

LEGAL UNIFICATION AND PLURALISM IN CUSTOMARY MARRIAGE REGISTRATION: LESSONS FROM THE BADUY INDIGENOUS COMMUNITY

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Abstract

Marriage registration within the Baduy community reflects an inherent tension between customary law and state law, particularly within the framework of the Compilation of Islamic Law in Indonesia. This study aims to analyze the differences in marriage registration practices between Baduy customary law and Islamic legal regulations in Indonesia, as well as to identify the social and legal implications arising from these differences. This research employs a qualitative approach using a socio-legal method. Data were collected through literature review, interviews with customary leaders, and field observations. The findings indicate that the Inner Baduy (Baduy Dalam) community continues to maintain a customary marriage system that does not require formal registration within the state administrative system. This practice is grounded in a strong adherence to customary norms, which are regarded as possessing high social legitimacy within the community. In contrast, the Outer *Baduy* (*Baduy Luar*) community has begun to demonstrate a degree of openness toward the national legal system by accepting administrative marriage registration. The area of Cicakal Girang serves as a point of compromise between customary law and state law, where marriage registration is carried out without entirely abandoning traditional values. Nevertheless, several differences remain evident in marital practices within the Baduy community, particularly in relation to arranged marriages, the prohibition of polygamy, and the mechanisms governing divorce. In this context, marriage registration in Cicakal Girang represents a practical accommodation between customary law and state law, although certain divergences persist in the implementation of marital norms. This study recommends the establishment of more intensive dialogue between the government and indigenous communities to bridge the gap between state law and customary law. An inclusive approach that is sensitive to local wisdom is essential in developing a more adaptive legal system. Such an approach would ensure the protection of the rights of indigenous peoples while preserving the cultural identity and traditions that remain central to the Baduy community.

Keywords: Marriage Registration; Baduy Customary Law; Compilation of Islamic Law; Legal Pluralism; Local Wisdom.

A. Introduction

In Indonesia's complex legal landscape, where state law coexists with Indigenous and customary norms, the law plays a crucial role in determining which social practices receive formal recognition and which remain outside the administrative framework (Lingaas, 2022; Ardhana, 2023). From a Law and Development perspective, legal institutions are not just repositories of normative rules; they serve as mechanisms that shape how different communities access rights, resources, and state protection (Trubek, 2016; Hidayat, 2024). This dynamic is especially evident

in family law, where Indonesia's diverse marital traditions often encounter a national legal system created around state-defined religious categories. As a result, communities whose marriage practices are rooted in Indigenous norms or local belief systems frequently find that their lived realities do not match the administrative requirements of the national legal order, particularly regarding marriage registration.

A key example of this tension is Marriage Law No. 1 of 1974, which states that a marriage is legally valid only if conducted according to one of the religions officially recognized by the Indonesian government (Anam & Ahmad, 2024; Turisno et al., 2025). This requirement unintentionally excludes many Indigenous groups whose marital practices are based on customary norms rather than state-recognized religions. The Baduy—an Indigenous community in Banten, West Java, known for their commitment to traditional ways and resistance to outside influences—conduct marriages according to *pikukuh karuhun* (binding ancestral customary injunctions). Such practices do not fit neatly into the government's religious categories. As a result, marriages that are fully valid under Baduy custom often remain unrecognized by the national legal system, leaving couples and their children vulnerable to administrative exclusion. Similar conflicts between social legitimacy and state-recognized marriage have been observed in other areas, where couples marry outside formal state channels but still enjoy full social recognition (Halperin-Kaddari, 2023).

The lack of formal marriage registration has profound implications. Unregistered spouses may face obstacles in accessing legal remedies during divorce or disputes over communal or jointly acquired property (Oktaviana & Prameswari, 2021; Hanfiah, 2021; Paradza, 2020). Children born into unregistered customary marriages often encounter difficulties in obtaining a birth certificate, which is essential for access to education, healthcare, social welfare, and inheritance. Here, the law risks becoming a mechanism of exclusion rather than a catalyst for social development, deepening the structural inequalities experienced by Indigenous communities.

In 2016, the Indonesian Constitutional Court issued a landmark decision—Constitutional Court Decision No. 97/PUU-XIV/2016—arising from a judicial review of the Population Administration Law—was declared unconstitutional. The ruling declared that followers of Indigenous belief systems (*penghayat kepercayaan*) are entitled to have their belief traditions formally recorded on their Family Card (*Kartu Keluarga*) and National Identity Card (*Kartu Tanda Penduduk*), rather than being forced to select one of the state-recognized religions as their religion.

This decision represented a significant shift, asserting that followers of local belief systems and Indigenous traditions are entitled to have their marriages recognized within Indonesia's civil registration framework. Ideally, this decision should have expanded the inclusivity of the national civil registry (Siswanta 2024). However, its implementation at the administrative level has been uneven. Many communities still struggle to register marriages at the Population and Civil Registry Service (Disdukcapil), the district-level Population and Civil Registration Office responsible for vital records. Limited administrative preparedness, insufficient implementation of regulations, and minimal outreach have hindered the effectiveness of the Court's mandate.

Administrative discrimination remains a persistent obstacle. Although Indigenous communities now possess formal legal rights to register their marriages, inconsistent interpretations by local officials and entrenched bureaucratic practices frequently hinder access (Sukirno, 2019). In some regions, Department of Population and Civil Registration offices continue to apply outdated rules requiring alignment with state-recognized religions, effectively reinstating barriers that the Constitutional Court has already invalidated. Consequently, some Indigenous families opt to register their marriages under the banner of a state-recognized religion, while others continue to rely solely on customary law without formal documentation.

These disparities in legal access have broader implications for social development and equality. Without recognized marital status, Indigenous communities remain on the margins of various state-administered services, from legal protection to social assistance and inheritance

governance (Drajat & Rahmawati, 2024). This deepens the divide between Indigenous peoples and populations that are more fully integrated into the national legal bureaucracy. Thus, the central challenge of Indonesia's legal development is not only to acknowledge the legitimacy of customary law but also to build legal and administrative mechanisms that allow national law to interact with Indigenous traditions on equitable, accessible, and respectful terms in the future.

The Baduy community, an Indigenous group in Banten Province, West Java, maintains a highly cohesive customary legal system that governs all aspects of social life, including marriage. Within Baduy customary law, marriage registration with state authorities is neither required nor embedded in their social practice (Muslih, 2021). Marital legitimacy is determined exclusively through customary procedures administered by the Puun, the highest customary leader with authoritative jurisdiction over ritual conduct and social order. This reflects a worldview in which the validity of marriage derives from ancestral norms rather than administrative documentation, rendering state recognition largely irrelevant to their daily lives.

Baduy marriage is grounded in the principles of *pikukuh karuhun*, a set of ancestral injunctions that structure every aspect of communal life, including spouse selection, wedding rituals, and post-marital household arrangements (Drajat & Rahmawati, 2024). This framework is fundamentally distinct from Indonesia's national legal system, which requires formal registration in the civil registry for a marriage to be considered legal. For example, Baduy customary law prescribes absolute monogamy and recognizes divorce only under highly exceptional circumstances, whereas national family law permits recorded marriages to be dissolved through formal judicial processes. These structural differences create a persistent gap between customary and state legal norms, particularly when Baduy individuals interact with state administrative systems.

The absence of state-recognized marriage documentation has significant legal consequences for the Baduy, especially regarding asset ownership, inheritance, and population administration (Oktaviana & Prameswari, 2021). Without official proof of marriage, Baduy couples engaging with external institutions such as banks, courts, or government agencies often face barriers in accessing essential services. Likewise, children born into unregistered customary marriages may encounter difficulties in obtaining birth certificates, which, in turn, affects their rights to education, healthcare, citizenship status, and inheritance. From a legal development perspective, this situation illustrates Indonesia's national legal system's continuing inability to fully accommodate the pluralistic legal orders that operate within Indigenous communities.

Addressing these gaps requires more than acknowledging the existence of customary marriage practices in the region. This demands a policy framework capable of integrating the distinctive features of Baduy customary law into national registration mechanisms without erasing their cultural identity. A more inclusive regulatory approach—one that recognizes the authority of customary institutions while ensuring access to state-administered rights—is essential to bridging the divide between Indigenous legal traditions and the national civil registration system.

B. Method

This research employs non-doctrinal legal research on marriage rights for *penghayat kepercayaan* (followers of Indigenous belief systems). It analyzes the implications of such protection for their civil rights within Indonesia's pluralistic legal framework. This study integrates the statute, case, and socio-legal approaches to provide a comprehensive understanding of both the doctrinal foundations and practical challenges surrounding marriage registration. The normative component focuses on analyzing the legal rules governing the registration of marriages for *penghayat kepercayaan*, including the Marriage Law (Law No. 1 of 1974), Government Regulation No. 40 of 2019, and Supreme Court Circular Letter (SEMA) No. 2 of 2023. Particular emphasis is placed on Constitutional Court Decision No. 97/PUU-XIV/2016, which reaffirmed the constitutional right of *penghayat kepercayaan* to have their belief systems formally acknowledged in Indonesia's population administration system. Together, these instruments form

the doctrinal basis for understanding how civil rights—such as identity documentation, inheritance, and access to public services—can be realized by communities whose marital practices originate outside state-recognized religious categories.

The case approach is used to evaluate judicial decisions relating to marriage registration involving *penghayat kepercayaan*, enabling the study to identify emerging patterns of legal reasoning, doctrinal consistency, and the extent to which judicial practice aligns with constitutional mandates. This process provides insight into how courts respond to conflicts between customary marital practices and administrative requirements imposed by national law. To contextualize how these legal norms operate in practice, a socio-legal approach is applied through empirical research conducted in several administrative regions. The primary research site is Banten Province, the homeland of the Baduy Indigenous community, whose marital practices are rooted in *pikukuh karuhun* (ancestral customary injunctions).

This study draws on both primary and secondary data. Primary data were collected through structured interviews with Department of Population and Civil Registration, representatives of *penghayat kepercayaan* communities (including Baduy elders), and legal practitioners experienced in handling marriage registration cases. Field observations were conducted to assess administrative procedures and identify the practical barriers encountered by Indigenous communities in securing the formal recognition of their marital status. Secondary data consist of statutory materials, court decisions, government documents, academic journals, and relevant scholarly works obtained through systematic documentation methods. The data were analyzed using a qualitative descriptive approach. Normative analysis was conducted to evaluate the coherence of the legal framework with constitutional principles and human rights standards. The empirical data were examined using socio-legal analysis to identify the administrative constraints, bureaucratic practices, and sociocultural factors influencing the implementation of marriage registration regulations. By integrating doctrinal and empirical perspectives, this research aims to bridge the gap between formal legal norms and their application in the everyday experiences of Indigenous belief communities, offering a holistic understanding of the challenges they face within Indonesia's pluralistic legal order.

C. Results and Discussion

1. Socio-Legal Findings on Marriage Practices in the Baduy Community

a. The Interaction of Baduy Customary Marriage Practices and Indonesia's State Law

The Baduy community is internally divided into two groups: Baduy Tangtu (also known as *Baduy Dalam*, or “Inner Baduy”) and the Baduy Panamping (*Baduy Luar*, “Outer Baduy”) (Hasim et al., 2025, 2026). The designation “Inner” does not merely refer to geographical location but to the degree of adherence to ancestral norms and the extent of permissible interaction with the outside world. The Baduy Tangtu occupy the innermost, more secluded settlements, which are deliberately insulated from external social, economic and administrative influences. This spatial seclusion results in minimal direct contact with state institutions, including population administration offices, thereby reinforcing their commitment to ancestral customary law (*pikukuh karuhun*).

In contrast, the Baduy Panamping live in surrounding buffer villages that mediate limited interaction with the non-Baduy society. Their proximity to markets, government offices, and administrative services enables a higher degree of engagement with state structures, although they still uphold core customary principles. This structural division has significant implications for how each group approaches marriage practices, legal identity, and access to state administrative mechanisms.

The Baduy Tangtu maintain a strict observance of *pikukuh karuhun*—the ancestral customary injunctions that govern all aspects of social life—and limit almost all interactions

with external institutions, including state administrative bodies. By contrast, the *Baduy Panamping* engage more frequently with outside society and state services, though they continue to uphold core customary norms. This internal division significantly shapes how each group understands, practices, and responds to legal marriage regulations.

From a socio-legal standpoint, marriage practices in the Baduy community illustrate a complex interaction between customary norms and Indonesia's state legal framework. While national law regulates marriage through the Marriage Law (Law No. 1 of 1974) and, for Muslims, the Compilation of Islamic Law, the Baduy prioritize their customary "living law" as the primary source of authority for determining the procedures, requirements, and consequences of marriage, as follows. This reflects the broader phenomenon of legal pluralism, in which multiple normative orders coexist and simultaneously shape social behavior (Read, 1978; Firmansyah, Angelika, Wijaya, & Sylvana, 2021).

Empirical findings show that the Baduy do not reject state law outright; rather, they regard customary law as the principal framework that gives marriages social and moral legitimacy. National norms—particularly the requirement in Articles 5(1) and 6(1) of the Compilation of Islamic Law that Muslim marriages be officially recorded before a Marriage Registrar do not hold the same normative force within the community. In Baduy Tangtu, marriage is conducted solely through customary procedures and is never registered with the Office of Religious Affairs (Office of Religious Affairs). State involvement is seen as being incompatible with the obligation to preserve ancestral purity and communal identity.

A small portion of the Baduy Panamping have registered their marriages at the Religious Affairs Office, but such registration does not alter the underlying customary structure of marital relations in their community. Importantly, registering a marriage with the state is considered a violation of the *adat*. Individuals who do so are regarded as having left the Baduy community and lose their status within the customary system. This social sanction constitutes one of the strongest deterrents to marriage registration, even among those who are aware of the legal consequences under the national law.

These dynamics underscore that, within the Baduy community, the validity of marriage is grounded primarily in customary norms rather than administrative legality. Consequently, marriages unregistered by the state are fully recognized internally but lack legal standing in the national legal system. This disjuncture generates a significant regulatory gap: spousal rights, the legal certainty of marital status, and the rights of children born from such marriages remain vulnerable under the state law (Sihotang, 2018). The coexistence of these parallel normative orders demonstrates the persistent challenges arising at the intersection of customary authority and state regulatory regimes in Indonesia.

Within Baduy customary law, marriage is not merely a union between two individuals but a mechanism for preserving social order and maintaining the continuity of ancestral norms. One of the most distinctive features of Baduy marital practices is the system of arranged marriages, which is strictly observed among the Baduy Tangtu (Inner Baduy). Interviews with customary leaders and married couples reveal that matchmaking is regarded as essential to safeguard the purity of *adat* and ensure the stability of the community's social structure. In this system, decisions regarding marriage are made by parents and customary authorities responsible for selecting a suitable spouse for the prospective bride or groom. This process is grounded in the customary doctrine that marriage constitutes a collective responsibility, rather than an individual choice.

These findings indicate that, within Baduy customary law, women occupy a subordinate position in marital decision-making, as they do not possess full autonomy in selecting their life partners. This stands in contrast to the principle of gender equality recognized under Indonesian state law, particularly Article 31 of the Marriage Law, which affirms that the rights and responsibilities of husbands and wives are balanced within the household and in society.

The divergence between the two normative systems reveals an ongoing gap in the fulfillment of women's rights within Baduy customary marriage, particularly regarding individual autonomy and agency.

However, within *Baduy Panamping* (Outer Baduy), there is evidence of gradual change. Some couples have begun to exercise a degree of choice in selecting their spouses, reflecting a subtle negotiation between customary traditions and social transformations resulting from increased interaction with the outside world. Although arranged marriages remain the prevailing norm, the emergence of limited personal-choice marriages suggests an evolving space for women's decision-making, albeit within narrow boundaries.

Taken together, these dynamics demonstrate that arranged marriage continues to serve as the dominant normative framework within the Baduy community, while modest shifts are occurring among the *Baduy Panamping community*. The tension between customary norms and state legal principles, particularly those related to gender equality, remains a salient gap in the regulation of marriage within the Baduy sociolegal context.

b. Understanding Baduy Customary Marriage through Social, Cultural, and Law-Development Lenses

Customary marriage within Indigenous communities should not be understood merely as a legal event but as a deeply embedded social institution with cultural, religious, and structural significance. In socio-legal scholarship, marriage in customary societies functions not only as a bond between two individuals but also as a mechanism that connects families, kinship groups and broader social structures. This aligns with Arnold van Gennep's classical theory of rites de passage, which conceptualizes marriage as a ritual marking the transition from one social status to another (Wardatun, 2018). In many Indigenous communities across Indonesia, marriage rituals carry symbolic weight that ensures the continuity of social cohesion and cultural identity.

Marriage also plays a central role in preserving kinship systems— patrilineal, matrilineal, or bilateral—by regulating alliances between family groups. In some communities, marriage reinforces inter-family relations through exogamy (marriage outside one's group) or maintains internal cohesion through endogamy (marriage within the same lineage or group). Customary marriages frequently involve obligations and reciprocal responsibilities not only between the bride and groom but also between extended families, often formalized through customary legal orders that carry a collective binding force. This collective dimension distinguishes customary marriage from the more individualistic orientation embedded in the state's legal frameworks.

Within the broader field of law development, understanding the persistence of customary marriage within Indonesia's national legal architecture is essential. According to Griffiths' theory of legal pluralism, law in any society does not derive solely from the state; it also emerges from social norms, customary practices, and community-based regulatory systems (Bens & Vetter, 2018). This framework remains highly relevant to Indonesia's marital regulations, where—despite efforts toward unification through the Marriage Law (Law No. 1 of 1974)—customary law continues to operate in parallel with state law. Article 66 of the Marriage Law explicitly acknowledges this coexistence by allowing the continued application of customary norms, provided that they do not contradict the statute.

From the perspective of the sociology of law, formal state law cannot be isolated from the social realities in which it is situated. Eugen Ehrlich's concept of living law highlights that the normative order governing everyday life often exerts more influence than the formal legal rules imposed by the state. This observation is evident in Indonesia's customary marriage practices. Although marriage registration is a formal requirement for legal validity under positive law, many Indigenous communities continue to observe local norms that have been

transmitted across generations. In certain settings, disregarding customary norms in marriage may even generate social conflict, such as violations of kinship obligations that hold significant moral and cultural weight within the community.

As part of Indonesia's ongoing legal development, the central challenge in regulating customary marriages lies in accommodating local values without sacrificing the principles of justice, gender equality, and legal certainty. Issues such as dowry obligations, inheritance arrangements, and post-divorce child custody remain contested areas in the harmonization of customary and national legal norms. From the perspective of legal pluralism, a more flexible and culturally responsive approach to marital regulation is required—one that acknowledges the legitimacy of customary norms while ensuring that national law continues to uphold fundamental rights and provide coherent legal protection.

Under Indonesia's Islamic legal framework, marriage registration is a key administrative mechanism that is designed to ensure legal certainty and public order. Article 5(1) of the *Kompilasi Hukum Islam* (Compilation of Islamic Law) stipulates that marriages must be registered to obtain legal recognition and administrative validity. Article 6(1) reinforces this by requiring that marriage ceremonies be conducted before or under the supervision of an official Marriage Registrar. Article 6(2) further clarifies that marriages performed without supervision do not possess legal force under state law.

After Indonesia's independence, several procedural reforms were introduced to reduce legal pluralism in marriage regulation, although substantive pluralism largely remained. The colonial *huwelijksordinanties* were replaced by Law No. 22 of 1946 on marriage registration for Muslims, later extended nationwide through Law No. 32 of 1954. During the Revolution (1945–1949), adat courts were formally abolished, placing marriage disputes under the unified state court system, although many adat institutions continued to function informally as mediation forums. Despite these changes, little effort was made to unify substantive family law. This was largely due to the government's focus on nation-building and economic development, as well as the sensitivity of regulating religious and deeply rooted social practices. Moreover, after the collapse of democracy in 1959, President Sukarno promoted population growth, which discouraged stricter marriage regulation (Bedner & Van Huis, 2010).

However, in the Baduy context, the implementation of marriage registration reflects a distinct socio-legal dynamic shaped by geography, religious diversity, and the community's internal segmentation. A historical example illustrating this dynamic is the development of *Cicakal Girang*, a settlement within the wider Baduy area, whose residents are predominantly Muslim. The establishment of this community is closely linked to the Baduy's difficulties in accessing the Office of Religious Affairs (Office of Religious Affairs), the state office responsible for registering Muslim marriages. According to Abdul Rasyid, a Baduy Muslim leader, this difficulty prompted the Baduy customary leadership to request the Sultanate of Banten to appoint a Muslim family to *Kanekes*. The purpose of this was to provide religious administrative support, including marriage registration and funeral rites. This reflects a pragmatic acknowledgment of the legal benefits associated with state registration within segments of the Baduy community.

Today, *Baduy Muslims* in *Cicakal Girang* continue to follow customary matchmaking practices but have incorporated Islamic administrative procedures. Marriages are typically witnessed by customary elders, such as the *dukun* (traditional healer), *kokolot* (senior elder), or *tangkesan* (ritual elder representing adat authority), who validate the marriage under customary law. At the same time, a state-recognized Islamic marriage official (*Naib or amil*) acts as the registrar so that the marriage obtains legal standing. The customary dowry (*mahar*) often includes *sirih* (betel leaves), *kain poleng* (a checkered cloth symbolic of *Sundanese cosmology*), and a modest sum of money.

In contrast, the Baduy Tangtu continue to reject all forms of state registration for their community. Their marriages are conducted exclusively through adat rituals and thus lack legal recognition under the national law. Meanwhile, *Baduy Panamping* follows a hybrid approach: after completing the customary marriage rite, couples travel—accompanied by a relative—to *Cicakal Girang* to register the marriage before an Islamic amil. *Cicakal Girang* is therefore the only location within the Baduy region where formal marriage registration is institutionally practiced. These diverging practices reveal significant regulatory gaps. While segments of the Baduy population increasingly acknowledge the protective function of state registration, others remain committed to a customary legal order that does not recognize state authority over their lives and livelihoods. This duality reflects the unresolved tension between customary autonomy and the state's need for administrative certainty, with implications for marital status, inheritance, and civil rights.

c. Customary Marriage in the Baduy Community: Lineage, Authority, and Adaptive Change

In contemporary Indonesia, as in many other postcolonial societies, the recognition of indigenous peoples' rights through the formal categorization of customary law communities is often perceived as constraining their agency and positioning them at the periphery of broader legal frameworks. However, such a perspective may overstate the capacity of states—particularly colonial or postcolonial states—to fully impose these limitations. From the standpoint of local communities, colonial legal constructs have at times created alternative opportunities that allow communities to navigate, reinterpret, and occasionally circumvent certain constraints embedded in customary law. In this sense, local actors are not merely passive subjects of legal categorization; rather, they actively engage with the state and the evolving pluralistic legal order, interpreting and utilizing these structures in ways that align with their own social interests and community needs (Manse, 2024).

Marriage practices within the Baduy community display distinct characteristics that differ substantially from those regulated by the Compilation of Islamic Law and Indonesia's national legal framework. One of the most prominent differences is the central role of matchmaking, particularly within the *Baduy Tangtu* (or *Baduy Dalam*, "Inner Baduy"), where customary norms require marriages to follow ancestral lineage rules and strict adherence to *adat* (customary law). Almost all marriages within Baduy Tangtu are arranged by parents or customary leaders, reflecting the belief that marital unions contribute to the preservation of collective identity and the continuity of the community's ancestral order. In this system, girls often marry in their mid-teens, and prospective brides or grooms do not possess the autonomy to reject a match. Matchmaking is a familial obligation that ensures the transmission of *pikukuh karuhun*, the ancestral customary injunctions that guide all aspects of Baduy life.

In contrast, the *Baduy Panamping* (or *Baduy Luar*, "Outer Baduy") exhibit greater flexibility in their marriage practices. Although arranged marriages remain common, some couples are permitted to choose their own partners, provided that both families approve. This emerging autonomy suggests a gradual shift in customary norms driven by increased interaction with external societies. However, parental authority and communal expectations continue to carry significant weight, reflecting a hybrid model in which personal preferences coexist with customary responsibilities.

Marriage among the Baduy carries symbolic meanings that go beyond the union of two individuals. Before the formal wedding rituals, the groom is expected to present a series of household items, such as a *dandang* (rice steamer), *sepan* (steamer pot), *baris* (rice container), and a modest sum of money to the bride's family. These items must be obtained through the groom's own labor or through family support, symbolizing his readiness to build and sustain

a household of his own. Such material expressions reinforce the idea that marriage is as much a socioeconomic commitment as it is a familial or cultural one.

The ritual dimensions of marriage also differ between these two groups. Among the Baduy Panamping, the groom recites an ikrar or declaration—often referred to as a *syahadat* in Old Sundanese—that resembles the Islamic creed but carries a distinct cultural meaning within the Baduy tradition. Meanwhile, in Baduy Tangtu, the core ritual is known as *kawin batih* (“perpetual marriage”), which must be performed before the Puun, the highest customary authority. In this ritual, the couple and their parents recite the *syahadat tangtu*, a sacred ancestral vow different from that used among the Panamping people. These ritual differences illustrate that marriage in the Baduy community is not merely a social contract but a profound expression of spiritual continuity and of customary legitimacy.

Taken together, these patterns reveal that Baduy customary marriage is neither uniform nor static. While the Baduy Tangtu maintain strict adherence to ancestral norms, the Baduy Panamping demonstrate selective adaptation influenced by external cultural and administrative encounters with the outside world. This divergence underscores the dynamic nature of Baduy customary law, which continues to evolve in response to social interactions while preserving the core principles that define Baduy identity. The coexistence of these parallel developments highlights the complexity of legal pluralism in the Baduy context, where customary norms, religious influences, and state legal expectations intersect in uneven and evolving ways.

d. The Prohibition of Polygamy in the Baduy Community

One of the defining features that distinguishes Baduy customary marriage from the framework set out in the Compilation of Islamic Law is the absolute prohibition of polygamy in the former. According to Baduy customary law, both men and women may have only one spouse at any given time. Remarriage is permitted when a spouse dies, but simultaneous marriages, whether polygamy or polyandry, are categorically forbidden. This stands in sharp contrast to Islamic family law, where Article 55(1) of the Compilation of Islamic Law allows a man to have more than one wife, provided that he can act justly toward them. Article 56(1) requires husbands to obtain authorization from the Religious Court before entering a polygamous marriage. None of these principles applies to Baduy customary law, which rejects any form of marital plurality.

Customary norms also regulate gender interactions with exceptional strictness. In the Baduy community, men are prohibited from visiting the home of an unmarried woman unaccompanied by a relative. This rule aims to preserve premarital propriety and prevent relationships outside of marriage. These restrictions reflect the enduring influence of Sunda Wiwitan, the Indigenous religious tradition underpinning the Baduy’s customary norms and moral expectations. The integration of religious, moral, and social rules demonstrates that marriage is not merely a legal institution but a culturally embedded system of social discipline.

Historically, the Baduy prohibition on polygamy is linked to their identity as a group that resisted the spread of Islam in the 16th century in the Banten and West Java regions of Indonesia. While much of the Sundanese population gradually adopted Islam, a small group that maintained their ancestral belief system became what is now known as the Baduy community. Their rejection of Islamic marital norms—especially polygamy—functions not only as a customary rule but also as a marker of ethnic and religious distinctiveness.

The monogamous structure of Baduy marriages reflects ecological and demographic considerations. The Baduy inhabit a geographically limited area with finite natural resources; maintaining a strictly monogamous marriage system is understood as a way to regulate population growth and sustain ecological balance within their territory. Thus, the prohibition of polygamy cannot be viewed solely as a cultural norm but must be understood as part of a

broader socio-ecological governance system. Despite the strength of these customary norms, their implementation faces challenges, particularly among the *Baduy Panamping* (*Baduy Luar*, the “Outer Baduy”), who have greater exposure to external society through work and mobility than the other groups. As more *Baduy Panamping* members engage in wage labor outside Kanekes and interact with the broader Indonesian society, they encounter alternative marital models, including the Islamic acceptance of polygamy. While such influences have not yet produced widespread normative changes, they introduce the possibility of shifting perceptions among younger or more externally engaged community members.

These dynamics reveal that Baduy customary law is not static but rather dynamic. Although *Baduy Tangtu* (*Baduy Dalam*, “Inner Baduy”) continues to preserve strict monogamy, Panamping’s increasing engagement with external cultural and legal systems creates spaces of negotiation and tension. Legal development within the Baduy community, therefore, proceeds in a non-linear manner, marked by internal contradictions, adaptive pressures, and ongoing efforts to reconcile ancestral norms with contemporary social realities. On one hand, Baduy customary law remains firm in safeguarding marital fidelity and monogamy; on the other, external exposure subtly reshapes the socio-legal environment in which marital norms are interpreted and challenged by the community.

e. The Implementation of Divorce in the Baduy Community

Baduy customary law establishes exceptionally strict and distinctive rules regarding divorce, diverging substantially from both the Compilation of Islamic Law and Indonesia’s national legal framework. Among *the Baduy Tangtu* (*Baduy Dalam*, “Inner Baduy”), divorce is absolutely prohibited under all circumstances except for the death of a spouse. This prohibition is rooted in the doctrine of *kawin batih*, a concept of marriage understood as permanent and indissoluble by human decisions. Only death—not personal conflict, incompatibility, or legal petition—can end a marriage within the Baduy Tangtu community.

This norm is materially and symbolically embedded in the architecture of the *Baduy Tangtu* homes. The traditional stilt house (*imah panggung*) features only one door, a deliberate symbolic design representing marital fidelity and monogamy. The single doorway signifies that a husband has only one wife, and that marriage is meant to occur only once in a lifetime. Violating this rule—or attempting to divorce—results in expulsion from the Baduy Tangtu community. Such expulsion strips the individual of the right to live in their customary territory, effectively severing both social membership and spiritual belonging. This social sanction reinforces the uncompromising nature of Baduy Tangtu customary law, which recognizes no form of divorce whatsoever.

In contrast, *the Baduy Panamping* (*Baduy Luar*, “Outer Baduy”) adopt a more flexible approach, although divorce remains highly discouraged and culturally taboo. Influenced by greater interaction with external society and exposure to state norms, the Panampings permit divorce only in limited circumstances. The customary procedure is known as *sabah*, in which divorce is delivered orally before a customary leader or village authority. Unlike state law, no written documentation is required; a spoken declaration is considered sufficient under Adat. However, because Indonesian state institutions do not recognize Sabah divorces, they do not produce official legal records. Consequently, a Baduy Panamping individual who has divorced according to adat may face administrative obstacles, particularly if they later seek to remarry under the national legal system.

These customary rules contrast sharply with Islamic law, as codified in the Compilation of Islamic Law. Article 113 of the Compilation of Islamic Law states that marriage may be dissolved by death, divorce, or a court ruling. Article 114 recognizes two mechanisms for divorce: *talak*, pronounced by the husband or *cerai gugat* (divorce petition) filed by the wife in a Religious Court. However, no such formal mechanisms exist in the Baduy system. A state

court cannot grant a divorce, and there is no concept equivalent to talak or a judicial divorce. Consequently, the absence of official divorce documentation creates legal complications for Baduy individuals who wish to enter legally recognized marriages outside the customary system.

These differences highlight a significant regulatory gap between the Baduy customary law and Indonesia's national legal order. While *Baduy Tangtu* strictly upholds the ideal of perpetual marriage, Baduy Panamping practices a more adaptive version of adat that nonetheless lacks formal legal standing under state law. This disconnect reveals the challenges of harmonizing customary marital norms—particularly those concerning divorce—with national legal requirements for civil status and marital registration. It also illustrates the broader tension inherent in Indonesia's legal pluralism: the state's administrative framework demands documentation, procedure, and legality, whereas Baduy customary law privileges spiritual permanence, communal identity, and oral tradition.

Although divorce is permitted within the *Baduy Panamping* (*Baduy Luar*, “Outer Baduy”) through customary procedures, its social consequences are significant and often far-reaching in nature. Within *the Panamping community*, divorce is commonly perceived as a failure to uphold customary expectations, and individuals who experience it frequently face social stigmas. The impact is particularly pronounced for divorced women. A woman who has gone through a divorce may return to her natal household and assume the sole responsibility for her children. Her social standing can decline, and remarriage becomes considerably more difficult because of prevailing conservative attitudes toward divorced women. Meanwhile, divorced men encounter a different set of social pathways. Although they, too, may face stigma, they are more likely than women to remarry or leave the Baduy territory altogether. Many divorced *Panamping* men migrate to nearby towns to seek wage labor, working as agricultural laborers, vendors, or even domestic workers. This gendered divergence in post-divorce trajectories illustrates the broader socioeconomic dynamics of the community and highlights how customary law interacts with structural factors such as gender roles and mobility.

These patterns underscore that, even though Baduy customary law wields a strong normative influence, it cannot fully insulate the community from social changes arising from sustained interaction with the external society. Divorce, in this sense, becomes a point of tension, revealing the interplay between enduring customary values and emerging economic and social pressures. Divorce also has implications for the long-term sustainability of the Baduy customary system. In some cases, individuals who experience divorce choose to leave the Baduy community permanently and establish residence outside the customary territory. This gradual outflow may contribute to a shrinking population of those who remain committed to the most conservative forms of *Baduy adat*, potentially leading to shifts in the transmission and vitality of customary norms in the future.

These developments reflect the non-linear nature of legal change within the Baduy community. On the one hand, *Baduy Tangtu* (*Baduy Dalam*, “Inner Baduy”) continues to uphold the absolute prohibition of divorce, preserving a rigid form of customary marital doctrine. Conversely, Panamping's increasing exposure to external social and economic environments has introduced new perspectives on marital dissolution, even if divorce remains embedded within adat and lacks official recognition under national law. Taken together, the socio-legal evolution of divorce in the Baduy community reveals an ongoing negotiation between the preservation of ancestral norms and the pressures of broader societal engagement. This negotiation shapes not only marital practices but also the demographic and cultural contours of Baduy identity.

Age norms represent a fundamental dimension of marital regulation, illustrating how societies define the appropriate moment for individuals to marry. In Indonesia's national

framework, age eligibility is governed by the relevant statutory provisions. Under the Compilation of Islamic Law, Article 15(1) requires prospective spouses to meet the age requirements set out in the Marriage Law. Following the 2019 amendment (Law No. 16 of 2019), the legal minimum age for marriage is set at 19 years for both men and women, reflecting the state's emphasis on child protection and prevention of early marriage. In *Baduy Tangtu (Baduy Dalam, "Inner Baduy")*, however, the age norm for marriage is not derived from statutory thresholds but from customary conceptions of biological and social maturity. Girls commonly marry in their early to mid-teens, an age regarded within Baduy custom as appropriate once they have reached menarche. In this context, adat defines maturity not as a chronological benchmark but as a biological transition that signals readiness for domestic responsibility and integration into communal life. As arranged marriages (*perjodohan*) remain the norm, young women have limited opportunities to postpone marriage to align with national legal standards.

These customary age norms reflect broader Baduy values that view marriage as a social and spiritual obligation. Entering marriage shortly after biological maturity is understood as part of the natural progression of life and a contribution to the stability of the community. The decision-making authority rests with parents and customary leaders, whose role is to ensure that marriage reinforces ancestral norms rather than individual preference. Among *the Baduy Panamping (Baduy Luar, "Outer Baduy")*, age norms are more fluid. While early marriage remains common, families with greater exposure to external society through wage labor, schooling, or administrative interactions have begun to delay their children's marriages. Some parents now prefer their children to reach later adolescence before marrying, reflecting a subtle negotiation between customary expectations and modern influences on marriage. This change remains limited but signals an evolving internal discourse on age and marital readiness in the Philippines.

From the perspective of national law, customary early marriages among the Baduy—particularly in *the Tangtu community* fall within the category of child marriage and therefore do not meet the legal criteria for a valid marriage without judicial dispensation. However, dispensations are irrelevant in practice, as marriages within the Baduy community generally occur outside the state's administrative system. Consequently, statutory age requirements have little practical effect on customary marriage practices. This illustrates a broader pattern in which living law and customary authority hold greater normative force than state law in structuring the everyday lives of the people. The dissonance between the national age requirements and Baduy customary age norms underscores the complexities of legal pluralism in Indonesia. While the state pursues uniform legal standards to promote child welfare and gender equality, Baduy customary law continues to operate according to its own cultural logic, prioritizing ancestral continuity, communal cohesion, and customary definitions of maturity. This gap highlights the ongoing challenge of harmonizing state-driven legal reforms with Indigenous sociocultural frameworks that hold deep legitimacy within local communities.

2. Legal Pluralism and the Recognition of Baduy Customary Marriages in Indonesia's National Legal System

a. The Legal Status of Baduy Customary Marriage within Indonesia's National Marriage System

Marriage in Indonesia is not merely a private contract but a social and legal institution that reflects the country's long history of legal pluralism. Before the enactment of the Marriage Law (Law No. 1 of 1974), marital regulation in Indonesia was fragmented across multiple legal orders: Indigenous communities followed their respective adat systems; religious groups applied their religious marital rules; and others were subject to civil law inherited from the

colonial period. As a result, the validity of a marriage depended on the legal system adhered to by each group (Amruzi, 2020).

The promulgation of the 1974 Marriage Law marked the state's effort to unify these diverse regimes into a more coherent national system. Article 1 of the law defines marriage as "a physical and spiritual bond between a man and a woman as husband and wife to form a happy and eternal family based on the belief in God Almighty." This formulation expresses the dual legal-religious character of Indonesian marital law: marriage is simultaneously a social contract, a religious ritual, and a legal act requiring state oversight.

The 1974 law also aimed to replace various older regulations—including the *Burgerlijk Wetboek* (Civil Code), the Christian Marriage Ordinance, the Mixed Marriage Regulation (*Regeling op de Gemengde Huwelijken*), and numerous colonial-era provisions. Article 64 explicitly revokes these earlier rules to the extent that the Marriage Law regulates the same subject matter, signaling the intention to consolidate Indonesia's fragmented marital frameworks.

Nevertheless, unification did not entirely extinguish the role of customary law. Article 66 of the Marriage Law explicitly acknowledges that *adat* may continue to apply "as long as it does not conflict with this Law." This clause reflects Indonesia's pragmatic accommodation of legal pluralism: customary practices—such as marriage ceremonies, engagement rituals, and communal obligations—may persist, provided they do not contradict the national legal order. In practice, this means that cultural expressions of marriage remain largely intact, while issues involving legal status, civil registration, and evidentiary requirements fall under the authority of the state.

One of the most transformative changes introduced by the Marriage Law is the elevation of marriage registration as a central criterion for legal validity. Whereas previously an Indigenous marriage could be considered legally binding if valid under *adat*, Article 2(2) of the 1974 law mandates that "every marriage shall be registered in accordance with the prevailing laws and regulations." This requirement signifies a paradigm shift in Indonesia's marital governance—from a pluralistic, community-based model to one that emphasizes documentation, administrative oversight, and state accountability. Within the framework of law development, this shift reflects the state's aspiration to modernize and rationalize civil-status administration.

The Marriage Law also incorporates several norms that have long existed in customary systems. For instance, Article 8 prohibits marriage between close blood relatives. This rule aligns with the principles of *eleutherogamy* (open marriage system) widely observed in Indonesian customary communities, where incestuous unions are considered taboo for both social and biological reasons. Likewise, the provisions on marital property (Articles 35 and 36)—which differentiate between premarital personal property and jointly acquired marital assets—reflect principles found in many *adat* traditions, where marital assets are treated as collective property while premarital assets remain individually owned.

Furthermore, on the issue of child custody after divorce, Article 41 maintains that both parents retain obligations to care for and educate their children, guided by the best interests of the child. Although the law grants courts ultimate authority, in many Indigenous communities—including the Baduy—customary norms continue to influence decision-making regarding child custody, especially in contexts where divorce is handled informally or outside the state system.

b. Legal Validity and State Protection of Marriage Registration for Indigenous Belief Followers

Legal validity in the context of marriage refers to the formal recognition of a marital union under the applicable legal framework. For *penghayat kepercayaan*—Indonesians who adhere

to Indigenous belief systems (*kepercayaan terhadap Tuhan Yang Maha Esa*)—the legal status of their marriages hinges on whether the state acknowledges marriages performed within their traditional religious norms and customary practices.

The Indonesian Constitution establishes a strong foundation for this recognition. Article 28E of the 1945 Constitution guarantees every citizen the freedom to embrace a belief, to express their convictions, and to practice worship according to their conscience. Article 29(2) further affirms the state's obligation to protect every individual's right to worship according to their religion or Indigenous belief system. As a non-derogable human right, freedom of religion and belief must be protected under all circumstances, which implies that recognition of *penghayat kepercayaan* cannot be merely symbolic; it must be operationalized through legal and administrative policies that safeguard their fundamental rights—including marriage registration.

Historically, Indonesia recognized only six “official” religions under Law No. 1/PNPS/1965 on the Prevention of Religious Abuse and/or Blasphemy: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism. Although the law did not explicitly prohibit other religions—such as Judaism, Zoroastrianism, Shintoism, or Taoism—it effectively restricted administrative recognition to these six categories. For decades, this regulatory structure marginalized *penghayat kepercayaan* by denying formal acknowledgment of their belief systems in civil registration, including marriage documentation.

A major legal transformation occurred with the Constitutional Court's landmark decision in Constitutional Court Decision No. 97/PUU-XIV/2016, which reviewed Article 61(2) and Article 64(5) of the Population Administration Law. Before the ruling, *penghayat kepercayaan* were required to leave the religion column in their identity cards and family cards marked with a dash, effectively excluding them from administrative equality (Sukirno & Natalis, 2025).

The Constitutional Court ruled that this arrangement violated constitutional guarantees of religious freedom, equality before the law, and protection from discrimination. The decision required that *penghayat kepercayaan* be allowed to record their Indigenous belief system in the religion field of both their national ID card and Family Card. This landmark ruling represented a pivotal moment in Indonesia's legal recognition of Indigenous belief communities, providing a stronger legal foundation for the state to acknowledge their marriages.

The ruling has profound implications for marriage registration. It removes one of the main administrative barriers to recognizing the marriages of *penghayat kepercayaan*, who were previously compelled to register their marriages under one of the six official religions or to forgo legal recognition altogether. By affirming their equal status in civil documentation, the Constitutional Court's decision extends constitutional protection to the marital rights of Indigenous belief practitioners, thereby facilitating greater legal certainty for spouses and their children.

c. Legal Protection for Indigenous Belief Marriage Practices and Their Implications for Citizenship Rights

Legal protection for marriages conducted by adherents of *Kepercayaan terhadap Tuhan Yang Maha Esa* has undergone notable development in recent years. The Constitutional Court's landmark ruling—Decision No. 97/PUU-XIV/2016—established a constitutional foundation for recognizing Indigenous belief systems as equal to state-recognized religions, including in matters of civil registration. The ruling affirmed that denying administrative identity to Indigenous belief adherents violates the constitutional guarantees of religious freedom, equality before the law, and protection from discrimination. As a result, the decision

has become a critical milestone in strengthening their civil rights, especially with regard to marriage registration, legal identity, and family status.

However, despite these normative advances, the practical implementation of these protections remains incomplete. Many adherents continue to encounter administrative barriers, ranging from inconsistent interpretations at local civil registration offices (Disdukcapil) to limited institutional knowledge among officials about the legal status of Indigenous belief communities. These challenges reflect the broader gap between constitutional guarantees and administrative practice—a recurring theme in Indonesia's law development trajectory.

The implications of this gap are far-reaching. Without proper marriage registration, Indigenous belief adherents face difficulties accessing a range of civil rights, including inheritance claims, joint property recognition, child legitimacy, and public services tied to documented marital status. Children born into unregistered customary marriages may struggle to obtain birth certificates listing both parents, thereby influencing their access to education, healthcare, and legal identity. The constitutional promise of equality thus remains, in practice, unevenly realized. In this context, legal protection must not be understood merely as the formal recognition of marriage but as the state's responsibility to ensure substantive equality. This includes harmonizing administrative procedures with constitutional principles, improving institutional capacity, and ensuring that Indigenous belief communities can exercise their rights without structural disadvantage.

d. Marriage Registration for Indigenous Belief Adherents within the National Legal System

Several key legal instruments govern the registration of marriages for adherents of Indigenous belief systems, most prominently the Marriage Law (Law No. 1 of 1974) and Government Regulation No. 40 of 2019 on the Procedures for Registering Marriages of Adherents of *Kepercayaan terhadap Tuhan Yang Maha Esa*. The Marriage Law affirms that a marriage is considered valid when performed according to the religion or belief system of the couple, thereby placing Indigenous belief adherents on equal normative footing with followers of state-recognized religions. This principle represents a significant shift from past administrative practices, which implicitly subordinated Indigenous belief systems to officially recognized religious categories.

Government Regulation No. 40 of 2019 operationalizes this recognition and sets out the technical procedures for registering marriages. However, the regulation requires that the couple's belief organization be formally registered with the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek). This requirement has inadvertently created obstacles for communities whose belief systems are practiced outside formal organizational structures, or whose groups have not yet met administrative criteria for state registration. As a result, many adherents of Indigenous belief systems remain administratively excluded despite having explicit constitutional protection.

The regulatory landscape becomes more complex with the issuance of Supreme Court Circular No. 2 of 2023 (*Surat Edaran Mahkamah Agung*, SEMA). In the Indonesian legal hierarchy, a SEMA is not a statute or regulation but an internal directive issued by the Supreme Court to judges, intended to ensure uniform judicial practice. Although Supreme Court Circulars do not have legislative authority and cannot override statutes, they wield considerable influence in administrative and judicial practice because courts, civil registration offices, and local officials often refer to them as interpretive guidance.

Supreme Court Circular No. 2 of 2023 prohibits the registration of interfaith and inter-belief marriages, stating that civil registrars should refuse applications in such cases. While framed as a directive for judicial uniformity, the circular has had broader administrative

effects, shaping how local civil registration offices interpret marriage registration rules. This creates normative tension with constitutional guarantees of equality and the right to marry and form a family, as well as with the Marriage Law's recognition of marriages performed according to each couple's religion or belief.

For Indigenous belief adherents, this tension is particularly consequential. Couples from different belief systems may find their marriages unregistrable, even though both belief systems are constitutionally protected. As a result, individuals face significant barriers in accessing administrative recognition of their marriage and the bundle of civil rights associated with marital status—such as inheritance rights, child legitimacy, joint property documentation, and legal identity for children.

These overlapping regulatory requirements—formal organization registration under Government Regulation No. 40 of 2019 and the restrictive interpretation under Supreme Court Circular No. 2 of 2023—reveal a persistent gap between formal legal recognition and administrative accessibility. The legal framework increasingly acknowledges the plurality of belief systems as part of Indonesia's constitutional identity; however, administrative practices often lag, resulting in inconsistent and sometimes exclusionary implementation. For adherents of Indigenous beliefs, achieving true legal protection thus requires not only normative recognition at the constitutional level but also administrative coherence, institutional capacity, and regulatory harmonization across government bodies. Without these, the promise of equality remains only partially realized.

3. Socio-Legal Challenges and Policy Reform in the Marriage Registration System for Indigenous Belief Communities in Indonesia

a. Socio-Legal Barriers in the Implementation of Marriage Registration

Despite significant normative progress in recognizing the rights of adherents of Indigenous belief systems, the implementation of marriage registration regulations remains uneven across Indonesia. At the level of local civil registration offices (*Dinas Kependudukan dan Pencatatan Sipil*, or Dukcapil), inconsistencies persist in how officials interpret and apply existing rules. In some regions, officers accept documentation issued by leaders of Indigenous belief communities as the basis for registration. In other areas, however, registration is only permitted if the couple's belief organization has been formally registered with the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek). These discrepancies create legal uncertainty for couples seeking to formalize their marriages under national law.

A second barrier arises from limited legal awareness among both government officials and the communities concerned. Many Dukcapil officers lack a unified technical guideline on handling marriages involving Indigenous belief adherents, leading to discretionary and sometimes arbitrary decision-making. At the community level, a number of couples remain unaware that they possess a constitutional and statutory right to register their marriage. This dual gap in administrative capacity and public legal awareness reinforces structural inequality and makes it difficult for Indigenous belief adherents to exercise their rights effectively.

The consequences of these registration challenges extend beyond marital status alone, affecting a wide range of civil rights. Under Indonesian law, a marriage certificate serves as the foundational document confirming the legal relationship between spouses. It is also a prerequisite for issuing a child's birth certificate that lists both parents. When a marriage is not registered, children may face barriers in obtaining such documentation, potentially compromising their access to education, healthcare, and social protection services. The absence of a clear legal status similarly affects the rights of spouses, particularly with respect to inheritance, joint property ownership, and legal remedies in the event of marital disputes.

In response to these socio-legal barriers, many couples resort to alternative strategies—some pragmatic, others legally precarious—to secure administrative recognition. One common strategy involves temporarily altering the religion listed on the national ID card (KTP) to align with one of the six state-recognized religions, enabling the couple to register their marriage through standard religious channels. After the marriage certificate is issued, the individual may then revert their religious identity to reflect their Indigenous belief. Although effective in practice, this workaround reinforces the structural inequalities that drive Indigenous belief adherents to conceal their identities within administrative processes.

Other couples choose to marry exclusively under customary law without seeking state registration, despite the long-term risks this poses for legal protection. In more complex cases, individuals petition the District Court to obtain a judicial declaration of marital validity. While legally possible, this route is costly, time-consuming, and procedurally burdensome, making it inaccessible for many Indigenous belief adherents living in rural or socioeconomically marginalized communities. These socio-legal barriers demonstrate that formal legal recognition alone is insufficient without corresponding administrative readiness, institutional capacity, and public legal literacy. They also illustrate how legal pluralism operates unevenly in practice: while the constitution and national regulations increasingly embrace Indonesia's belief diversity, administrative systems often remain anchored in older, exclusionary practices. Addressing these gaps is essential to ensuring that marriage registration for Indigenous belief adherents becomes not merely a symbolic acknowledgment but a fully accessible and operational right.

b. Social and Economic Consequences of Unregistered Customary Marriages

The absence of formal marriage registration in customary communities does not merely constitute an administrative irregularity. Still, it generates a condition of legal invisibility that places individuals and families outside the effective protection of the state. Although marriages performed under customary law may be fully legitimate within the community, their non-recognition in the national civil registration system results in the exclusion of spouses and children from basic legal documentation, such as marriage certificates, family cards, and birth certificates. This form of administrative exclusion is structural in nature, arising from the design of state law rather than from individual non-compliance, and disproportionately affects adherents of indigenous belief systems whose marital practices fall outside officially recognized religious categories (Sukirno, 2019; Amruzi, 2020). Comparable socio-legal studies likewise emphasize that unregistered marriages systematically undermine legal certainty for spouses and children, placing them in a precarious civil status despite social legitimacy (Armelia et al., 2026; Yenni et al., 2025).

The consequences of unregistered customary marriages extend beyond the immediate legal status of spouses and are particularly severe for children, producing intergenerational effects. Children born from marriages that are not formally recorded often encounter difficulties in obtaining birth certificates, especially when the legal relationship between parents cannot be proven through state-recognized documentation. In Indonesia, the absence of a birth certificate has direct implications for access to education, health services, and social protection programs, as such documentation is commonly required for school enrollment, health insurance registration, and participation in state welfare schemes. Empirical studies consistently demonstrate that children from unregistered marriages face barriers in accessing education and healthcare due to deficiencies in civil registration (Sonu et al., 2025; Herlina et al., 2025). Studies on the legal status of *penghayat kepercayaan* following Constitutional Court Decision No. 97/PUU-XIV/2016 further show that administrative barriers remain a significant obstacle, despite formal constitutional recognition of indigenous belief systems (Oktaviana & Prameswari, 2021; Drajat & Rahmawati, 2024). From an intergenerational

perspective, this situation risks reproducing vulnerability across generations, as children inherit not only the social identity of their parents but also their administrative exclusion. Global research on civil registration confirms that lack of legal identity in early life is closely associated with long-term disadvantages in educational attainment, health outcomes, and social mobility (UNICEF, 2019).

Economic vulnerability represents another critical consequence of unregistered customary marriages, and its impact is markedly gendered. The absence of formal marriage documentation weakens the legal position of spouses—particularly women—in matters relating to maintenance, property, and access to legal remedies. Without proof of marriage, women face significant barriers when seeking legal protection in cases of marital conflict, separation, or divorce, as well as when applying for social assistance or economic support programs that require proof of family status. Socio-legal analyses across different contexts indicate that unregistered marriages disproportionately expose women to economic insecurity, as they are frequently excluded from claims to alimony, joint property, and social protection mechanisms (Wardatun, 2018; Soraya, 2025; Sukirno, 2019). In communities such as the Baduy Panamping, where divorce is permitted under adat but not documented administratively, divorced women are particularly vulnerable to economic marginalization, as they often return to their natal families with limited access to resources and formal legal protection.

The implications of unregistered marriages are also evident in the domain of inheritance and long-term economic security. In the absence of formal marriage records, spouses and children may encounter substantial difficulties in asserting inheritance rights, especially when disputes arise or when claims must be processed through formal legal institutions. Comparative legal studies confirm that children born from unregistered marriages frequently face legal uncertainty regarding inheritance and lineage, even when religious or customary norms recognize their familial status (Herlina et al., 2025; Ismail, 2025). Although recent constitutional jurisprudence in Indonesia has strengthened the legal standing of children born outside registered marriages, practical enforcement remains uneven, and evidentiary barriers persist (Anam & Ahmad, 2024). The uncertainty surrounding inheritance rights undermines household economic stability and increases the risk of intra-family conflict, particularly when customary inheritance arrangements intersect with state legal requirements. As a result, unregistered marriages contribute to long-term economic insecurity, not only for individuals but also for family units as a whole (Amruzi, 2020).

Viewed from a broader law-and-development perspective, the persistence of unregistered customary marriages reflects a deeper structural inequality within Indonesia's legal system. Law, in this context, functions not only as a normative framework but also as a gatekeeper that determines access to rights, resources, and state protection. When legal institutions fail to accommodate the lived realities of indigenous communities, they risk reinforcing social exclusion rather than promoting inclusive development (Trubek, 2016; Hidayat, 2024). The socio-economic consequences outlined above demonstrate that the issue of marriage registration cannot be reduced to questions of legal formality; it directly affects equality before the law, intergenerational mobility, and the distribution of social and economic opportunities.

These findings underscore the need for policy responses that move beyond symbolic recognition toward substantive inclusion. The social and economic costs of unregistered customary marriages illustrate that constitutional guarantees and statutory reforms must be accompanied by administrative adaptation and institutional capacity-building to prevent the continued reproduction of vulnerability among indigenous belief communities (Siswanta, 2024; Sukirno, 2019). This imperative provides the foundation for the policy-oriented discussion in the following section, which outlines concrete and context-sensitive measures

to bridge the gap between customary marital practices and the national civil registration system.

c. Toward an Inclusive Legal Framework for Marriage Registration

Given the socio-legal realities outlined above, Indonesia's marriage registration system requires a more responsive and inclusive legal architecture—one capable of accommodating the complex needs of Indigenous belief adherents and other communities historically situated outside the domain of state-recognized religions. The first step toward such reform lies in harmonizing the principal regulatory instruments governing marriage registration: the Marriage Law (Law No. 1 of 1974), Government Regulation No. 40 of 2019, and Supreme Court Circular No. 2 of 2023. Without alignment across these instruments, overlapping and contradictory norms will continue to undermine the legal certainty that marriage registration is intended to provide, particularly for Indigenous belief communities.

Administrative reform is equally crucial. The current divergence in Dukcapil practices across Indonesia highlights the need for standardized procedures that clearly articulate how marriages of Indigenous belief adherents should be registered. Such standardization must be accompanied by systematic training for civil registration officers to enhance their understanding of constitutional protections, statutory rights, and the normative status of Indigenous belief systems. Administrative discretion—often exercised due to limited guidance or misconceptions—must be minimized to prevent discriminatory practices and ensure consistent service delivery nationwide.

Another key reform area concerns the administrative prerequisites imposed by Government Regulation No. 40 of 2019. The requirement that a belief community is formally registered with the Ministry of Education, Culture, Research and Technology as a condition for marriage registration has proven exclusionary for loosely structured or non-bureaucratized Indigenous belief groups. Revisiting and relaxing this requirement would help ensure that legal recognition is grounded in individual constitutional rights, rather than in the organizational status of belief communities. Such recalibration would better reflect the spirit of the Constitutional Court's landmark decision (MK No. 97/PUU-XIV/2016), which emphasizes the protection of belief identity as an inherent civil right.

Strengthening community legal awareness is another essential component of an inclusive marriage registration framework. Many Indigenous belief adherents remain unaware of their right to register marriages or of the procedural avenues available to them. Targeted legal education programs—delivered through civil society organizations, academic institutions, and legal aid groups—can help bridge this gap. Enhanced community capacity to navigate administrative systems also reduces dependence on workaround strategies, such as temporary changes to religious identity. It promotes a healthier alignment between normative recognition and practical accessibility.

Ultimately, advancing an inclusive marriage registration system requires more than regulatory reform; it demands institutional coordination, administrative literacy, and sustained engagement with Indigenous belief communities. Only through such multi-layered legal development can Indonesia reconcile its constitutional commitment to religious and belief freedom with the practical realities faced by communities whose traditions fall outside mainstream religious categories. An inclusive system is not merely a matter of administrative efficiency, but a reflection of the state's obligation to guarantee equality before the law for all its citizens.

d. Strengthening Legal Recognition of Baduy Customary Marriage: Policy Proposals and Implications

Bridging the gap between Baduy customary law and Indonesia's national legal framework requires a set of policies that not only recognize normative pluralism but also provide practical, implementable mechanisms at the administrative level. Because the Baduy community maintains a distinct socio-cultural identity—particularly the Baduy Tangtu (Inner Baduy), who adhere strictly to ancestral law (*pikukuh karuhun*)—policy reform must be sensitive, participatory, and grounded in local realities rather than imposing uniform national standards. This subsection outlines concrete and pragmatic steps to operationalize an inclusive and workable marriage registration system, in line with reviewer recommendations.

A first policy pathway involves the adoption of local regulations (Peraturan Daerah or Perda) tailored to communities with strong customary institutions. A specialized Perda—drafted through consultation with Baduy leaders (Puun and Jaro)—could formally recognize the Baduy customary marriage system while establishing a legally valid mechanism for documenting marriages through designated liaison officers. Such a regulation would harmonize local administrative practices with national law without forcing the Baduy community to alter ritual obligations or cultural logic embedded in their marriage traditions.

Administrative reform is equally essential. The government can implement standardized Standard Operating Procedures (SOPs) for marriage registration involving Indigenous belief adherents, including Baduy Panamping (Outer Baduy), who already interact more closely with administrative systems. These SOPs should be disseminated across Dukcapil offices nationally to prevent inconsistent interpretations. To support this, the Ministry of Home Affairs (Kemendagri) should develop a national technical manual that outlines acceptable forms of documentation issued by customary leaders, replacing rigid requirements that assume Western-style organizational structures.

To ensure that implementation is feasible at the local level, capacity-building programs for civil registration officers are critical. Such programs should include: (1) Training modules on constitutional protection of Indigenous beliefs, the legal status of MK Decision 97/PUU-XIV/2016, and practical case-handling involving Baduy marriages; (2) Workshops and simulation exercises on receiving, verifying, and recording customary marriage documentation; and (3) Sensitivity training to reduce stigma or administrative bias against communities outside recognized religions.

Furthermore, the government could introduce a designated liaison role, such as “Customary Law Community Registration Facilitators,” drawn from Baduy Panamping residents who already maintain contact with external institutions. These facilitators would serve as intermediaries between Baduy families and Dukcapil offices, reducing miscommunication and administrative barriers. At the community level, legal literacy programs for Baduy residents are essential. These should be co-designed with local leaders to avoid cultural disruption and may include: (1) periodic legal counseling sessions held in Kanekes; (2) illustrated guides explaining marriage registration pathways; and (3) community discussions facilitated jointly by customary authorities, legal aid institutions, and scholars specializing in Indigenous studies.

Such initiatives help ensure that the Baduy community understands its civil rights and available administrative channels without perceiving them as threats to cultural identity. Another practical measure is the creation of a pilot project for inclusive marriage registration in Lebak Regency. A pilot scheme implemented jointly by the local government, Baduy authorities, and Ministry of Education, Culture, Research, and Technology of the Republic of Indonesia could test flexible documentation models, assess administrative feasibility, and generate lessons for scaling nationally. This approach mirrors Indonesia's broader law

development strategy, which often relies on localized experimentation before national adoption.

Finally, sustained dialogue is indispensable. Establishing a tripartite coordination forum involving local government officials, Baduy customary leaders, and civil society organizations will help identify emerging challenges, negotiate culturally sensitive solutions, and monitor policy implementation. Such a forum ensures that legal inclusion does not become a one-way imposition from the state but a collaborative process anchored in mutual respect. Collectively, these policy pathways illustrate that inclusive legal development is not limited to statutory change; it requires administrative adaptation, cultural dialogue, and community empowerment. Implemented effectively, these measures would preserve the integrity of the Baduy marriage system while ensuring that Baduy families receive the full spectrum of civil protections guaranteed under Indonesian law.

D. Conclusion

The legal protection of marriages conducted by adherents of Indigenous belief systems in Indonesia has advanced markedly in recent years, particularly following the landmark Constitutional Court Decision No. 97/PUU-XIV/2016. This ruling affirmed that prohibiting recognition of Indigenous belief practices violated constitutional guarantees of religious freedom, equality before the law, and protection from discrimination. Consequently, it mandated that *penghayat kepercayaan*—those practicing Indigenous belief systems—be allowed to record their faith in the religion field of national identity cards and Family Cards. Subsequent regulations have sought to consolidate this recognition, formally granting Indigenous belief communities access to civil rights previously denied to them. In principle, these legal developments represent a significant step toward greater inclusion, acknowledging the legitimacy of marriages and family structures established under Indigenous customs.

Despite these advances, the practical implementation of legal recognition remains inconsistent and fraught with obstacles. Administrative procedures continue to vary widely across local Dukcapil offices, creating uncertainty for couples seeking official marriage registration. Many Indigenous belief organizations remain unregistered with the state due to complex bureaucratic requirements, lack of resources, or reluctance to formalize traditional practices in a system that historically marginalized them. This lack of formal recognition complicates not only marriage registration but also access to essential civil documents, including identity cards and family records, which are prerequisites for claiming inheritance, property rights, and other fundamental legal protections. Moreover, limited legal literacy among both government officials and Indigenous belief adherents exacerbates the problem, leaving many couples unaware of their rights or unsure how to navigate administrative channels. As a result, legal protection for Indigenous marriages often exists more as a principle enshrined in law than as a practical reality experienced by communities.

Addressing these persistent challenges requires a multi-pronged approach. First, harmonization of the regulatory framework is crucial. The Marriage Law, Government Regulation No. 40 of 2019, and Supreme Court Circular No. 2 of 2023 contain overlapping provisions and occasional contradictions that can obstruct marriage registration for Indigenous belief adherents. Aligning these regulations would remove ambiguities, creating a clear, unified legal pathway for the recognition of Indigenous marriages. Second, Dukcapil procedures must be standardized nationwide. Simplifying administrative requirements, clarifying documentation processes, and providing consistent guidance at all levels of government would reduce bureaucratic obstacles and enhance access for couples across diverse regions. Third, targeted education programs are essential to improve legal literacy and ensure that administrative officers understand both the rights of Indigenous belief communities and the cultural contexts in which their marriages occur. Such programs should provide training in both law and intercultural competence, fostering a more

equitable implementation of regulations while reducing the risk of arbitrary or inconsistent decision-making.

Within the specific context of Baduy customary law, additional measures are needed to safeguard both cultural continuity and legal certainty. Recognizing the distinctive practices of the Baduy through local regulations could formalize protections for customary marriages without undermining traditional governance structures. Complementary efforts, such as culturally sensitive legal education, assistance programs tailored to Baduy communities, and structured communication channels between local governments and customary leaders, would facilitate coordination and ensure that formal recognition does not disrupt long-standing social norms. These initiatives would provide both legal clarity and cultural respect, addressing the dual imperatives of protecting civil rights and preserving Indigenous heritage.

Ultimately, a combination of regulatory harmonization, administrative standardization, and culturally informed legal support can transform Indonesia's legal system into one that is genuinely responsive to the country's religious and cultural diversity. By moving beyond formal recognition to practical implementation, the state can ensure that Indigenous belief communities not only enjoy their constitutional rights on paper but also experience meaningful protection of their marriages, families, and associated civil rights in everyday life. Such progress would represent a decisive step toward an inclusive legal framework that respects Indonesia's pluralistic society while strengthening the rule of law for all citizens.

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