children's Rights in Marriage Dispensation Cases: Evidence from Religious Courts in Indonesia," *Asy-Syari'ah* 25 (t.t.): 79–98.

[47] Kania dan Fatoni, "Protecting Children's Rights in Marriage Dispensation Cases: Evidence from Religious Courts in Indonesia."

perpetuation of intergenerational poverty.[48] Second, the Supreme Court must tighten functional oversight through periodic judgment examinations. Every marriage dispensation order must undergo rigorous judicial audits to ensure full compliance with the substantive child protection criteria mandated by the regulation.[49] Ultimately, religious courts must be repositioned away from functioning as administrative rubber-stamps for child marriage and established as a final judicial bulwark that applies strict scrutiny to any claimed emergency.

Psychological assessments and social recommendations from child protection agencies must be instituted as mandatory formal prerequisites before judges issue marriage dispensation rulings. Through this mechanism, judicial discretion ceases to operate as an isolated, subjective determination, anchoring itself instead in objective, scientific assessments regarding the child's future well-being.[50] This evidence-based adjudication is crucial to prevent the loose interpretation of 'urgent circumstances,' thereby ensuring that state intervention genuinely safeguards the child's right to holistic development.

2. Integrating 12-Year Compulsory Education and Social Protection as Affirmative Policy

Child marriage cannot be effectively eradicated if the state relies solely on a formalistic legal approach framed around statutory regulations. The deepest root sustaining this practice in marginalized enclaves, remote rural areas, and structural poverty hubs is intrinsically tied to macroeconomic vulnerabilities and limited access to secondary

[48] Aulia Dwi Damayanti dan Dwi Aryanti Ramadhani, "Implementing the SDGs: Implications for regulating marriage age in Indonesia," *JCH (Jurnal Cendekia Hukum)* 10, no. 1 (2025): 149–65.

[49] Hasan Yafiie, Fitriyah Fitriyah, dan Ainur Gufron, "Implementasi PERMA Nomor 5 Tahun 2019 tentang Dispensasi Kawin dan Implikasinya terhadap Perlindungan Hak Anak," *Jurnal Ilmu Hukum dan Administrasi Negara* 4, no. 1 (2026).

[50] Yafiie, Fitriyah, dan Gufron, "Implementasi PERMA Nomor 5 Tahun 2019 tentang Dispensasi Kawin dan Implikasinya terhadap Perlindungan Hak Anak."

education.[51] Within impoverished social strata, children are frequently treated as financial liabilities rather than legal subjects entitled to rights and holistic development. Consequently, marrying off underage children is widely rationalized by parents as a pragmatic survival strategy to relieve domestic financial strain and transfer subsistence burdens to the bridegroom's family.

The foundation of structural intervention lies in integrating marriage law enforcement with the equitable implementation of the 12-Year Compulsory Education program. The state, through both central and regional governments, is obligated to ensure that children in disadvantaged regions have unhindered access to completely free upper secondary education, devoid of hidden operational levies, and supported by safe, adequate transit infrastructure.

The 12-year compulsory education policy must be synergized with the expansion of conditional social protection programs, such as the Family Hope Program (*Program Keluarga Harapan* or PKH) or educational cash transfers for underprivileged families. Under this scheme, the disbursement of aid must be strictly contingent upon a family's commitment to keep their children in formal education and not marry them off before the legal age limit. Such structural interventions directly target the root economic motives of child marriage by reshaping the family's rational calculation:the availability of regular financial support for daily living needs can suppress the economic pressures that frequently underlie child marriage.[52]

Formal education serves a strategic dual function, accelerating vertical social mobility to break the cycle of poverty and serving as a vehicle for the enculturation of progressive values. A gender-responsive school system systematically deconstructs patriarchal biases that reduce a girl's marriage readiness solely to biological maturity. At this juncture, legal protection transcends mere juridical

[51] Damayanti dan Ramadhani, "Implementing the SDGs: Implications for regulating marriage age in Indonesia."

[52] Damayanti dan Ramadhani, "Implementing the SDGs: Implications for regulating marriage age in Indonesia."

dogma, transforming into the substantive fulfillment of rights to welfare and quality education.[53]

In accordance with the mandate of Law Number 35 of 2014 concerning the Amendment to Law Number 23 of 2002 on Child Protection, local governments need to activate and strengthen the role of the Community-Based Integrated Child Protection Task Force (PATBM) at the village and sub-district levels. The government can officially appoint and assign this task force to intensively oversee the prevention of school dropout rates, thereby mitigating the risk of child marriage as early as possible. This citizen network-based task force serves a strategic function in early detection of potential child rights violations, monitoring vulnerable groups, and providing direct psychosocial support for underprivileged families.An integrated collaboration among local communities, educational institutions, and social services acts as an effective preventive bastion at the grassroots level, further reinforced by economic empowerment programs for women and families to sustainably preserve household resilience.

3. Transforming Traditional and Religious Leaders into Strategic Partners for Law Enforcement

The primary obstacle to the effectiveness of marriage law reform in Indonesia stems from cultural resistance, where state legal penetration frequently collides with the dominance of local informal authorities. Positive law formulated at the central level often loses its normative efficacy when confronted with the moral authority of religious and customary figures, such as village *kyai*, *tuan guru*, and spiritual leaders, who hold sociological legitimacy within their communities.[54] In many rural enclaves, informal fatwas and ancestral traditions command far greater sacred obedience than the threat of statutory sanctions enshrined in state legislation.

Departing from this sociological reality, an enforcement strategy that is top-down, coercive, and reliant on one-way socialization is

[53] Nisa, Turnip, dan Rangkuti, "Pembaruan Hukum Perkawinan di Indonesia."
[54] Kania dan Fatoni, "Protecting Children's Rights in Marriage Dispensation Cases: Evidence from Religious Courts in Indonesia."

bound to provoke grassroots resistance. Conversely, a transformative approach necessitates engaging traditional and religious leaders as strategic partners in legal reform. Through egalitarian dialogue, these custodians of moral legitimacy can be empowered as agents of change in preventing child marriage within local communities.

This role transformation can be materialized through constructive theological-sociological dialogue. Textual-conservative religious interpretations that frequently legitimize child marriage must be shifted toward a contextual reading oriented toward child rights and the framework of *maqashid al-shari'ah*, specifically the preservation of life (*hifzh al-nafs*), intellect (*hifzh al-'aql*), and lineage (*hifzh al-nasl*).[55] Through in-depth discourse on mortality risks, reproductive health hazards, and psychological vulnerabilities inherent in early unions, religious and customary leaders can reposition child protection as the supreme manifestation of the public interest (*maslahah*) at the very core of religious teachings.

The involvement of local leaders needs to be formally institutionalized through village regulations, such as Village Regulations (*Peraturan Desa or Perdes*) governing the minimum age of marriage, the mandatory reporting of official marriage registration, and customary sanctions for violators.[56] Engaging traditional and religious figures in the formulation and oversight of these rules transforms their position from outsiders to state law into effective pillars of cultural legitimacy. Through this approach, national positive law and living law can blend harmoniously, ensuring that marriage law reform is no longer perceived as an imposed bureaucratic intervention, but rather as a collective consciousness for the future of an enlightened and dignified generation.

The success of the transformation of marriage law in Indonesia relies heavily on the state's consistency in implementing a comprehensive and continuous structural approach. The institutional optimization of religious courts, the strengthening of social safety nets through expanding access to compulsory education, and the active

[55] Damayanti dan Ramadhani, "Implementing the SDGs: Implications for regulating marriage age in Indonesia."
[56] Tampubolon, "Permasalahan perkawinan dini di Indonesia."

involvement of cultural and religious leaders are fundamental pillars that cannot be separated from one another. Only through such solid cross-sector synergy can the gap between progressive positive law and conservative public legal culture be bridged in an equitable, wise, and sustainable manner.

E. Conclusion

The regulation of the minimum marriage age in Law No. 1 of 1974 was originally a crucial instrument of legal unification to integrate diverse customary, religious, and colonial laws into a national legal framework based on Pancasila; however, the difference in the minimum age requirement between men and women raises constitutional issues, as it is considered contrary to the principle of equality before the law and potentially discriminatory against women in fulfilling their civil, political, economic, social, and cultural rights. Consequently, amending these minimum age provisions is a crucial step toward aligning national marriage law with the non-discrimination mandate of the 1945 Constitution while strengthening the protection of women's and children's rights within the family institution.

The findings of this study demonstrate that reforms in legal substance do not automatically reshape society's legal culture. Because long-standing marriage practices are deeply anchored in ancestral traditions, values, and local beliefs, regulatory intervention alone often falls short of driving meaningful change. Consequently, legal reforms risk remaining merely normative unless the state and society collaboratively internalize these values to transform underlying social norms. Addressing this challenge requires a comprehensive structural intervention strategy, one that pairs tightened judicial discretion over marriage dispensations in Religious Courts with robust social safety nets tied to compulsory education. Ultimately, the success of this reform hinges on formally institutionalizing and actively engaging traditional and religious leaders through local regulations, enabling national positive law to integrate harmoniously with living law as a shared societal consciousness.

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