

RELATION BETWEEN MARRIED COUPLE IN INDONESIAN ISLAMIC MARRIAGE LAW PERSPECTIVE HUMAN RIGHT INTERNATIONAL INSTRUMENT

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Article Info:

Submitted:	Revised:	Accepted:	Published:
Jun 18, 2025	Jul 12, 2025	Jul 24, 2025	Jul 29, 2025

Abstract

Indonesia's Islamic marriage law, established in 1974 and partially revised in 2019, is increasingly viewed as outdated, particularly in its regulation of spousal relationships. While the 2019 amendment addressed the legal age of marriage, other substantive aspects, especially those governing the relationship between husband and wife remain misaligned with international human rights standards. This study aims to analyze the provisions governing marital relations in Indonesia's Islamic marriage law through the lens of international human rights instruments. Adopting a qualitative, literature-based research design, the study utilizes legislative and conceptual approaches, with a specific focus on the principle of justice as articulated in global human rights frameworks. The findings indicate that, although Indonesia's Islamic marriage law has incorporated several principles consistent with human rights norms, it still contains provisions that perpetuate gender-based disparities. These include the formal designation of the husband as the head of the household and the wife as a homemaker, as well as imbalances in rights and responsibilities that reflect patriarchal assumptions. Such legal constructs not only conflict with gender equality but also undermine Indonesia's commitments to international human

rights obligations. The study concludes by recommending further legal reform to harmonize Islamic marriage law with contemporary understandings of gender justice and human rights.

Keywords: Marriage Law; Spousal Relations; Human Rights; Gender Equality; Islamic Law in Indonesia

INTRODUCTION

Marriage will give rise to rights and obligations for the life of married couples in the family (Aspandi, 2017). Islam has regulated the rights and obligations of husband and wife since the time of the Prophet. The existence of rights to wives and obligations to husbands shows that Islam highly upholds the position of each partner, both male and female. If in the period of jahiliyyah before Islam came, women were lowered in their position, then Islam came by raising the status of women by sharing the existing sharia, both in terms of worship and muamalah or social, one of which is in married life (Auda, 2015). In practice, Islamic marriage law in Indonesia refers to more specific laws and regulations.

One of the aspects that is of concern in the legal rules of Islamic marriage in Indonesia is the aspect of human rights. Several provisions on human rights law have been drafted and agreed internationally by countries that are members of the United Nations, one of which is Indonesia (Dewi et al., 2022). Some of these rules have been ratified in positive laws in Indonesia, for example the *universal declaration of human rights* which has been ratified into Law No. 39 of 1999 concerning Human Rights, then the *Convention on the Elimination of All Forms of Discrimination against Women* which has been ratified into Law No. 7 of 1984 concerning the ratification of the Convention on the Elimination of All Forms of Discrimination against Women Woman (Bire et al., 2023).

This rule about family life has become an international discussion, because the family is a miniature of a society, and the existence of society is something that cannot be separated from life. The *Universal Declaration of Human Rights* (UDHR) issued in 1948 under the auspices of the United Nations regulates marriage, marital life, and post-marriage (Mega et al., 2023). Article 16 of the UDHR states that all people have equal rights in matters of marriage, during the period of marriage, and at the time of divorce. Marriage can only be carried out based on the free choice and consent of both brides. The human rights values contained in the

UDHR state that all human beings have equal rights in all matters, including marriage. This is a quick reversal of the family law that applies in Indonesia (Siswadi et al., 2022). Article 31 paragraph 3 of Law No. 1 of 1974 stipulates that the position of husband and wife is the head and wife of the house, this is contrary to the principle of article 16 of the UDHR which upholds justice and equality in life during marriage. If referring to the results of the declaration, the husband has the opportunity to become the leader of the family, as well as the wife (Rizqon, 2022).

However, not all Islamic marriage legal rules in Indonesia are contrary to human rights provisions. Several aspects such as the freedom to establish a family, the principle of mutual voluntariness and the absence of coercion in marriage are some of the evidence that human rights provisions have been implemented in the Islamic family law rules in Indonesia (Hamdiyah, 2025). Therefore, the author is interested in examining the aspects of marriage law in Indonesia that are in accordance with the Human Rights instrument and also related to Gender, as well as what aspects still need to be adjusted to the two theories. The use of gender theory is considered relevant to international human rights instruments because the two theories have some similarities in terms of values and norms in them.

Previously, research has been conducted on several aspects of marriage law in Indonesia, but it has not specifically studied the relationship between husband and wife from the perspective of international human rights instruments. For example, Sifa Mulya Nurani who wrote an article with the title *The Relationship of Rights and Obligations of Husband and Wife in the Perspective of Islamic Law* (Nurani, 2021). In this paper, the rights and obligations of husband and wife are examined from the perspective of tafsir and ahkam hadith. Next there is Agus Hermanto who wrote the article *Maintaining Mutual Values in Exercising the Rights and Obligations of Husband and Wife from the Perspective of Mublah Fiqh* (Hermanto & Ismail, 2022). This paper focuses on the theory of mublah which is the basis in the life of husband and wife in the household so that the rights and obligations of husband and wife can be fulfilled fairly. Then Nerisma Eka Putri who wrote about *Marriage Between Religions Based on Human Rights Perspectives*. In his writing, it was explained that the prohibition of interfaith marriage violates international human rights instruments that have been agreed upon by UN member states (Putri et al., 2024). Then Tamyiz Mukharrom and Supriyanto Abdi who wrote about *Harmonizing Islam and Human Rights Through the Reconstruction of Classical Islamic Tradition* (Mukharrom & Abdi, 2023). In his writing, it is mentioned that some traditions of classical Muslim teachings are considered to be in

conflict with human rights values, but these traditions are very open and adaptive so that they can be adjusted to human rights values without changing the core of Islamic teachings.

From several previous studies, it can be seen that there is a research gap that needs to be done, namely tracing and analyzing the relationship between husband and wife in marriage according to human rights legal instruments. This is very important because juridically Indonesia is one of the countries that is officially included in the membership of the United Nations so that it is obliged to implement all human rights instruments that have been compiled by the world organization. In addition, sociologically, the current condition of society is much different from the time when the rules on Islamic marriage law in Indonesia were drafted. Therefore, a special study is needed that regulates the relationship of rights and obligations of husband and wife in marriage in accordance with the values of human rights instruments.

METHODS

The type of research used in this study is normative juridic, where the researcher discusses doctrines or principles related to human rights law. This study uses a descriptive analysis method. The research approach used in this paper is a legislative approach and a conceptual approach. Legal research cannot be separated from the statute *approach*, where in this paper several legal rules about Islamic marriage in Indonesia are examined. In addition, a conceptual approach is also used in this paper to examine theories related to the object of research, especially about human rights law and gender theory. The research data was obtained by examining several legal documents on the rules of Islamic marriage law in Indonesia such as marriage laws, compilations of Islamic law, especially those related to the relationship between husband and wife in marriage. In addition, to analyze the data obtained, theories about human rights taken from several books, articles, or other documents relevant to the research theme are used.

RESULTS AND DISCUSSION

Aspects of Islamic Marriage Law in Indonesia based on International Human Rights Instruments

Law Number 1 of 1974 concerning Marriage (as amended by Law Number 16 of 2019) and its implementing regulations are regulations that are the legal basis for marriage, including marriage for Muslims in Indonesia (which is also guided by the Compilation of Islamic Law/KHI). If examined from the perspective of human rights instruments, both the Universal Declaration of Human Rights (UDHR 1948), the International Covenant on Civil and Political Rights (ICCPR 1966), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW 1979), the regulation of marriage in Islamic law in Indonesia shows two sides, aspects that have been appropriate and aspects that still remain challenges (Ibnudin et al., 2023).

Aspects that have been in accordance with human rights instruments include the following: first, the freedom to marry, but with certain restrictions. Articles 1 and 2 of the Marriage Law give everyone the right to marry, which is in line with Article 16 of the UDHR. However, this freedom is limited by the requirements of Islamic law and national law (Azhari & Lubis, 2022), such as only allowing marriage between a man and a woman as described in Article 1 of the Compilation of Islamic Law and Article 2 of the Marriage Law (Priscyllia, 2022). Then there is a limit on the number of wives to a maximum of four for men based on Article 3 paragraph (2) of the Marriage Law. There is also a stipulation of the minimum age of marriage for both men and women is 19 years old, which aims to protect the rights of children and women (Nawawi et al., 2022).

The next aspect is the freedom to Choose a Partner Without Coercion. In Islamic law and the Marriage Law, there should be no coercion in marriage. Women have the right to accept or reject their future husbands based on Article 6 of the Marriage Law and Article 15 of the Criminal Code. This is in line with Article 23 of the ICCPR and Article 16 of CEDAW which emphasize free and voluntary consent in marriage. The last aspect that is in accordance with the human rights instrument is the freedom to determine the dowry, time, place, and model of the contract. Islamic law gives freedom to prospective husband and wife in determining dowry in accordance with Article 30 of the KHI, the time and place of the contract, as well as the model of marriage implementation as long as it meets the

requirements of harmony and applicable law. This freedom reflects the right to personal autonomy as long as it does not conflict with legal norms (Surasa et al., 2025).

The aspects that are not fully in accordance with the human rights instrument are as follows: first, the provisions on the right to be the head of the family. Article 31 paragraph (3) of the Marriage Law stipulates the husband as the head of the family and the wife as the housewife. This provision is seen as less equal from a gender equality perspective because it ignores the possibility of wives as the main breadwinner or joint decision-maker (Hermanto & Ismail, 2022). This provision is considered to be less in line with the principles of gender equality and non-discrimination guaranteed in CEDAW Article 16 paragraph (1) letters c and h, which affirms that men and women must have equal rights and responsibilities in marriage and family relationships, including in leadership and parenting matters. Likewise, the ICCPR Article 3 instrument, which guarantees equal rights between men and women in the enjoyment of civil and political rights.

Next is the aspect of marriage couple rights and obligations that are not fully balanced. Article 34 of the Marriage Law still emphasizes the obligation of the husband to provide for the husband and the wife to take care of the household, without an arrangement that fully accommodates the flexible division of roles based on the agreement of the spouse. This often causes inequality in domestic and public roles for women (Nurani, 2021). Article 16 paragraph (1) c and h of CEDAW (which has been ratified by Indonesia through Law No. 7/1984) requires the state to guarantee equal rights and responsibilities for men and women in marriage and family relations. Article 3 of the ICCPR (ratified by Law No. 12/2005) requires equal treatment of men and women in the enjoyment of civil rights, including in family life. Article 34 of the Marriage Law, with its formulation emphasizing traditional gender roles, has the potential to conflict with Indonesia's obligation to realize gender equality in accordance with CEDAW and ICCPR (Bire et al., 2023).

The last aspect is the authority to be a guardian for women. In the KHI (Articles 20–23), the marriage guardian must be male and be in a certain lineage. This regulation does not allow women to become guardians, and does not recognize the right of adult women to marry themselves, even though she has full legal capacity (*abliyyah kamilah*). Women cannot be guardians of marriage, although in some contemporary schools such as the Hanafi school, adult women can marry themselves (Nurani, 2021). This rule is considered contrary to CEDAW's principle of non-discrimination because it limits women's legal capacity. This

provision is considered inconsistent with the principle of non-discrimination as stipulated in Articles 2 and 16 of the CEDAW Convention (ratified by Indonesia by Law No. 7 of 1984), which requires the state to eliminate discrimination against women in all matters, including marriage. This provision is also contrary to ICCPR Article 3 (ratified by Law No. 12 of 2005), which affirms the equal rights of men and women in the enjoyment of civil and political rights. Juridically, this restriction limits women's *legal capacity*, even though the 1945 Constitution (Article 27 paragraph 1 and Article 28D paragraph 1) has affirmed the principle of equality before the law (Maharani et al., 2021).

Table 1: Conformity of Marriage Law with Human Rights Instruments

Aspects	Information	National Legal Basis (UU/KHI)	Relevant Human Rights Instruments	Noted
Freedom to marry	The right to marry is guaranteed, but it is limited only to men and women, a maximum of four wives, a minimum age of 19 years for men and women.	Articles 1 and 2 of Law No. 1/1974 jo. Law No. 16/2019; Article 3 paragraph (2) of the Marriage Law; Article 7 paragraph (1) of the Marriage Law.	Article 16 of the UDHR (right to marry), Article 23 of the ICCPR (family rights), Article 10 of the ICESCR (protection of the family).	Appropriate
Freedom to choose a partner without coercion	Women have the right to accept or reject their future husbands; Marriage without coercion is a legal requirement.	Article 6 paragraph (1-2) of the Marriage Law; Article 15 KHI.	Article 16 of the CEDAW (free consent), Article 23 of the ICCPR (right to marry).	Appropriate
Freedom to determine the elements of the marriage contract	Prospective husband and wife are free to agree on the dowry and determine the time, place, and form of implementation of the contract in accordance with sharia and laws and regulations.	Article 30 of the KHI; Article 2 of the Marriage Law (implementation according to religious law).	Article 23 of the ICCPR (the right to marry), the principle of personal autonomy in family law.	Appropriate
Provisions on the right to be the head of the family	The husband is designated as the head of the family and the wife as the housewife, without considering the real conditions (the wife as the main breadwinner or family leader).	Article 31 paragraph (3) of the Marriage Law; Article 79 KHI.	Article 16 (1) c and h of CEDAW (equality of rights and responsibilities), Article 3 of the ICCPR, Article 27 of the 1945 Constitution (legal equality).	Mismatched

Aspects	Information	National Legal Basis (UU/KHI)	Relevant Human Rights Instruments	Noted
The rights and obligations of husband and wife are not balanced	The husband is obliged to provide for the living, the wife is obliged to take care of the household; There are no flexible role sharing rules based on the couple's actual agreement or contributions.	Article 34 of the Marriage Law.	Article 16 (1) letters c and h of CEDAW; Article 3 of the ICCPR; Article 28D paragraph (1) of the 1945 Constitution (equal treatment before the law).	Mismatched
The authority to be a guardian for women	The marriage guardian must be male from the lineage (nasab). A woman cannot become a guardian of the marriage or marry herself,	Articles 20–23 of the KHI; Article 2 of the Marriage Law (marriage must be in accordance with religious law).	Articles 2 and 16 of the CEDAW (non-discrimination), Article 3 of the ICCPR, Article 27 of the 1945 Constitution	Mismatched

In general, Islamic marriage law in Indonesia has sought to accommodate human rights principles, especially in terms of freedom of choice of partner, protection against coercion, and freedom to determine the technical elements of contracts. However, there are still several provisions that need to be reformulated to be more in line with the principles of gender equality and non-discrimination, especially related to the role of the head of the family, the balance of the rights and obligations of husband and wife, and the authority of the marriage guardian. A more responsive legal reform to CEDAW and ICCPR could be a step to bridge sharia values with Indonesia's international commitment to human rights.

Analysis of Islamic Marriage Law Aspects in Indonesia Relevant to Human Rights Instruments

There are two positive laws in Indonesia that regulate marriage, namely Law No. 1 of 1974 concerning marriage and the Compilation of Islamic Law or Presidential Instruction No. 1 of 1991 chapter on Marriage. The international human rights instruments that are used as an analysis tools are Universal Declaration of Human Rights (UDHR), Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), International

Covenant on Civil and Political Rights (ICCPR), dan International Covenant on Economic, Social and Cultural Rights (ICESCR).

As one of the member states of the United Nations, Indonesia already has laws related to human rights through ratification of international instruments, namely Law Number 39 of 1999 (Syuhada, 2019). In the law, one of the basic human rights is mentioned, namely the right to have a family and continue offspring, the right to personal freedom, the right to justice, and the rights of women. Such rights can only be limited by law for the sole purpose of the interest and respect for the human rights and freedoms of others, not because of the wishes of a particular individual or group (Nasution, 2016).

The first aspect that is considered to be in accordance with the human rights instrument is the freedom of marriage as listed in the table of the previous sub-chapter. From the perspective of Islamic law, the freedom to marry is part of the basic human right (*haqq al-insān*), but it is regulated with limits in order to safeguard the interests. The Qur'an Surah An-Nur verse 32 encourages Muslims to marry, while the sahih hadith affirms the recommendation to marry to maintain honor and offspring (Khairuddin & Julianda, 2017). Restrictions such as the prohibition of same-sex marriage, the maximum limit of four wives, and the determination of the age of marriage reflect the principles of maqāṣid al-sharia in safeguarding offspring (*hiḍḍ al-nasl*) and human dignity. Thus, national regulations that restrict the freedom to marry remain consistent with Islamic law because they aim to protect moral and social values (Dewi et al., 2022).

From the perspective of gender theory, the freedom of marriage rights shows that there is a principle of non-discrimination in marriage in Indonesia, although there are limitations in polygamy that seem to protect women, on the other hand reflecting patriarchal norms that are still dominant. While the age limit for marriage serves to protect the rights of women and children, the restriction on polygamy that is not completely removed still shows tolerance for practices that have historically placed women in subordinate positions (Mustafid, 2021). Sociologically, the restriction of the freedom to marry in the Marriage Law plays a role in maintaining a harmonious social order. The 19-year age limit was drafted to prevent child marriage, which has the potential to lead to social vulnerability and reproductive health, as well as perpetuate poverty (Bakhtiar et al., 2024). The restriction of polygamy is also in line with the view of the majority of Indonesians who tend to monogamy as the main practice, although Islamic law allows polygamy with strict conditions. This rule

balances religious norms and the protection of the rights of women and children in the modern family (Mukharrom & Abdi, 2023).

The next aspect is the freedom to choose a partner. Islamic law expressly prohibits coercion in marriage. The Prophet's hadith narrated by Bukhari Muslim states that a woman should not be married without her consent, and a widow woman has more rights to herself than her guardian (Nurani, 2021). This principle is adopted in the Compilation of Islamic Law and the Marriage Law, which requires the consent of the bride and groom as a valid condition for marriage. Thus, Islamic law supports the principle of freedom to choose one's partner, in line with the principle of free consent as stipulated in international human rights instruments such as CEDAW. Liberal feminism theory emphasizes that the protection of human rights in marriage should focus on individual autonomy and equality of relationships, so the law should prioritize mechanisms that prevent the exploitation of women in marriage practices (Aghbari et al., 2024). From a social perspective, the recognition of the freedom to choose a partner plays a major role in preventing the practice of forced marriage that can trigger domestic conflicts, domestic violence, and even early divorce. In a modern society that increasingly upholds gender equality, the recognition of women's right to refuse or accept their future husbands is a form of protection for women's personal autonomy and dignity. It also encourages the creation of a more harmonious family because it is based on agreement and common will (Nur et al., 2023).

The last aspect that is in accordance with international human rights instruments is the freedom of married couples to determine the elements and technicalities that exist in marriage. In Islamic law, dowry and marriage contract are inherent rights for the prospective bride, and the sharia gives the flexibility to determine them as long as they do not conflict with the pillars and conditions of marriage. The Qur'an surah An-Nisa verse 4 provides freedom in determining dowry, while the marriage contract can be adjusted to the customs and needs of the couple as long as it meets the provisions of sharia. KHI and the Marriage Law only regulate the formal framework, so that this freedom space is a form of protection of individual rights in sharia (Muhammad et al., 2023).

Within the framework of gender theory, the freedom to determine dowry, time, and the form of the contract provides space for women to negotiate their economic and symbolic rights in marriage. However, the practice in the field still often places dowry as a status symbol that positions women as passive objects (Syarifah & Karim, 2024). Post-structuralist

feminism emphasizes the importance of redefining the role of women in the marriage contract, so that they are not only recipients, but also active subjects who play a role in determining the structure of marriage according to the value of equality. From a social point of view, the freedom to determine the elements of the marriage contract reflects the cultural flexibility and practical needs of the couple (Santoso et al., 2022). For example, the selection of dowries that are tailored to economic capabilities reduces the financial burden of the prospective husband, while the determination of the place and time of the contract allows adjustment to local traditions and family preferences. This freedom also supports cultural diversity in Indonesia, so that marriage is not only religiously valid but also accepted by the social community.

Aspects of Marriage Law in Indonesia that Are Not Yet Relevant to Human Rights Instruments

Some issues related to Islamic family law in Indonesia that are considered irrelevant if studied using Human Rights theory are as follows: first, the appointment of the husband as the head of the family. The designation of the husband as the head of the family and the wife as the housewife as stipulated in Article 31 paragraph (3) of Law No. 1 of 1974 jo. Law No. 16 of 2019 and Article 79 of the KHI reflect the traditional patriarchal pattern, but potentially contradicts the principle of equality guaranteed by Articles 27 and 28D of the 1945 Constitution as well as Indonesia's commitment to CEDAW (Article 16) and ICCPR (Article 3) which demands equality of rights and responsibilities in the family; This norm is considered non-adaptive to social reality, where many women are the main breadwinners or household leaders, so it needs to be interpreted or revised to be based on agreement and ability, not solely based on gender (Hermanto & Ismail, 2022).

Viewed from the perspective of Islamic law, based on the Qur'an, Surah An-Nisa verse 34 establishes men as *qawwām* (leaders) in the family because of their traditional role as breadwinners and protectors. However, contemporary interpretations of modern scholars such as Rashid Ridha and Yusuf al-Qaradawi emphasize that household leadership should be functional, based on responsibility and capacity, not gender alone (Nurani, 2021). Thus, the absolute determination of the husband as the head of the family in Article 31 paragraph (3) of the Marriage Law does not fully reflect the flexibility of interpretation of Islamic law that allows the wife's leadership if she is better able to carry out this function. Sociologically,

the norm that places the husband as the sole head of the family ignores the reality of the modern family in Indonesia, where many women are the main breadwinners due to economic factors or life choices. This can lead to power imbalances in the household, limit women's participation in decision-making, and hinder legal recognition of women's true roles. The renewal of these norms is important so that the law is more adaptive to social dynamics and prevents gender-based discrimination in the family (Aibak, 2023).

The aspect that is not yet appropriate is the imbalance of the rights and obligations of husband and wife in marriage. The obligations of husband and wife have been regulated in the Compilation of Islamic Law articles 80-83 and Law No. 1 of 1974 concerning Marriage Articles 30-34. In this provision, the wife's obligations are related to domestic matters or work in the house. Meanwhile, the husband's obligations are more outside the home such as providing support, protecting the family and so on. For example, in Article 34 of the Marriage Law, it is stated that the husband's duty is to protect and provide for his wife, while the wife's duty is to manage household affairs as best as possible. Provisions regarding the rights and obligations of husband and wife during the marriage period should not position one of the parties as superiors or subordinates. DUHAM stipulates in article 16 that men and women have equal rights during the marriage period (Iskandar, 2017). The Marriage Law, as a positive law in Indonesia, should be more open to the position of husband and wife in dividing the task of earning a living or taking care of the household. However, the fact is that it has been explicitly stated that each husband and wife has their own position and cannot be changed.

The root of the problem of the position of husband and wife in marriage is several interpretations and understandings related to Surah an-Nisa' verse 34. In this verse, the position of men in the family seems to be above women. The verse explains that men are the managers of women (Zayd, 2013). Ashgar Ali Engineer proposes that in understanding the verse one should distinguish between the purpose of the Qur'an as a rule and a source of information. If you look at the structure of the language, the verse does not contain the element of command that usually uses *fi'il amar*. The verse provides a description of the state of the structure and social norms of the society at the time the verse was descended. So the function of the verse provides information that in the tradition of that time men were the leaders and protectors of the family. This condition is certainly different from the current condition where many people have entered the public sphere to earn a living for their families. The verse is not a standard commandment and rule that men must and will forever

be leaders over women, because it will cause sub-ordination in the family (Engineer et al., 2003). The relationship between husband and wife in most societies is still guided that only the husband has the capability and credibility to be the head of the family. The exclusion of wives from this access shows that Indonesia's Islamic marriage law still accommodates the process of marginalization. In addition, the assumption that only men are capable of being the head of the family gives rise to discrimination and sub-ordination against women (Rouf et al., 2023).

The last aspect that is not yet relevant to human rights instruments is the issue of guardianship. The discussion of guardianship is contained in articles 20-21 of the Compilation of Islamic Law. Meanwhile, Law No. 1 of 1974 concerning Marriage does not mention provisions regarding guardianship and its sequences. In the KHI it is explained that only men can be guardians in marriage. Guardians in marriage consist of guardians of the *nasab* and guardians of judges. The guardians are divided into four groups and the guardian judges are appointed based on the results of the court. Of all the guardianship categories, there is not a single opportunity for women to become guardians. Even for women who have been married or widowed, a guardian is still needed to carry out the marriage. In fact, some scholars allow widows to marry themselves (Zuhaili, 2008).

The majority of madhhab scholars, Shafi'i, Maliki, and Hanbali, forbid women to be guardians of marriage, but the Hanafi school allows adult women to marry themselves, as long as the marriage meets the appropriate standards of *kafa'ah* and dowry. This view shows the existence of diversity in fiqh that can be used as a basis for reform (Muksin, 2018). Therefore, the provisions of KHI Articles 20-23 that only recognize male guardians do not take advantage of the legitimate opportunity of *ijtihad* in Islam, especially in the context of a society that demands equal legal rights for women. Sociologically, these restrictions often pose problems, especially when the guardian rejects marriage for non-shari'a reasons such as social or economic status, which can be detrimental to adult women with full legal capacity. This limits women's independence and has the potential to trigger the practice of unofficial marriage (*simr*) or overseas marriage to avoid bureaucracy. However, accommodating women as guardians or giving them the right to marry themselves, with a mechanism of court supervision, will be difficult to do with the current social conditions of Indonesian society even though it will help reduce discrimination and social conflicts without abandoning sharia principles (Zamani, 2020).

CONCLUSION

In general, Islamic marriage law in Indonesia has reflected a number of human rights principles. This can be seen from the recognition of everyone's freedom to marry with certain restrictions such as the prohibition of same-sex marriage, the limitation of the maximum number of wives to four, and others. In addition, national law guarantees the freedom of prospective brides to choose a partner without coercion and provides flexibility in determining the elements of the marriage contract, including dowry, time, and place of the contract, as long as it is in accordance with the sharia and applicable law. However, there are still aspects of marriage law that are not fully in line with international human rights standards, especially the principles of gender equality and non-discrimination. The absolute determination of the husband as the head of the family and the wife as the housewife without considering the factual conditions, the inequality of the roles and obligations of husband and wife who place the wife as the manager of the household despite contributing economically, and the prohibition of women from becoming a marriage guardian even though they have full legal capacity, reflect norms that are not responsive to social dynamics. Therefore, legal reform or a more adaptive progressive interpretation is needed so that national marriage law is not only in line with sharia values, but also fulfills Indonesia's commitment to the principles of gender equality and justice.

Summary of Research Results:

This study analyzes the relevance of the provisions of Islamic marriage law in Indonesia, including the Marriage Law and the Compilation of Islamic Law, with international human rights instruments. The results show that several aspects have been in accordance with human rights standards, such as the freedom to marry (the right to marry is recognized and protected, with a minimum age limit of 19 years for both men and women), the freedom to choose a partner without coercion, and the freedom to determine the elements of the marriage contract. However, there are a number of provisions that are not fully aligned with human rights principles, especially related to gender equality. A central concern lies in the legal stipulation designating the husband as the head of the household and the wife as a homemaker, a construct that disregards the wife's economic contributions and potential leadership within the family structure. Such a framework perpetuates a rigid, gendered division of roles, fostering an imbalance in the rights and obligations of spouses by limiting the flexibility to negotiate roles based on mutual agreement and individual capacities.

Furthermore, the restriction on women's authority to act as marriage guardians not only undermines the principle of gender equality but also raises questions regarding the compatibility of such provisions with contemporary human rights standards and evolving socio-economic realities.

Contribution to Science:

This research makes an important contribution to the development of the study of Islamic family law by highlighting the gap between the provisions of national laws (Marriage Law and KHI) and international human rights (HAM) standards. Academically, this research enriches the discourse on Islamic family law reform by offering a critical perspective based on human rights instruments such as CEDAW, ICCPR, and the principle of equality in the 1945 Constitution. The findings of this research are a theoretical basis for the development of family law concepts that are more responsive to social changes, especially related to gender equality and the protection of women's rights.

Recommendations for Further Research:

Some of the recommendations for follow-up research for similar themes are as follows: (1) Study on the Reformulation of Islamic Family Law Based on Gender Equality Future research can focus on the preparation of alternative models or draft regulations (amendments to the Marriage Law or KHI) that are more responsive to the economic role and leadership of women, without ignoring sharia principles. (2) Comparative Studies with Other Muslim Countries. The research can compare family law practices in Muslim-majority countries (e.g. Malaysia, Morocco, Tunisia) that have adopted the principle of gender equality and review its relevance to the Indonesian context. (3) Integration of Human Rights Principles with Contemporary Ushul Fiqh. In-depth research can be directed to the development of a legal istinbath methodology (ijtihad) that accommodates maqashid al-syariah (protection of rights and benefits) and international human rights instruments, as the basis for reforming Islamic family law.

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