

ANALYSIS OF FAMILY LIFE WELFARE GUARANTEES IN MARRIAGE LAW

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Abstract

Marriage is the only entrance to form a family. Within the framework of the law, marriage is translated as a bond between a man and a woman which aims to form a happy and eternal family based on the One Godhead. The family is the most intimate and vital institution in human life. The concept of eternal happiness in the family requires indicators and instruments to be translated into a more applicable understanding. The state has set standards for family welfare through the BKKBN institution. This article is the author's attempt to analyze and translate the concept of happiness in the Marriage Law with indicators of family welfare. The author uses the theory of legal effectiveness and maqashid al usrah as analytical tools in this article. In conclusion, the author finds that the Marriage Law is not effective in ensuring family welfare. The author also recommends that the Marriage Law be revised to include family welfare standards, so that it can become a strong foundation for realizing the goal of marriage in forming a happy and eternal family based on the One Godhead.

Keywords: Family, Welfare, Legal Effectiveness, Maqashid al Usrah.

مستخلص البحث

الزواج هو المدخل الوحيد لتكوين الأسرة. في إطار القانون، يُترجم الزواج على أنه رباط بين الرجل والمرأة يهدف إلى تكوين أسرة سعيدة وأبدية تقوم على الألوهية الواحدة. الأسرة هي المؤسسة الأكثر حميمية وحيوية في حياة الإنسان. يتطلب مفهوم السعادة الأبدية في الأسرة ترجمة المؤشرات والأدوات إلى فهم أكثر قابلية للتطبيق. وضعت الدولة معايير رعاية الأسرة من خلال مؤسسة BKKBN. هذه المقالة هي محاولة المؤلف لتحليل وترجمة مفهوم السعادة في قانون الزواج مع مؤشرات رفاهية الأسرة. يستخدم المؤلف نظرية الفعالية القانونية ومقاصد الأسرة كأدوات تحليلية في هذا المقال. وفي الختام، ترى صاحبة البلاغ أن قانون الزواج غير فعال في ضمان رعاية الأسرة. ويوصي المؤلف أيضًا بمراجعة قانون الزواج ليشمل معايير رعاية الأسرة، بحيث يصبح أساسًا قويًا لتحقيق هدف الزواج في تكوين أسرة سعيدة وأبدية تقوم على الربوبية الواحدة.

الكلمات المفتاحية: الأسرة والرفاهية والفعالية القانونية ومقاصد الأسرة.

INTRODUCTION

Marriage in the framework of the Law is translated as a bond between a man and a woman who aim to form a happy and eternal family based on God Almighty.¹ The family is the closest and

¹ Undang-Undang Republik Indonesia No.1 Tahun 1974 tentang Perkawinan Pasal 1.



most vital institution in human life. Having a family is a fitrah that Allah bestows on humans not only to preserve offspring, but also to carry out the role of humans as Caliphs to prosper the earth.²

Marriage is the only entry point to form a family. Both in the perspective of Islam, and the perspective of Indonesian national values, the bond between a man and a woman outside of marriage is not recognized and not legitimized. For this reason, marriage is regulated in a comprehensive regulation both philosophically fundamental to the technical details of implementation. A key point to note is that the regulation of marriage in Indonesia as stipulated in Marriage Law No. 1 of 1974 (revised in 2019) does not reduce the rules of marriage in Islam.

Marriage, both in the Islamic perspective and the law, aims to build a family. In article 1 of Law no.1 1974, it is emphasized that the desired form of family is a happy and eternal family based on God Almighty. A high expectation and requires seriousness to realize it. Therefore, before discussing the concept of a “happy and lasting” family, it is important to understand the definition of family.

An interesting fact related to the Marriage Law in Indonesia, which was reviewed in the *Justicia Islamica* journal, explained that the law was the result of a long debate since 1954 between the Ulama and secular circles.³ At that time, a PNI legislator named Mrs. Sumari submitted a Draft Law (RUU), some of whose articles were contrary to Islamic principles. Through the struggle of Muslim activists and Ulama who have been gathered since the Women’s Congress in 1928, the bill can be thwarted and then the Marriage Law was born in 1974 which has principles in harmony with these Islamic principles.⁴

The review of the journal article did not stop at the *euphoria* of the “victory” of the Islamic community, but also tried to self-criticize the law. The self-criticism focuses on the harmony between the purpose of marriage in article 1 and several derivative articles. According to Sakirman, there are several articles in the Law that are discriminatory and actually deconstruct the purpose of marriage in several articles.⁵ In conclusion, it was stated that the Marriage Law has not been a guarantee for the realization of family functions properly.

This article is a follow-up research to that research. The research has concluded that Law No. 1/1974 on Marriage does not guarantee the realization of the purpose of marriage because of several things, namely: (1) it does not accommodate several family functions that are the purpose

² Abu Bakar, Azmi. 2021. *Pernak-Pernik Pernikahan*. Sukabumi: Jejak Publisher. p. 39.

³ Sakirman. 2016. *Urgensi Reaktualisasi Undang-Undang Perkawinan di Indonesia*. *Justicia Islamica*, Vol. 13 No. 1, p. 94.

⁴ *Ibid*, p. 95

⁵ *Ibid*, p. 110

of marriage such as the socialization function, economic function, and protective function; (2) several articles are discriminatory and unfair so that they affect the purpose of marriage in general; (3) there are no sanctions for violators of the provisions in the Law. Some aspects that can be further elaborated from the research are on the aspect of family welfare, which Sakirman has not touched on

The purpose of writing this article is to further elaborate how the effective form of the Marriage Law can be a guide in ensuring the welfare of family life. Further elaboration offered by the author is the need for additional articles that become the principles of family welfare guarantees. Not stopping legally, education and socialization consistently to the community also absolutely need to be carried out by related institutions and competent parties. The elaboration is reviewed by the author briefly and clearly in the discussion in this article.

The author is guided by the theory of legal effectiveness by Lawrence M. Friedman⁶ and *Maqashid al-Usrah*⁷ to get the conclusion of the discussion. The theory of legal effectiveness was originally used to analyze criminal law, but the indicators in the theory are still relevant to be used in analyzing civil law. While *Maqashid al-Usrah* is a principle derived from *Maqashid Sharia* which specifically discusses the family in an Islamic perspective.

METHOD

In the preparation of this article, the author conducts a literature review of the 1974 Marriage Law using the approach of legal effectiveness theory and *Maqashid al Usrah*. This study uses qualitative research methods with several secondary data sources.

Legal Effectiveness Theory and *Maqashid al Usrah*

1. Theory of Legal Effectiveness

Quoting Friedmann's opinion, law enforcement is a unified system consisting of legal structure, legal substance, and legal culture.⁸ When discussing the Marriage Law in the study of legal policy, it is not only a law policy, but also a policy related to the legal structure and culture that develops both structurally and non-structurally in society.

Meanwhile, according to Soerjono Soekanto as quoted by Fira,⁹ whether a law is effective or not is determined by 5 factors, namely: law (Law); law enforcers, namely the

⁶ Achmad Ali, *Keterpurukan Hukum di Indonesia Penyebab dan Solusinya*, Bogor: Ghalia Indonesia, 2005, p. 1.

⁷ Mochamad Nurcholis. *Penyamaan Batas Usia Perkawinan Pria dan Wanita*. Ahakim Vol. 3 No. 1 January 2019.

⁸ Achmad Ali, *The Decline of Law in Indonesia Causes and Solutions*, Bogor: Ghalia Indonesia, 2005, p. 1.

⁹ Fira Saputra Yanuari. 2020. *Kajian Yuridis Efektivitas Penegakan Hukum Pidana Dalam UU Nomor 26 Tahun 2007 tentang Penataan Ruan*. Padjadjaran Law Review Vol. 8, No. 2, p. 34. <http://jurnal.fh.unpad.ac.id/index.php/plr/article/view/398/266>

parties who form and apply the law; facilities or facilities that support law enforcement; society, namely the environment where the law applies; and culture, namely as a result of work, copyright and taste based on human charisma in the association of life.

Based on this theory, the author sees the urgency of reviewing the birth of the 1974 Marriage Law. The 1974 Marriage Law was born from a long debate since the Old Order (1954) until it was passed during the New Order regime (1974). Fierce resistance emerged from secularists who tried to separate the influence of religion (especially Islam) from the Marriage Bill.¹⁰

The cultural aspects of marriage and domestic life in that decade were still strongly colored by customs. The welfare indicators of Indonesian society in the 70-80s were fairly simple. As long as a family had enough clothing, food and shelter (which became the slogan for basic needs at that time), a family could be said to be prosperous. Education limited to being able to read, write and calculate was considered sufficient. Career competition was not as complex as it is today (2021). The price of basic commodities was controlled by the government and the cost of housing needs was not as high as it is today. People's lifestyle desires were also not as dynamic as today.

In line with Friedman's theory, "eternal happiness", which is the purpose of marriage and listed in article 1 of the Marriage Law, is measured by the standard of happiness of the society in that era. For example, the division of roles of the husband in charge of earning a living and the wife in charge of being a housewife,¹¹ was the standard for achieving happiness in that era. Meanwhile, in millennial couples (post-2000), the trend of dividing roles in the family is the result of a mutual compromise between husband and wife. This is because the social structure between men and women is currently more equal in the field of career and work, so there are not a few families where the breadwinner is played by the wife while household matters are played by the husband.

2. *Maqashid al Usrah* Theory

Maqashid al-usrah can be said to be a branch of study of the concept of *Maqashid sharia*.¹²

In legal studies, both are included in the category of legal philosophy studies, especially Islamic law. In simple terms, *maqashid al-usrah* can be understood as the goals to be achieved

¹⁰ Sakirman. 2016. Urgensi Reaktualisasi Undang-Undang Perkawinan di Indonesia. *Justicia Islamica*, Vol. 13 No. 1, p. 94.

¹¹ UU Perkawinan Pasal 34

¹² Mochamad Nurcholis. 2019. Penyamaan Batas Usia Perkawinan Pria dan Wanita. *Jurnal Ahakim* Vol. 3 No. 1 January 2019.

from the marriage law. The concept of *Maqashid al-usrah* was pioneered by Jamaluddin Athiyah in the subheading of his book entitled *Nahw Taf'il Maqashid al-Syari'ah*.¹³

According to Jamaluddin Athiyah, the objectives of the marriage shari'ah are seven, namely: (1) Regulate the relationship between men and women; (2) Maintain the continuity of human life; (3) Realize a sense of *sakinah mawaddah wa rahmah*; (4) Maintain clarity of nasab (lineage); (5) Maintain religion in family life; (6) Regulate the basic aspects of the family; (7) Regulate the economic aspects of the family.

RESULTS AND DISCUSSION

Definition of Family

A learning program is a set of fixed actions in a learning system, which has a purpose, including educators and students to achieve predetermined goals, specifically through the achievement of results obtained from ability norms.

Linguistically, according to the Big Indonesian Dictionary (KBBI) family has 4 (four) meanings, namely:¹⁴

1. Mother and father and their children,
2. Dependents,
3. Relatives, kin,
4. The most basic kinship unit in society.

While in Arabic, family has 4 (four) word equivalents namely: *ahlun*, *aali*, *'ashirah*, and *qurba*. Each word has the following meaning:¹⁵

1. *Ahlun*: A family that is related to one's descendants, and they live together.
2. *Qurbaa*: relatives who are related to one another, whether they are heirs or non-heirs.
3. *Ashirah*: A family of many descendants.

However, the Qur'an uses the word *ahlun* 227 times.¹⁶ The word *ahlun* comes from the word *ahila* which means happy, like, or friendly. According to another opinion, the word *ahlun* comes from *ahala* which means marriage. From the 227 mentions, the Ulama interpret the word *ahlun* with three meanings, namely:

1. It refers to people who are related by blood or marriage, such as the expression "*ahlu-bait*".

¹³ Mochamad Nurcholis. 2019. Penyamaan Batas Usia Perkawinan Pria dan Wanita. Jurnal Ahakim Vol. 3 No. 1 January 2019, p. 7.

¹⁴ Kamus Besar Bahasa Indonesia. <https://www.kbbi.co.id/arti-kata/keluarga>

¹⁵ Anung Al Hamat. 2017. Representasi Keluarga Dalam Konteks Hukum Islam. Jurnal Yudisia, Vol. 8 No. 1. p. 139-154. <https://journal.iainkudus.ac.id/index.php/Yudisia/article/download/3232/2352>

¹⁶ *Ibid*, p. 141.

2. It refers to a population that has a geographical area or place of residence, such as the words *ahlu yatsrib*, *ahlu al-balad* and others. In everyday language, they are called citizens or residents.
3. It refers to the theological status of humans, such as *ahlu al-dzīker*, *ahlu al-kitab*, *ahlu aljannah* and so on.

Although there seems to be a difference, the three are actually related, namely *ahlu* which means people who have a close relationship, whether by marriage, one village, campus, country, or one religion. The close relationship makes the association between them live joyfully, happily and peacefully.¹⁷

In terms of terms, according to the Islamic concept, a family is a unit of relationship between a man and a woman through a marriage contract according to Islamic teachings. With the bond of the marriage contract, it is intended that the children and offspring produced will be legal under religious law.¹⁸ Mufidah as quoted by Anung divides the family into two groups, namely:¹⁹

1. Nuclear family: a nuclear family is a family unit consisting of a husband, wife, and their children, sometimes referred to as a conjugal family.
2. Extended family: The extended family is based on the blood relationship of a large number of people, which includes parents, children, grandparents, uncles, aunts, grandparents, and so on. This family unit is often referred to as the conguine family.

According to Robert R. Bell in his book “Marriage and Family Interaction” there are three types of relationships in the family:²⁰

1. Conventional kin, which are close relatives consisting of individuals related to the family by blood, adoption, and/or marriage, such as husband and wife, parents, children, and siblings.
2. Discretionary kin, which consist of individuals who are bound to the family by blood, adoption or marriage, but whose family ties are weaker than those of close relatives.
3. Fictive kin, a person who is considered a relative because of a special relationship, such as a relationship between someone who is close.

Family Function

Capability in its truest sense comes from the word ability which implies expertise, capacity, and authority. Etymologically, capability is characterized as the social component of talent or

¹⁷ Anung Al Hamat. 2017. Representasi Keluarga Dalam Konteks Hukum Islam. Jurnal Yudisia, Vol. 8 No. 1. p. 143. <https://journal.iainkudus.ac.id/index.php/Yudisia/article/download/3232/2352>

¹⁸ *Ibid*, p. 145.

¹⁹ *Ibid*, p. 142.

²⁰ Robert, R. Bell. 1979. Marriage and Family Interaction. California: Dorsey Press. p. 610.

greatness of a pioneer or staff who has great ability, information, and behavior. Capability is a hidden trait of a person that is related to the results obtained in a task. Ability is a description of something that a person must understand or do in order to perform their function admirably. The reference *Kamus Besar Bahasa Indonesia (KBBI)* gives the definition of “ability” as the ability to dominate the sentence structure of a language theoretically or worldly.

According to Friedman, in his book “Family Nursing: Theory and Practice”, there are 5 family functions,²¹ namely:

1. The affective function is the main function of the family to teach everything to prepare family members to relate to other people. This function is needed for the individual and psychosocial development of family members.
2. The function of socialization is the process of development and change that individuals go through which results in social interaction and learning to play a role in their social environment. Socialization begins at birth. This function is useful for fostering socialization in children, forming norms of behavior according to the child’s level of development and and passing on family cultural values.
3. The reproduction function is the function of maintaining generations and maintaining the continuity of the family.
4. The economic function, namely the family functions to meet family needs economically and a place to develop individual abilities to increase income to meet family needs.
5. The health care function is to maintain the state of health of family members in order to remain highly productive.

While the Family Function in the Islamic context, the family is guided to carry out its functions in life. Among these functions are:²²

1. Biological function, one of the purposes of marriage is to obtain offspring, can maintain human honor and dignity as intelligent and civilized beings. Marriage is the difference between humans and animals.
2. Educational function, the family is obliged to provide education for its family members, especially for its children, because the family is the closest and most familiar environment with children. The child's first experience and knowledge is drawn and given through the family. Parents have an important role in bringing children to physical and spiritual maturity which aims to develop mental, spiritual, moral, intellectual and professional aspects.

²¹ Marilyn M. Friedman. 2003. Family Nursing Theory and Practice. Michigan: Prentice Hall. p. 545.

²² Mufidah Ch. 2014. Psikologi Keluarga Islam Berwawasan Gender. Malang: UIN-Maliki Press. p. 42.

3. Religious function. The family is obliged to teach about religion to all family members. The family is a place to instill religious moral values through understanding, awareness and practice in everyday life, so as to create a religious climate in it.
4. Protective function. The family becomes a safe place from various internal and external disturbances and becomes an antidote to all negative influences that enter it.
5. Socialization function. The obligation to provide family members with provisions on matters relating to the values prevailing in the local community. In addition, within the community there are also traditional values that are passed down from generation to generation. The process of preserving culture and customs is carried out through the family institution as the smallest component of society.
6. Economic function. The family is an economic unit where the family has activities to earn a living, business development, budget planning, management and how to utilize income sources properly, distribute fairly and professionally, and can be responsible for their wealth and property socially and morally.
7. Recreational function. The family is a place that can provide coolness and release from all the activities of each family member.

Family Welfare Standard

The National Family Planning Coordinating Board (BKKBN), based on Law 52 of 2009 on Population Development and Family Development, established 21 indicators of a prosperous family. The indicators are divided into 4 levels, namely KS I (basic needs), KS II (psychological needs), KS III (developmental needs), and KS IV (self esteem).²³ Here are the details of these indicators:

a. Basic Needs

1. Most family members eat two or more meals a day

The definition of eating is eating according to the understanding and habits of local people as their staple food.

2. Family members have different clothes for home, work/school and traveling

The definition of different clothes is the ownership of clothes that are not just one pair, so that you are not forced to wear the same clothes in different life activities. For example, clothes for home (for sleeping or resting at home) are different from clothes for school or for work (to the fields, to the office, selling and so on) and others with clothes

²³ MDK Limitations and Definitions. <http://aplikasi.bkkbn.go.id/mdk/BatasanMDK.aspx>

for traveling (such as attending wedding invitations, picnics, to houses of worship and so on).

3. The house the family lives in has a good roof, floor and walls

The definition of a family-occupied house is the condition of the family's dwelling house that has a roof, floor and walls in a condition that is suitable for occupancy, both in terms of protection and health.

4. When a family member is sick, they are taken to a health facility

The definition of health facilities is modern health facilities, such as hospitals, health centers, auxiliary health centers, treatment centers, pharmacies, Posyandu, polyclinics, village midwives and so on, which provide drugs that are produced in a modern manner and have received a distribution permit from the competent agency (Ministry of Health/POM Agency).

5. If a couple of childbearing age wants to have family planning go to a contraceptive service facility

The definition of Contraceptive Service Facilities is a means or place of family planning services, such as Hospitals, *Puskesmas*, *Puskesmas Pembantu*, Treatment Centers, Pharmacies, *Posyandu*, Polyclinics, Private Doctors, Village Midwives and so on, which provide family planning services with modern contraceptives, such as IUDs, MOW, MOP, Condoms, Implants, Injections and Pills, to couples of childbearing ages who need them.

6. All children aged 7-15 in the family attend school

All children aged 7-15 years are defined as all children aged 7-15 years from the family (if the family has children aged 7-15 years), who must attend the 9-year compulsory education program. Going to school means that children aged 7-15 years in the family are enrolled and actively attending school at the primary/secondary level or at the junior secondary/secondary level.

b. Psychological Needs

1. In general, family members worship in accordance with their respective religions and beliefs

The definition of family members performing worship is family activities to perform worship, in accordance with the teachings of the religion/beliefs adopted by each family/family member.

2. At least once a week all family members eat meat/fish/eggs

The definition of eating meat/fish/eggs is eating meat or fish or eggs, as a side dish at mealtimes to supplement protein nutrition. This indicator does not apply to vegetarian families.

3. All family members get at least one new set of clothes a year

The definition of new clothes is decent clothes (new/used) which are in addition to those already owned either from buying or from gifts from other parties, namely the type of clothing commonly worn daily by the local community.

4. Floor space of at least 8 m² for each occupant of the house

Floor area of a house of at least 8 m² is the total floor area of the house, both upper and lower levels, including the kitchen, bathroom, annex, garage and storeroom, which when divided by the number of occupants of the house results in a space area of not less than 8 m².

5. The last three months the family has been in good health so that they can carry out their respective duties/functions

The definition of a healthy condition is the health condition of a person in the family that is within normal limits, so that the person concerned does not have to be hospitalized, or is not forced to stay at home, or is not forced to miss work/school for a period of more than 4 days. Thus, the family members can carry out their duties and functions in accordance with their respective positions in the family.

6. One or more family members work to earn income

The definition of a family member who works to earn income is a family in which at least one adult member earns income in the form of money or goods from sources of income deemed appropriate by the community, which can meet minimum daily needs continuously.

7. All family members between 10 and 60 years old can read Latin script

The definition of a family member aged 10-60 years old who can read Latin letters is a family member aged 10-60 years old in the family who can read Latin letters and at the same time understand the meaning of the sentences in the writing. This indicator does not apply to families with no family members aged 10-60 years.

8. Couples of childbearing ages with two or more children use contraceptive devices/drugs

The definition of couples of childbearing ages with two or more children using contraceptives is a family who is still a couple of childbearing age with two or more children participating in family planning by using one of the modern contraceptives, such as IUDs, pills, injections, implants, condoms, MOP and MOW.

c. Developmental Needs

1. Families work to improve religious knowledge

The definition of family efforts to improve religious knowledge is the family's efforts to improve their respective religious knowledge. For example, listening to recitations, bringing in a Qur'an teacher or religious teacher for children, madrasa school for Muslim children or Sunday school for Christian children.

2. A portion of the family's income is saved in the form of money or goods

The definition of part of the family's income saved in the form of money or goods is part of the family's income that is set aside to be saved either in the form of money or in the form of goods (for example, buying livestock, rice fields, land, jewelry, rental houses and so on). Savings in the form of goods, if cashed at least worth Rp. 500.000.

3. The family habit of eating together at least once a week is used to communicate

The definition of the family habit of eating together is the habit of all family members to eat together, so that the time before or after eating can be used for communication to discuss problems faced in one week or to communicate and deliberate between all family members.

4. The family participates in community activities in the neighborhood

The definition of a family participating in community activities in the neighborhood is the participation of all or some of the family members in the surrounding community activities that are social in nature, such as gotong royong, night patrol, neighborhood meetings, *arisan*, recitation, *PKK* activities, art activities, sports and so on.

5. Families obtain information from newspapers/magazines/radio/tv/internet

The definition of family obtaining information from newspapers/magazines/radio/tv/internet is the availability of opportunities for family members to gain access to information locally, nationally, regionally, and internationally, through printed media (such as newspapers, magazines, bulletins) or electronic media (such as radio, television, internet). These mass media need not only be owned or

purchased by the family, but can also be loaned or owned by other people/families, or be public/shared property.

d. Self Esteem

1. The family regularly and voluntarily makes material contributions to social activities

The definition of a family that regularly and voluntarily makes material donations for social activities is a family that has a great social sense by making material donations regularly (at a certain time) and voluntarily, both in the form of money and goods, for the benefit of the community (such as for orphans, houses of worship, educational foundations, nursing homes, to finance activities at the RT/RW/Hamlet, Village level and so on) in this case does not include mandatory donations.

2. There are family members who are active as administrators of social associations/foundations/community institutions

The definition of a family member who is active as a board member of a social association/foundation/community institution is a family that has a great social sense by providing continuous energy, thought and moral assistance for the benefit of the social community by becoming a board member of various organizations/committees (such as board members of foundations, traditional organizations, arts, sports, religion, youth, community institutions, RT/RW boards, LKMD/LMD and so on).

Relevance of Marriage Law to Family Welfare Standards

The Marriage Law has accommodated *Maqashid al Usrah* in principle and in more detail. The Marriage Law even adds several regulations related to marriage (which are not regulated in *Maqashid al Usrah*) such as the minimum age limit for marriage, permission of the first wife for polygamy, and so on. Meanwhile, in terms of legal effectiveness theory, the Marriage Law is considered effective in terms of the principles of organizing marriage. This is because the Marriage Law has accommodated religious law and customary law (in principle), so that there is no resistance in the community.

Further analysis between the relevance of the Marriage Law and family welfare standards should be a concern. This is because the Marriage Law, which was born in 1974 and brought welfare norms in that year, is considered not to accommodate the standardization of prosperous

families born in the 2010 decade. The government only made changes to the minimum age of marriage in 2019, which in fact made the trend of marriage dispensation applications increase.²⁴

Family welfare standards were born from Law 52 of 2009 on Population Development and Family Development which has a context for the Family Planning Program by BKKBN. Meanwhile, marriage (for Muslims) is regulated in the Marriage Law, the implementation of which is under the authority of the Ministry of Religious Affairs. If the rules regarding the minimum age of marriage can be updated based on the Child Protection Law,²⁵ the standard for family welfare guarantees should be added to the Marriage Law.

The Ministry of Religious Affairs has interpreted the Marriage Law not limited to the establishment of marriage-related authorities (headmen, registrars, marriage cards, and so on), but also established Pre-Marriage Guidance. Thus, it is urgent to add the standard of family welfare to the Marriage Law in order to provide a strong basis for socialization to the community.

CONCLUSION

Marriage aims to form a happy and lasting family. The family itself is the smallest institution in society, which has an important function for individuals. Therefore, the standardization of family welfare is one of the foundations needed in achieving the goal of forming a happy and lasting family. Thus, it can be concluded that there is a need for a prosperous family standard in the Marriage Law.

The Marriage Law in terms of legal effectiveness, in the context of marriage practice, has been effective and in accordance with what is determined because it is in line with the norms and cultural aspects that have been running in society, especially Muslim society. As for *maqashid al usrah*, the Marriage Law is also considered to be in line with *maqashid al usrah*. As for the context of family welfare, the Marriage Law still does not accommodate the welfare standards set by BKKBN. This is because the two were born in different eras, the Marriage Law was born in 1974 and the welfare standards were born from the 2009 Law.

The Marriage Law was revised in 2019 in the article on the minimum age limit for women, with reference to the Child Protection Law. So, the Marriage Law should also be revised in the aspect of family welfare with reference to the 2009 Law. The revision is urgent and can become a stronger foundation in the implementation of marriage in society.

²⁴ Saragih Samdysara. 2020. *Marriage Age Limit Changes, Marriage Dispensation Cases Surge*. <https://kabar24.bisnis.com/read/20200122/16/1192874/batas-usia-nikah-berubah-perkara-dispensasi-kawin-melonjak>

²⁵ Humanities. 2019. *Marriage Age Limit of 19 Years Enacted*. <https://mediaindonesia.com/humaniora/265859/batas-usia-menikah-19-tahun-diberlakukan>

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