

Comparison of Principles of Gender Equality in Burgerlijk Wetboek and Marriage Law Regarding the Rights and Obligations of Husband Wife

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ABSTRACT

This study examines and compares the principle of gender equality in the regulation of spousal rights and obligations as stipulated in the Burgerlijk Wetboek (Indonesian Civil Code) and Law Number 1 of 1974 on Marriage. The research applies a normative legal method with qualitative analysis. The findings indicate that the Civil Code reflects a patriarchal legal construction that places the husband as the dominant head of the family, while the wife occupies a subordinate position. In contrast, the Marriage Law embodies the spirit of family law reform in Indonesia by recognizing equal rights and status between husband and wife, although it still contains elements of traditional gender role bias. The amendment through Law Number 16 of 2019, which equalizes the minimum age for marriage, serves as an indicator of progress toward achieving gender justice. However, the implementation of these equality norms continues to face challenges from entrenched patriarchal cultural values in society. This study concludes that more substantive legal reform and social transformation are essential to realize a just and equal marital relationship.

Keywords : Gender Equality, Civil Code, Marriage Act, Spousal Rights and Obligations.

A. INTRODUCTION

Marriage is an institution that has a strategic position in social life, because it is the juridical and sociological foundation for the formation of a family. Through marriage, individuals gain legitimacy to legally form offspring, which in turn become an integral part of the family structure and contribute to the continued existence of society.

Marriage as a legal institution has significant juridical consequences for the parties who legally bind themselves in it. The legal consequences create a legal relationship between husband and wife that stems from family ties. This legal relationship not only regulates moral and social aspects, but also has legal consequences that are explicitly regulated in legislation, each party has personal rights and obligations (*persoonlijk*), which are recognized and protected within the framework of civil law and family law.

In Indonesia, legal provisions related to the institution of marriage are regulated in three main legal instruments, namely: (1) the Civil Code (KUHPerdata/*Burgerlijk Wetboek*); (2) Law Number 1 of 1974 concerning Marriage; and (3) the Compilation of Islamic Law (KHI). The three regulations have principal differences in the normative approach to marriage arrangements, both in terms of legal basis, systematic arrangements, and the philosophical basis behind them.

During the Dutch East Indies colonial period, the marriage law system applicable in Indonesia was pluralistic and discriminatory, depending on the ethnic and religious background of the population. The indigenous Christian community was subject to the *Huwelijks Ordonnantie Christen Indonesiërs* (HOCl), which was regulated in *Staatsblad* 1933 Number 74 and only applied to Christians. Meanwhile, Europeans, foreigners and people of Chinese descent are subject to the provisions of marriage law based on the Civil Code (*Burgerlijk Wetboek*), including the rules regarding mixed marriages as stipulated in *Staatsblad* Year 1898 Number 158. As for the indigenous Muslim community, the applicable provisions are only Islamic material law sourced from the classical fiqh books by previous scholars, which were then perceived into customary law. As for the non-Muslim indigenous community, the marriage arrangement is based entirely on the local customary law system.

The existence of a code of laws in force during the Dutch East Indies colonial period (which paralleled the codification of law in Europe and other developed countries) was a historical consequence of the Dutch colonization of Indonesian territory. The application of the law occurred not because of the will of the Indonesian people, but because the Netherlands as a colonizer happened to have a relatively advanced legal system, most of which adopted the principles of French law (*Code Civil*). As a result, Dutch law was applied in the Dutch East Indies and provided a fairly systematic legal

basis. However, until the end of the colonial period, the Dutch East Indies government never succeeded in compiling a system of marriage law that was universal and applicable to all groups of society in Indonesia.¹ The absence of an inclusive marriage law system then triggered encouragement from various groups, including women's organizations, which demanded the establishment of a marriage law. This issue even became a topic of discussion in the Volksraad session, as a form of people's aspirations for the importance of fairer and more equitable regulations in the field of family law.²

In 1946, a year after the proclamation of Indonesian independence, various problems began to arise in the field of marriage law, especially those involving Muslims. This was due to the absence of a positive legal codification that specifically regulates marriage for Muslims, so that people still refer to classical fiqh books, such as the works of Imam Syafi'i and Imam Maliki. The differences in fiqh references have led to variations in marriage practices, including the age of marriage, marriages without consent, abuse of husband's rights, and uncontrolled polygamy practices. In response to this diversity and irregularity, the government then enacted Law No. 22/1946 on the Registration of Nikah, Talak, and Rujuk as the first step to building a more structured and orderly system of legal administration of marriage.³

After independence, efforts to formulate and codify laws that specifically regulate marriage continued by the government. At its peak, in 1974 Law Number 1 of 1974 concerning Marriage was passed as a form of legal unification in the field of marriage. With the enactment of this law, there was uniformity in the legal regulation of marriage that applied to all Indonesian citizens, regardless of religious or ethnic background. This law places marriage not merely as a civil agreement between a man and a woman, but as a legal physical and mental bond between husband and wife that aims to form a harmonious, happy and lasting family or household.

The issue of marriage regulation is inseparable from attention to the issue of gender equality, which is a global problem and has become a concern in various countries, including Indonesia. Both the Civil Code and the Marriage Law have a significant impact on various aspects of women's lives. The influence is not only limited

¹ Wirjono Prodjodikoro, *Hukum Perkawinan di Indonesia*, (Jakarta: Sumur Bandung, 1981), 5.

² Abdul Manan, *Aneka Masalah Hukum Perdata di Indonesia*, (Jakarta: Kencana, 2000), 3.

³ Nani Suwondo, *Kedudukan Wanita Indonesia dalam Hukum Perkawinan Islam di Indonesia*, (Yogyakarta: Teras, 1992), 96.

to the domestic sphere, but also extends to the role and existence of women in the public sphere.

The occurrence of gender injustice in this society as in the research of Mujibur Rahman and Miftahul⁴ arises as a result of social and cultural construction. Gender differences do not only occur due to the beliefs and traditions of society, but also due to the systems and rules that are applied to create an understanding in society that the position of women is inferior to men. In Moch Fahri's research⁵ Gender equality and justice will not be achieved in the current ideological institutional structure, because women are still considered as inferior. The legal culture of lawmakers is built on patriarchal values. The patriarchal nature of society and legal provisions is the cause of injustice, domination and subordination of women, and consequently the demand for gender equality and justice.

Gender differences that then give birth to gender roles, as long as they do not cause problems, actually do not need to be debated, for example, such as differences in women's natures related to their reproductive organs. However, what is problematic is the structure of injustice that arises from these roles. In the common social view, women are often considered to only be in charge of housekeeping, educating children, and managing the family, and are prohibited from participating in activities in the public sphere because it is considered the domain of men. In fact, since more than 14 centuries ago, the Qur'an has rejected discrimination between men and women, emphasizing that the position of both is equal without any difference in terms of rights and dignity.⁶

Although feminists hold a pluralistic range of views, they agree that society and the legal system are fundamentally dominated by patriarchal structures. The law, which is often claimed to be neutral and objective, is in fact often a tool that disguises certain political and social interests, controlled by the ideology of policymakers, who unfortunately do not represent the interests of women.⁷

⁴ Mujibur Rahman, Miftahul Jannah, “Keadilan Gender dalam Pengaturan Hukum Perkawinan di Indonesia”, *Gorontalo Law Review*, Vol. 6, No. 2, 2023, 273-281. <https://doi.org/10.32662/golrev.v6i2.2744>

⁵ Moch. Fachri, “Hukum Perkawinan di Indonesia (Kajian Hukum Berkeadilan Gender dalam Kerangka Feminis Legal Theory)”, *Muwazah*, Vol. 7, No. 2, 2015, 158-171. [10.28918/muwazah.v7i2.520](https://doi.org/10.28918/muwazah.v7i2.520)

⁶ Ega Nur Fadillah, Erni Heriyanti, Nur Saebah, “Practicing Patriarchy in Islam: Are there Equality and Justice in The Role and Position in Islam?”, *Syntax Literate: Jurnal Ilmiah Indonesia*, Vol. 7, No. 9, 2022, 14822-14836. <https://doi.org/10.36418/syntax-literate.v7i9.13509>

⁷ M. Kholis Hamdy, “Gender-Based Violence: The Relationship of Law and Patriarchy in Indonesia”, *Jurnal Hukum dan Pembangunan*, Vol. 53, No. 1, 2023, 95-115. [10.15408/empati.v11i2.29751](https://doi.org/10.15408/empati.v11i2.29751)

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B. METHOD

This research uses a normative legal research method, which is a method that examines the law from the internal side, with the main focus on legal norms as the object of study.⁸ The legal materials used are primary legal materials such as the Civil Code (Burgerlijk Wetboek), and Law Number 1 of 1974 concerning Marriage, laws and regulations, and other relevant legal documents. In addition, secondary data in the form of books, journals, scientific articles, and secondary legal materials in the form of supporting literature are used to strengthen the analysis. This research uses several approaches, namely the statute approach, conceptual approach, and historical approach. The collection of legal materials is carried out by means of library research by collecting, sorting, and analyzing various relevant legal sources. Furthermore, the results of the analysis will be used to evaluate the extent to which the principle of gender equality has been accommodated in Indonesian marriage law. This type of research is qualitative, with a descriptive analysis approach to describe and examine the content and implementation of marriage law related to the rights and obligations of husband and wife and the principle of gender equality.

C. ANALYSIS/DISCUSSION

Overview of Gender Equality in Marriage Law

Grammatically, the term "*Gender*" comes from the English language which is generally defined as sex. In Webster's New World Dictionary, gender is understood as the difference between men and women in terms of social values and behavior. Furthermore, gender is also interpreted as the division of roles and responsibilities between men and women in the family, social and cultural environment. According to some experts, gender

⁸ I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*, (Kencana: Jakarta, 2016), 12.

does not refer to biological differences or things that are natural from God, but rather reflects differences in behavior that are formed through social and cultural processes. In other words, gender is a social construction that distinguishes roles between men and women beyond biological factors.⁹

Gender equality is a principle that guarantees men and women equal access and opportunities in various fields of life, including in the legal system and social order. This concept does not equate biological differences absolutely, but rejects the assumption that these differences can be used as a basis for discrimination or marginalization. From a legal perspective, gender equality demands fair legal treatment that is free from gender bias.¹⁰

In marriage law, gender relations are reflected through the regulation of the rights and obligations of husband and wife. The prevailing legal provisions, both in the Civil Code (*Burgerlijk Wetboek*), which is a legacy of Dutch colonial law, regulate husband and wife relationships with a tendency towards a patriarchal model. In the Civil Code, traditionally, the husband is considered the head of the family who holds greater rights and authority in the management of the household, while the wife is more focused on domestic roles. This reflects the social construction that places men in a dominant position, while women are in a subordinate position. Although the Civil Code regulates the rights and obligations of husband and wife, this regulation has not fully accommodated substantive gender equality. In addition, Law Number 1 of 1974 concerning Marriage is an important milestone in family law reform in Indonesia which seeks to integrate the principles of gender equality. This law recognizes that marriage is a physical and mental bond between husband and wife that aims to form a happy and lasting family based on the principle of equal rights and obligations. The articles in the Marriage Law stipulate that husbands and wives have equal rights and obligations in managing the household and carrying out family roles.

In the realm of feminist legal theory, gender equality does not only mean providing equal treatment, but also paying attention to the social and historical context that places women at a disadvantage (substantive equality). This theory emphasizes the need for law

⁹ Rr. Yunita Puspendari, Fathiya Nabila, Abdul Aziz, “Analisis Yuridis Kesenjangan Gender Dalam Perspektif Hukum dan Pembangunan Nasional”, *Literasi Hukum*, Vol. 4, No. 2, 2020, 78-89. <https://doi.org/10.31002/lh.v4i2.3312>

¹⁰ Dhea Januastasya Audina, “Kesenjangan Gender dalam Perspektif Hak Asasi Manusia”, *Nomos: Jurnal Penelitian Ilmu Hukum*, Vol. 2, No. 4, 2022, 148-154. <https://doi.org/10.56393/nomos.v1i6.602>

to be a tool of social transformation that eliminates gender injustice, rather than simply maintaining *the status quo*.¹¹ In the context of the Civil Code and the Marriage Law, this theory calls for more progressive and gender-sensitive legal reforms, for example, the recognition of women's equal rights in family decision-making, the elimination of provisions that exclusively reinforce traditional gender roles, stronger legal protection of women from discriminatory practices, including domestic violence and property division.

Arrangements for the Rights and Obligations of Husband and Wife in the Civil Code and the Marriage Law

The following data is presented in relation to the arrangements regarding the rights and obligations of husband and wife in the Civil Code and Law Number 1 Year 1974 concerning Marriage which contains issues of gender equality.

Table 1
The Civil Code

No	Subject	Article	Substance
1	Principle of Monogamy in Marriage	27	At the same time, a man may have only one woman as his wife, and a woman only one man as her husband.
2	Age Requirements for Marriage	29	A male who has not attained the age of eighteen years, as well as a girl who has not attained the age of fifteen years, may not bind himself in marriage. The President shall have the power to waive this prohibition by granting a dispensation in the case of important reasons.
3	Rights and Duties of Husband and Wife	103	Husband and wife, they must be faithful to each other, help each other and assist each other.
		104	Husband and wife, by binding themselves in marriage, and only because of that, they are bound in a reciprocal covenant, will maintain and educate their children.
		105	Every husband is the head of the conjugal union. As head he shall, without prejudice to the exceptions set out below, render

¹¹ Yanika Helena Sitanggang, dkk, “Teori Hukum Feminisme dan Perlindungan Hukum Bagi Perempuan di Indonesia”, *Judge: Jurnal Hukum*. Vol. 5, No. 4, 2024, 9-18. <https://doi.org/10.54209/judge.v5i04.1044>

			<p>assistance to his wife, or appear for her before the Magistrate.</p> <p>Every husband shall steer the affairs of his wife's personal property, unless otherwise agreed upon.</p> <p>He shall manage the property like a good father of the house, and shall therefore be liable for any negligence in the management.</p> <p>He may not transfer or encumber his wife's immovable property without her consent.</p>
		106	<p>Every wife must submit to her husband. She is obliged to live with her husband in one house, and is also obliged to follow him, wherever he sees fit, to center his residence.</p>
		107	<p>Every husband is obliged to accept his wife in the house he lives in.</p> <p>He is also obliged to protect her and provide for her all that is necessary and appropriate to her position and ability.</p>
		109	<p>With respect to any act or contract which any wife performs or enters into for the purpose of any matter relating to the ordinary and daily expenses of the household, as well as with respect to any contract of employment which she enters into with an employer for the purpose of the household, the law shall presume that she has obtained from her husband the permission referred to above.</p>
		113	<p>A wife who, with the express permission or tacit consent of her husband, engages in any occupation on her own, may bind herself, without the assistance of her husband, to any contract relating to that occupation.</p> <p>If the wife is married to her husband in a union of property, the husband is bound by the contract.</p> <p>If the husband withdraws his consent, he shall openly announce the withdrawal.</p>
		114	<p>If the husband, by reason of absence or for any other reason is prevented from giving assistance to his wife, or is</p>

			prevented from exercising control over her, or if he has conflicting interests, the District Court of the place of residence of the husband and wife may authorize the wife to appear before the Judge, to conclude agreements, to conduct management and to make all other deeds.
		118	Every wife has the right to make a will without her husband's permission.
		119	From the time of marriage, by operation of law, there shall be a complete union between the property of the husband and the wife, except to the extent that no other provision has been made by marriage contract. Such union during marriage may not be dissolved or altered by an agreement between husband and wife.
		120	As far as the profits are concerned, the union shall include the property of the husband and wife, movable and immovable, both present and future, as well as that which they have acquired free of charge, unless in this last case the bequeathor or donor expressly determines otherwise.
		155	If in the marriage contract by the prospective husband and wife only agreed that in their marital union will apply the union of profits and losses, then means such an agreement, that with absolutely no validity of the union of property entirely according to law, after the end of the union of husband and wife, all profits on them, obtained during the marriage, must be divided between them, as well as all losses they must bear together.

Table 2

Law Number 1 of 1974 concerning Marriage

No	Subject	Article	Substance
1	Principle of Marital Monogamy	3 ayat (1)	In principle, in a marriage a man may only have one wife. A woman may only have one husband

2	Exemptions to the Principle of Marital Monogamy	3 ayat (2)	The court, may give permission to a husband to have more than one wife if desired by the parties concerned
		4 ayat (1)	In the event that a husband will have more than one wife, he must submit an application to the court in the area where he lives
3	Marriage Age Requirement	6 ayat (2)	To enter into marriage, a person who has not reached the age of 21 (twenty-one) years must obtain the permission of both parents.
		7 ayat (1)	Marriage is only permitted if the man has reached the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen) years.
4	Rights and Obligations of Husband and Wife	30	The husband and wife have a noble obligation to uphold the household, which is the basic structure of society
		31 ayat (1)	The rights and position of the wife are balanced with the rights and position of the husband in household life and social life together in society
		31 ayat (2)	Each party is entitled to perform legal acts
		31 ayat (3)	The husband is the head of the family and the wife is the housewife.
		32 ayat (1)	Husband and wife must have a fixed place of residence
		32 ayat (2)	The house of residence is determined by the husband and wife together
		33	Husband and wife are obliged to love each other, respect, respect, be loyal and provide physical and mental assistance to one another.
		34 ayat (1)	The husband is obliged to protect his wife and provide all the needs of household life according to his ability.
		34 ayat (2)	Wives are obliged to manage household affairs as well as possible.
		34 ayat (3)	If the husband or wife neglects their obligations, each of them can file a lawsuit with the Court.
		35 ayat (1)	Property acquired during marriage becomes joint property
		35 ayat (2)	The innate property of each husband and wife and the property obtained by each as a gift or inheritance, is under the

			control of each as long as the parties do not determine otherwise.
		36 ayat (1)	Regarding joint property, husband and wife can act on the consent of both parties
		36 ayat (2)	Regarding their respective assets, husband and wife have the full right to take legal actions regarding their property.

Table 3
Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage

No	Subject	Article	Substance
1	Marriage Age Requirement	7 ayat (1)	Marriage is only permitted if the man and woman have reached the age of 19 (nineteen) years.
2	Exceptions to the Age of Marriage Requirement	7 ayat (2)	In the event of a deviation from the age requirement, the parents of the male party and/or the parents of the female party may request dispensation to the Court on the grounds of extreme urgency accompanied by sufficient supporting evidence.
		7 ayat (3)	The granting of dispensation by the Court shall listen to the opinions of the prospective bride and groom who will enter into marriage.

Principles of Gender Equality in Indonesian Marriage Law

Based on some data from the comparison of the articles presented, it shows fundamental differences between the Civil Code (*Burgerlijk Wetboek*) and Law Number 1 Year 1974 concerning Marriage. The Civil Code, as a legacy of Dutch colonial law, positions the husband as the head of the family with dominant authority, while the wife is in a subordinate position, this is certainly because the Civil Code is influenced by the concept of patriarchy where rights and obligations are not based on the principle of equality, but on a hierarchical relationship. For example, Article 105 of the Civil Code emphasizes that the wife must obey her husband, while the husband acts as the wife's representative in all legal actions. This shows a strong patriarchal construction, where the relationship between husband and wife does not reflect the principle of equality. Consequently, the Civil Code reinforces the unequal power structure in the household and

does not reflect modern gender justice.

In contrast, Law No. 1/1974 on Marriage takes a more progressive approach and seeks to balance the position between husband and wife. Its articles reflect the state's attempt to abandon the patriarchal concept of the Civil Code and lead to the concept of marriage as a partnership between husband and wife. Rights and obligations are understood as reciprocal relationships that are complementary, not hierarchical. For example, Article 31 paragraphs (1) and (2) state that the husband is the head of the family and the wife is the housewife, but paragraph (3) recognizes that the rights and position of husband and wife are equal in household life and social life together in society. Although it still contains shades of traditional roles, this law begins to recognize the importance of equality between men and women in marital relations. However, in practice, these norms have not been fully realized. Many cases of domestic inequality still occur due to the influence of a strong patriarchal culture in society. Positive law, although reformed, still faces challenges in its implementation because it is still faced with cultural values that place women in an inferior position.¹²

The Civil Code which adheres to the principle of monogamy in marriage as the norm in Article 27 of the Civil Code. This provision applies absolutely and in its implementation cannot be contested, meaning that this provision cannot be violated, so that if it is violated, the second, third and so on marriages are null and void. Meanwhile, in the provisions of Law Number 1 of 1974 concerning Marriage, the principle of relative monogamy is adopted, not absolute or open, as stipulated in Article 3 paragraph (1) and paragraph (2). The existence of this Marriage Law does not necessarily prohibit polygamy, but if a husband is going to polygamy, he must fulfill several conditions stipulated in the Marriage Law and must obtain permission from the Religious Court, considering that basically this regulation adheres to the principle of monogamy according to Article 3 paragraph 1 of Law Number 1 of 1974 concerning Marriage. However, if you cannot fulfill the existing conditions, then the husband is not allowed to be polygamous. This is in accordance with Article 3, Article 4 and Article 5 of Law Number 1 of 1974 concerning Marriage.

By looking at the renewal of the principles of marriage law, it shows the partiality of the law to the position of the wife who is balanced with the husband, where the husband

¹² Jovanka Yves Modiano, “Pengaruh Budaya Patriarki dan Kaitannya dengan Kekerasan Dalam Rumah Tangga”, *Sapientia et Virtus*, Vol. 6, No. 2, 2021, 129-140, <https://doi.org/10.37477/sev.v6i2.335>

cannot immediately carry out polygamy without the conditions that must be met first, so that the husband will not be able to arbitrarily polygamize without the consent of the previous wife.

The determination of the minimum age limit for marriage in the Civil Code does not reflect gender justice or has triggered different treatment based on sex and gender differences. This can also be seen in the determination of the minimum age of marriage in Law Number 1 Year 1974. This is why it can be said that the legislation is gender biased. The differential age of marriage further standardizes the role and status between husband and wife in an unbalanced relationship pattern, and ultimately discriminates against women. However, after the change in the minimum age of marriage in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, there is no difference in determining the age of marriage for both men and women, which shows the existence of legal balance and justice in this regulation. In addition, this is a form of legislation that is more gender responsive because it does not distinguish between men and women in the eyes of the law.

As the rights and obligations of husband and wife in marriage regulated in the Civil Code and Law Number 1 of 1974 concerning Marriage show the legal politics of the formation of these rules provide legitimacy for women's domestic roles and provide justification for the subordination and invisibility of women in the public sphere (*public invisibility*),¹³ This in fact legitimizes the marginalization of women's position on the grounds of women's inability, or the absence of capacity possessed by women because of their nature as wives and housewives. On the one hand, the government recognizes women's legal capacity, but on the other hand, it reinforces the rigid division of sex roles and strengthens stereotypes against women. Because a wife is a woman, her role is limited to the domestic sector. And because a husband is male, his role is in the public sector. This domestic-public role dichotomy is a form of discrimination against women, plus the lack of respect for domestic work positions women as the second sex.¹⁴

Law Number 1 of 1974 concerning Marriage places the position of husband and wife

¹³ Rizqi Nur Azizah, Muhammad Yassir, “Hak dan Kewajiban Suami Istri Perspektif Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan dan Hukum Islam”, *Asy-Syariah: Jurnal Hukum Islam*, Vol. 10, No. 1, 2024, 48-64. <https://doi.org/10.55210/assyariah.v10i1.1409>

¹⁴ Nur Ridwan, “Standar Ganda Perempuan dalam Ruang Publik”, *Jurnal Ilmiah Multidisiplin*, Vol. 2, No. 2, 2023, 168-176. [10.59000/jim.v2i2.133](https://doi.org/10.59000/jim.v2i2.133)

as equal in marriage, both in domestic life and social life together in society, in carrying out legal actions in terms of marital property. This is a step forward compared to the provisions in the Civil Code which tend to place married women as parties who are not legally capable, thus creating an unequal pattern of relations between husband and wife and of course the wife is discriminated against in an area that shackles her life.

As the main regulation governing the institution of marriage in Indonesia, the relationship regulated in the Marriage Law should reflect ideal principles. The meaning of ideal here is the creation of a balance of rights and obligations between husband and wife, both in the domestic and public spheres, without any unilateral domination in decision-making. The importance of this is to ensure that the relationship established by the legal provisions is fair and balanced, and can reduce the potential for domestic violence.

D. CONCLUSION

The regulation of the rights and obligations of husband and wife in the Civil Code (Burgerlijk Wetboek) and Law Number 1 Year 1974 concerning Marriage has fundamental differences in its spirit and normative structure. The Civil Code, as a product of colonial law, is still very thick with patriarchal values. The husband is placed as the head of the family with full authority, while the wife is positioned in a domestic and subordinate role. The legal relations built in the KUHPerdata tend to be hierarchical, which has the potential to reinforce gender discrimination and create inequality in the household. In contrast, Law No. 1/1974 on Marriage reflects the spirit of family law reform in Indonesia by incorporating the principle of equality between husband and wife. While still leaving traces of patriarchal values, this law also emphasizes that husbands and wives have equal rights and positions both in the household and in social life. Further revision through Law No. 16/2019, which equalizes the minimum age of marriage for men and women, shows progress towards gender justice and equality. This is an indicator that Indonesian law is becoming responsive to feminist critiques and more inclusive of women's needs. However, the implementation of these equality norms has not been fully achieved. The strong patriarchal culture in society and traditional gender role stereotypes are major obstacles in realizing equal relations between husband and wife. Positive law

often fails to function as a tool for social transformation because it is hampered by social structures that still discriminate against women.

Overall, the comparison between the Civil Code and the Marriage Law shows a paradigm shift from a patriarchal legal system towards a more egalitarian and gender sensitive legal approach. However, for the principles of gender equality to be truly realized, more substantive legal alignments and social changes are needed to challenge the patriarchal norms that have taken root in society.

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