



## The Validity of Marriage Registration in the Customary Viewpoint Indonesia

Puspa Melati<sup>\*1</sup>, Runtung<sup>\*2</sup>, Mahmul Siregar<sup>\*3</sup>, Zulfi Chairi<sup>\*4</sup>, Windha<sup>\*5</sup>, Faradila Yulistari<sup>\*6</sup>, Lesly Saviera<sup>\*7</sup>, Saddam Shauqi<sup>\*8</sup>, Hilbertus Sumplisius M. Wau<sup>\*9</sup>

<sup>1,2,3,4,5,6,7,8,9</sup> Universitas Sumatera Utara, Medan, Indonesia

\*Corresponding Author: [puspamelati@usu.ac.id](mailto:puspamelati@usu.ac.id)

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### ABSTRACT

This study explores the validity of marriage registration according to customary law in Indonesia and its relationship with national legislation. Marriage registration is a crucial element of the Indonesian legal system, as stipulated in Law Number 1 of 1974 concerning Marriage, which aims to provide legal certainty, ensure the legal status of children, and protect the civil rights of couples. However, many indigenous communities still hold fast to the tradition that traditional marriage ceremonies are sufficient to legitimize a marriage without requiring official registration. This study found that although customary law recognizes the validity of marriages through traditional rituals, the neglect of official registration with state institutions has legal consequences, such as unclear legal status for spouses and children in inheritance and population administration matters. This research underscores the need for policy integration between customary law and national law to ensure that the rights of indigenous communities remain protected without neglecting formal legal requirements. Potential solutions include public education and simplifying registration procedures to make them more user-friendly for Indigenous peoples.

**Keyword:** Marriage, Marriage Registration, Customary Law, Legal Validity, Civil Code.

### ABSTRAK

Penelitian ini mengeksplorasi keabsahan pencatatan perkawinan menurut hukum adat di Indonesia serta hubungannya dengan peraturan perundang-undangan nasional. Pencatatan perkawinan merupakan elemen penting dalam sistem hukum Indonesia, sebagaimana diatur dalam Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, yang bertujuan untuk memberikan kepastian hukum, menjamin status hukum anak, serta melindungi hak-hak sipil pasangan suami istri. Namun, banyak komunitas adat yang masih memegang teguh tradisi bahwa upacara perkawinan adat sudah cukup untuk mengesahkan sebuah perkawinan tanpa perlu pencatatan secara resmi. Penelitian ini menemukan bahwa meskipun hukum adat mengakui keabsahan perkawinan melalui ritus-ritus tradisional, pengabaian terhadap pencatatan resmi di lembaga negara memiliki konsekuensi hukum, seperti ketidakjelasan status hukum pasangan dan anak dalam hal warisan dan administrasi kependudukan. Penelitian ini menekankan perlunya integrasi kebijakan antara hukum adat dan hukum nasional agar hak-hak masyarakat adat tetap terlindungi tanpa mengesampingkan ketentuan hukum formal. Solusi potensial yang dapat dilakukan antara lain edukasi publik dan penyederhanaan prosedur pencatatan agar lebih mudah diakses oleh masyarakat adat.

**Kata Kunci:** Perkawinan, Pencatatan Perkawinan, Hukum Adat, Keabsahan Hukum, Kitab Undang-Undang Hukum Perdata.



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## 1. Introduction

Nowadays, it is important to understand the legal position of marriage registration in legal system in Indonesia. In the legislation, especially the Law Number 1 of 1974 concerning Marriage and its implementing regulations, the contents of which are as follows: regulates one of the recording obligations as an effort to provide certainty and legal recognition of marital status. Marriages in Indonesia that are recognized and considered valid is a marriage that is carried out by registering the marriage in accordance with applicable laws and regulations, these provisions are regulated in Article 2 paragraph (2) Law Number 1 of 1974.<sup>1</sup> Several legal experts, such as Asser, Scholten, and Wiarda, has a different opinion, describing that marriage is the same as a legal partnership to live together forever<sup>2</sup>.

The reality in society is that there are still many marriages that are not registered. authorized institution, contrary to the doctrine that marriage registration must be proven by a marriage certificate.<sup>3</sup> This registration is not only administrative evidence, but also a guarantee of legal protection for husband and wife and children

born in the marriage. Without official registration, the legal status of the marriage can be questioned, especially in terms of inheritance rights, rights to maintenance, and other rights that arise from marriage. However, in Indonesia's multicultural society, marriage practices are not only following national legal rules, but also based on different customs in each region. Customary law has its own view on the validity of a marriage, which often only recognize customary marriages without involving official registration in state institution. Marriage according to customary law has its own meaning. Soepomo explains in Taufiqurrohman Syahuri's book, that marriage is not just a matter of regarding the people concerned, in this case husband and wife, but including the interests of the whole family and even indigenous communities are also involved in the matter of marriage. For customary law, marriage is an act that is not not only worldly, but also spiritual or religious.<sup>4</sup> In the context of In this case, customary marriages are considered valid in the eyes of the local community, even though they are not recorded in the state administration. This view has its own consequences for individuals who undergoing marriage, especially in terms of social recognition and legal status outside customary areas.

On the other hand, indigenous communities in various regions in Indonesia have their own systems and procedures. Marriages that are passed down from generation to generation, which often do not require formal registration in state institutions. In customary law, the validity of a marriage is more often based on the fulfillment of local customs, such as traditional ceremonies, agreements extended family, and recognition of indigenous communities. This view creates a dilemma when positive law requires registration of marriage as a prerequisite for the validity of the relationship according to state law. Marriage from a customary perspective is a form of life together to form a household that is recognized by the traditional association.<sup>5</sup>

The main problem arises when registering marriages in state law. considered irrelevant by some indigenous communities. As a result, many traditional marriages which are not officially recorded, giving rise to the potential for legal conflicts, such as disputes inheritance, the legal status of children, and the legitimacy of marriage within the national scope. This invites the question: How does customary law view marriage registration in Indonesia? To what extent is the legal validity of the registration of marriages carried out in a legal manner? customs in Indonesia? To answer this question, an in-depth study is needed comparing the concept of the validity of marriage according to customary law and positive law. In addition Therefore, it is important to analyze the harmonization of the two legal systems in the context of legal pluralism in Indonesia, so that solutions can be found that accommodate the needs of indigenous communities without ignoring the principle of legal certainty.

## II. RESEARCH METHODS

Legal research methods cannot be separated from the scientific nature of legal science. which is prescriptive and the character of legal science is *sui-generis*.<sup>6</sup> This research uses a study normative research

<sup>1</sup> Andika Mubarak And Tri Wahyu Hidayati, "Marriage Registration In Indonesia Reviewed From The Maqashid Syariah Of Jasser Auda," *Adhki: Journal Of Islamic Family Law* 4, No. 2 (July 24, 2023): 157–70, <https://doi.org/10.37876/Adhki.V4i2.128>.

<sup>2</sup> R. Soetojo Prawirohamidjojo, *Law Of Individuals And Families* (Surabaya: Airlangga University Press, 2000).

<sup>3</sup> Agung Basuki Prasetyo, "Legal Consequences Of Unregistered Marriages In Indigenous Communities," *Administrative Law And Governance Journal* 3, No. 1 (March 3, 2020): 23–34, <https://doi.org/10.14710/Alj.V3i1.23-34>.

<sup>4</sup> Taufiqurrohman Syahuri, *Pros And Cons Of Marriage Law Legislation In Indonesia Until The Constitutional Court Decision* (Jakarta: Prenada Media Group, 2013).

<sup>5</sup> Wila Chandrawila Supriadi, *Indonesian And Dutch Marriage Law* (Bandung: Mandar Maju, 2002).

<sup>6</sup> I Gusti Ketut Ariawan, "Normative Legal Research Methods," *Kertha Widya* 1, No. 1 (2013): 26.

by studying related laws and regulations with marriage registration and customary law, as well as an empirical approach by researching marriage registration practices in indigenous communities. This research is descriptive in nature. describe the state of marriage registration from the perspective of customary law and civil law national. This research uses a statutory research approach, which applies to marriage registration and recognition of customary law. Through In this approach, the research will examine legal regulations, such as the Law Marriage, Civil Code, and other regulations related to registration marriage from a national legal perspective. The data source for this research is using secondary data consisting of primary legal materials, secondary legal materials and legal materials tertiary. The data collection technique is carried out through literature studies, meaning conducting studies literature on regulations related to marriage registration and customary law for to gain a comprehensive understanding. Analysis of research data using data analysis qualitatively, namely the data obtained is analyzed qualitatively by means of grouping information according to themes that emerge from research problems.

### III. RESEARCH RESULTS AND DISCUSSION

The results of the study show that in the Indonesian legal system, recording marriage is expressly regulated in Law Number 1 of 1974 concerning Marriage (now regulated in Law Number 16 of 2019 as a revision) and implementing regulations. Registration of marriage at the Civil Registry Office or the Marriage Registration Office Religious Affairs (KUA) is considered an obligation to provide legal certainty, guarantee the rights of husband and wife and children, and facilitate access to legal protection. This regulation aims to avoid legal problems such as uncertainty of legal marital status, inheritance rights, and protection of civil rights others. Recording is considered an administrative form that must be fulfilled in order to marriage is legal in the eyes of state law, although religious or customary processes are still recognized.

From a customary law perspective, marriage registration is not always mandatory. Customary law places more emphasis on customary processions and recognition. local community as a form of legitimacy of marriage. The traditional ceremony that is carried out according to tradition it is considered sufficient to legalize the relationship between husband and wife in indigenous community environment. Some communities do not even prioritize recording official because they consider social and religious recognition to be sufficient. However, This view has consequences in the form of limited legal protection outside the community and has the potential to cause problems when the individual is confronted with national law.

Registration of marriages carried out according to customary law is considered valid within the customary framework. which is valid, but does not have the same legal force as a recognized record by the state. This means that even though customary marriages have legitimacy, strong in the eyes of indigenous peoples, it does not provide the same guarantees in the legal system national, particularly regarding the legal rights of spouses and children, inheritance rights, and access towards state services. State legal recognition of customary marriages only occurs if The marriage was officially registered. Thus, the validity of the customary registration is relative, depending on the context and legal needs of the couple involved. This indicates a gap between customary and legal recognition. national, as well as the importance of harmonizing laws so that the rights of indigenous peoples remain protected at the national level.

#### 1. Customary Law Views On Marriage Registration In Indonesia

Law cannot be separated from human life, so that discussions about law will not be separated from the discussion about human life as well. Humans live grouped as a community unit and society is born and develops with cultural and legal values are also diverse. This diversity is generally also called with plurality, which naturally also applies to the set of values that are believed in by the community. Therefore, the law is present as a binding force between the parties so that do what has become his obligation.<sup>7</sup> Likewise in a group In community life, there is also a legal system other than state law, namely customary law. Referring to the term customary law as "adat recht" (Dutch), namely for give a name to a social control system that lives in Indonesian society or to differentiate between customs and traditions which have sanctions. Among the people, the term "custom" is commonly used. This term "custom" varies. types, including: *Ius non scriptum*, Unwritten law, Customary law, Folk law, Indigenous law, to people's law.<sup>8</sup> Customary law functions as a guide to behavior and as guidelines (rules) used by judges to resolve cases. Customary law identical to religious law, customary law, to moral law/norms, which all of which form the basis of the legitimacy of marriage in traditional societies.

<sup>7</sup>Sri Hajati, Ellyene Dwi Poespasari, and Oemar Moechtar, *Introduction to Indonesian Law* (Surabaya: Airlangga University Press, 2017).

<sup>8</sup> Trubus Rahadiansyah and A. Prayitno, *Transformation of Local Wisdom Values in National Education: Dialectics of the Importance of Local Genius-Based Education* (Jakarta: Trisakti University, 2011).

In western civilization and some non-western civilizations, marriage is understood as a life partnership between a man and a woman that is officially confirmed formal with the law and mostly "religious", according to the purpose of husband and wife and law, and is carried out for the duration of his life according to the understanding of the institution marriage.<sup>9</sup> The foundations of marriage are formed by the natural elements of life. humans themselves, such as biological needs and functions, passing on offspring, needs affection and brotherhood, caring for children born from marriage and educate the children to become members of society who perfect. Certain forms of marriage are not given by nature. Various forms Marriage functions as an institution. By nature, marriage is an instinct. the nature of every living creature on earth, with the main goal of continuing the generation in the future, so it is with humans.

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia stipulates that the state as a sacred state, and Article 28B paragraph (1) of the 1945 Constitution states that "Every person have the right to form a family and continue their lineage through legal marriage. In addition "That is, Article 29 paragraph 1 of the 1945 Constitution states that the state believes in One Almighty God."<sup>10</sup> In 2019, legislators passed the Law on Amendments to the Constitution Number 1 of 1974 concerning Marriage as a Means of Implementing Court Decisions Constitution Number 22/PUUXV/2017. Paragraph (1) Article 7 regulates the limits after marriage, which is one of the loads that is changed. Law Number 1 of 1974 concerning Marriage, Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law) is a regulation regarding marriage in Indonesia which is valid nationally and Government Regulations Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage (hereinafter referred to as PP No. 9/1975) as the implementing regulation, in addition to the existence of national marriage law as the basic rule, among the community Indonesia still has different customs and wedding ceremonies. marriage regulations have implications for the birth of regulations as a reaction to needs and the obligation of the state to have jointly valid guidelines on marriage, with the aim that the State can provide legal replacement sanctions. events, especially insofar as the relationship between people and other people is legally binding.<sup>11</sup> Government Regulation Number 9 of 1975 concerning the Implementation of Government Regulations No. The Marriage Law Amendment Act of 1974 was enacted with the aim of accelerating and ensuring the effective implementation of the law. As mentioned recently, while the implementing guidelines have not yet been ratified, the Regulation Marriage cannot be truly carried out. This is in line with what is stated in Article 67 of Law Number 1 of 1974 concerning Marriage.<sup>12</sup>

By nature, humans are destined to live in groups or what is called a Zoon politicon creatures. Humans cannot live alone, they always need other people. to grow and develop. Humans are living creatures who have the tendency to live together with other people. Humans are social creatures, he is not can live alone. In this regard, Imam Ghazali stated that The reason humans live in groups is due to two factors, namely: First, the need for offspring for the survival of mankind, it is only perhaps through social interaction between men and women and families; and secondly, helping each other in providing food, clothing and education for children.<sup>13</sup> One form of diversity in Indonesian society can be seen from marriage in Indonesia is not only based on the Marriage Law and religious law, but also based on customary law because social life in Indonesia still recognizes traditions and customs that live in society so that they influence something marriage process. Each region in Indonesia has its own customary law system to regulate diverse social life. Customary law developed following the development of society and existing folk traditions. Customary law is moral rules whose truth has been recognized in society Customary law is unwritten law, but it is binding on the community. customs in a certain environment that must be obeyed and will be subject to sanctions if violated.<sup>14</sup> Recognition of customary law and customary law communities in the State constitution The Unitary State of the Republic of Indonesia is stated in Article 18 B paragraph (2) of the 1945 Constitution which states that: "The state recognizes and respects the unity of society customary law and its traditional rights as long as they

<sup>9</sup> R. Soetojo Prawirohamidjojo and Marthalena Pohan, *Pluralism in Marriage Legislation in Indonesia*, Fifth (Surabaya: Airlangga University Press, 2012).

<sup>10</sup> Asman, Muhamad Abas, and et al., *Indonesian Islamic Marriage Law* (Yogyakarta: PT Penamuda, 2023)

<sup>11</sup> Aulil Amri and Muhadi Khalidi, "The Effectiveness of Law Number 16 of 2019 on "Underage Marriage," *Justisia* 6, no. 1 (2021): 85–111.

<sup>12</sup> Desminar, *Introduction to Family Law*, First (Bengkulu: UMB Press, 2021).

<sup>13</sup> Ni'matul Huda, *State Science* (Jakarta: Rajawali Pers, 2013).

<sup>14</sup> Farah Fadhilah, Bambang Daru Nugroho, and Eidy Sandra, "A Legal Review of the Bubuwarang Tradition as a Marriage Requirement in Tegalgubug Village, Cirebon Regency, Reviewed from Customary Law and Islamic Law in Relation to the Marriage Law," *QIYAS: Journal of Islamic Law & Justice* 7, no. 2 (2022): 181–89, <https://doi.org/http://dx.doi.org/10.29300/qys.v7i2.2978>.

are still alive and in accordance with development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law.”

Social life in Indonesia still recognizes traditions and customs. Living in society also influences the marriage process. Marriage not only does it unite two people who love each other, more than that, there are values that cannot be separated from being considered in marriage, such as social and economic status and cultural values of each region. Marriage does not always involve sexual relations between the bride and groom, but it concerns the relationship between the two parties. The bride and groom are like their siblings or other family members. Marriage in each region has its own unique creations and culture. It has become a tradition. Below we will explain the customary law view on marriage registration in Indonesia, including:

#### A. The concept of marriage in customary law

Customary law in Indonesia has a very diverse concept of marriage, influenced by local culture, religion, and traditions. For indigenous peoples, marriage is not just a legal bond between two individuals, but is a sacred event that involving the community, extended family, and ancestors. Traditional ceremonies are carried out according to local norms and customs and are considered to provide strong legitimacy for the bond of the marriage. In this context, customary law places more emphasis on the recognition of social and spiritual aspects compared to the administrative aspects required by the state.

#### B. The importance of social legitimacy in traditional marriage

Customary marriages are often recognized as valid if they are approved by the community and carried out with rituals regulated by local traditions. This recognition not only gives status and social responsibility to partners, but also regulates their rights and obligations in society. Thus, customary legitimacy emphasizes community values, ties between family, and honor in the eyes of custom. This shows that in customary law, the status of marriage does not depend on registration at an official institution, but rather in fulfilling customary norms.

#### C. Differences of opinion regarding official records

One of the main differences between customary law and state law concerns registration. Marriage is a perception of legality. In customary law, official registration is not always a priority because the recognition given by the community is considered to be sufficient. Customary marriages that are not legally registered by the state are still recognized and considered valid and legitimate within the indigenous community, although its legal status may be questionable outside the community.

#### D. Consequences of not officially registering a marriage

Even though it is legal according to custom, a marriage that is not registered in the civil registry faces several consequences, such as:

1. Not Recognized by State Law: Marriages that are only recognized by customary law have no legal force at the national level, which means that the couple is not legally recognized as husband and wife by the state.
2. Civil Rights Issues: Children born from unregistered marriages may face difficulties in obtaining legal status as a legitimate child, which impacts inheritance rights and access to public administration services.
3. Limited Legal Protection: Couples who do not register their marriage officially risk losing legal protections, such as the right to joint property and inheritance rights.

The Indonesian government has recognized legal pluralism, where customary law is recognized as long as it does not conflict with statutory regulations. However, in the context of marriage registration, state law requires official registration for all marriages to be legally recognized. This creates challenges for many indigenous communities who have strong traditions but are reluctant or do not have access to record keeping officials. The integration between customary recognition and the requirement for official registration is one of the issues important in the development of inclusive law. Various efforts have been made to harmonize customary law with national law. One way is by conducting outreach regarding the importance of marriage registration and facilitating the process of recording through collaboration between local governments and indigenous communities. Some communities also began to accept marriage registrations after the traditional ceremony was performed, as a form of compromise between customary recognition and the need for legal protection formal.

The customary law view on marriage registration in Indonesia reflects the diversity of traditions and social values that exist in society. Customary law views marriage as a sacred event involving the community, extended family and ancestors, with legitimacy determined by local norms and traditions, not by formal recording in state institutions. In indigenous communities, social and spiritual recognition is considered adequate to determine the validity of a marriage. However, this view differs from the national law that requires registration of marriage as a legal requirement administratively and in law. This difference shows the

existence of dualism in the legal system which affects the legal status of couples who undergo customary marriage without official registration. Traditional marriages that are not officially registered have the potential to cause problems. in the context of state law, such as recognition of the legal status of a couple, civil rights children, as well as protection of joint property and inheritance rights. Although customary law is recognized in the constitution, official registration is still necessary to ensure justice and certainty law. Efforts to harmonize customary law and national law are very important to minimize conflict and ensure the protection of the rights of all parties. This can be achieved through socialization, increasing access to records, and cooperation between government and indigenous communities to create inclusive solutions.

## 2. LEGAL VALIDITY OF MARRIAGE REGISTRATION DONE TRADITIONALLY IN INDONESIA

Implicitly, marriage is something sacred where the parties who living will get peace and tranquility both physically and mentally. This means that the law that regulates marriage matters is included in private law because the relationship that occurs in the bonds of marriage, or marriage is a relationship between individuals and elements that fulfill the requirements for a valid marriage are elements which is included in private law (civil law), both those regulated in the Civil Code Civil Code, Compilation of Islamic Law, and Law Number 1 of 2000 1974 concerning Marriage.<sup>15</sup>

The journey of customary law in Indonesia has been going on since the existence of the archipelago. exist and take root in all Indonesian society even though at that time it was still characterized by the kingdom or region where each region is located. However, the passage of time the spread of Indonesian society from one tribe to another so that cultures existing customs in society are also promoted and experience assimilation. Changes The journey of this tradition is influenced by several factors, including the combination between one habit and another habit so that a habit is created new which is considered to accommodate the core habits of each other.<sup>16</sup>

Customary law comes from 2 (two) words, namely law and customary law, in simple terms interpreted as rules and customs are habits. The word customs is an adoption of the word Arabic Al 'adah which is then translated as habit or something that is repeated repeated and followed by the community. So customary law can be interpreted as customary rules that are continuously carried out by society. The characteristics of customary law are among them, firstly, it is done repeatedly or regeneratingly, secondly; the characteristics or differentiator from other community groups; the existence of a requirement in the implementation of society that is bound together by certain groups.<sup>17</sup> The customary laws that apply in Indonesia almost color and characterize each region. each. so that the implementation of customary law is an expression of the environment, regional, a place in every region in Indonesia. Its influence even extends to the law national and Islamic law. This is what shows the diversity of society Indonesia is united in a system of *Bhinneka Tunggal Ika* to realize the unity and integrity of the Republic of Indonesia. Customary law is binding law emotionally towards its people. so that customary law is law that characterizes every society in Indonesia. The purpose of customary law is as follows: characteristics or the embodiment of customary understanding that has been carried out from generation to generation for shape the behavior of its indigenous communities.

Customary law is an unwritten law that serves as a guideline or rule. regulates the life of society. Unwritten law has a dynamic nature and changes with the times. With the enactment of Law no. 1 year 1974 Concerning Marriage State Gazette of the Republic of Indonesia 1974 Number 1, then The conditions for a valid marriage are regulated by the law except for those who does not adhere to a religion, then the conditions for a valid marriage are determined by customary law those that already apply to them before the enactment of the law. this marriage law.

Marriages according to customs and beliefs are not recognized by the state, resulting in children their children have difficulty obtaining Birth Certificates and Identity Cards (KTP). For the sake of interests in managing the administration or identity of some of the Believers in Belief Merapu was finally forced to lie by writing a religion outside of his beliefs adopted on the KTP. Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration (hereinafter referred to as Law Number 23

<sup>15</sup> Abdul Halim, "Marriage Registration According to Islamic Law," *Al-Mabhats: Journal of Social and Religious Research* 5, no. 1 (2020): 7.

<sup>16</sup> Bahder Johan Nasution, "Philosophical Studies on Law and Justice from Classical Thought to Modern Thought," *Al-Ihkam: Journal of Law & Social Institutions* 11, no. 2 (2017): 247, <https://doi.org/https://doi.org/10.19105/alihkam.v11i2.936>.

<sup>17</sup> Kasjim Salenda and Sudirman Lukman Mappadeceng, *Islamic Law and Customary Law in Indonesia: Implementation of Casuistics in Marriage* (Jakarta: Rajawali Pers, 2022).

of 2006) called the Population Administration Law) contains provisions that discriminate against Believers in Belief in the One Almighty God (hereinafter referred to as Believers) Trust), especially Article 61 paragraph (1) jo. paragraph (2) and Article 64 paragraph (1) jo. paragraph (5) Population Administration Law.<sup>18</sup>

The implementation of customary law in Indonesia is accommodated in the constitution, specifically in Article 18b paragraph 2 of the 1945 Constitution of the Republic of Indonesia which regulates that the state recognizes and respects customary law communities and their traditional rights as long as they are still alive and in accordance with societal developments and the principles of the unitary state of the Republic of Indonesia as regulated by law. With its formation in the constitution certainly means that customary law has a very strong legal umbrella. to be implemented in Indonesia, especially given the diversity and plurality of society Indonesia still maintains traditions or customs that were acquired through hereditary.<sup>19</sup>

The following will explain the legal validity of the marriage registration that was carried out. according to custom in Indonesia, including:

a. Understanding the validity of law in the context of custom The legal validity of the registration of marriages carried out according to customary law in Indonesia refers to the recognition of the marriage process held according to local customs. In the customary law system, the validity of a marriage is recognized by the community based on the implementation of traditional ceremonies that comply with norms and traditions that applies. This process involves various symbols and rituals that are considered sacred and gives legitimacy to married couples. However, this recognition has limited coverage, namely within the indigenous community itself.

b. The difference between the validity of customary law and national law National law in Indonesia requires registration of marriages for to formally validate marital status. Law Number 1 of 2009 1974 concerning Marriage (revised by Law Number 16 of 2019) states that a marriage is valid if it is carried out in accordance with religious law and registered at the state registration agency. Therefore, even though customary marriages are valid According to customary law, the marriage is not recognized by state law if it is not officially registered at the Office of Religious Affairs (KUA) or the Population and Civil Registration Service Civil Registration.

c. Limitations of the validity of customary law Registration of customary marriages often has no legal force. in terms of:

1. Recognition by the State: Marriages that are only recognized according to customary law do not provide the same legal status as a legally registered marriage. As a result, the couple is not recognized as husband and wife under national law.
2. Legal Protection: Couples whose marriages are only recognized by customary law are at risk loss of access to civil rights, such as inheritance rights, rights to property together, and protection for wives and children in cases of divorce.
3. Official Documentation: Formal record keeping is important for administrative documentation, such as the issuance of a child's birth certificate, which depends on the legal status of the parents.

d. Legitimacy in the eyes of indigenous communities. Despite limitations in the context of national law, customary marriage have full validity in the eyes of indigenous peoples. In many communities, the recording of Official ceremonies are often considered secondary to social and customary recognition. marriages conducted according to customary traditions provide moral and legal validation social to the couple, and the couple is considered to have a legitimate bond by community members.

e. The influence of legal pluralism in Indonesia.

Indonesia recognizes legal pluralism, which includes national law, international law, and international law. religion, and customary law. Registration of marriages according to customary law, even though it is not recognized by the national legal system as a substitute for official records, is still respected as part of from legal pluralism. This recognition aims to maintain cultural and traditional diversity in Indonesia, but there are still formal registration requirements to provide protection broader law.

Unregistered customary marriages can give rise to legal challenges, especially in terms of child status, inheritance rights, and protection of the rights of wives or husbands. State recognition of formal records is important to protect the legal interests of all parties involved. One solution that can be attempted is to encourage the registration of customary marriages after the customary ceremony. This will allows for

<sup>18</sup> Laksana Arum Nugraheni, "Philosophical Study of Marriage Registration of Believers in Beliefs Based on Pancasila Values and Legislation in Indonesia," *Journal of Development Law Paradigma* 6, no. 1 (July 16, 2021): 33–58, <https://doi.org/10.25170/paradigma.v6i1.2345>.

<sup>19</sup> Jawahir Thontowi, "Protection and Recognition of Indigenous Communities and Its Challenges in Law" *Indonesia*, IUS QUIA IUSTUM Law Journal 20, no. 1 (2013): 21–36.



customary social recognition to be maintained, while legal protection at the national level are also fulfilled. The socialization program involves traditional leaders and local governments can help raise awareness of the importance of record keeping official without ignoring traditional values.

Registration of marriages carried out according to customary law in Indonesia has legitimacy in the eyes of the indigenous community concerned, because it fulfills norms, traditions, and symbols that are considered sacred. However, this recognition is limited to customary social sphere and does not have formal legal force at the national level. According to Law Number 1 of 1974, marriages must be officially registered to be recognized by the state and receive complete legal protection. Nothingness official registration can result in legal problems, such as child status, inheritance rights, and protection of the rights of spouses. Indonesia recognizes legal pluralism which includes customary, religious and cultural laws. national, so that traditional marriages remain respected as part of cultural traditions. However, it is important to balance customary recognition with formal legal needs. through marriage registration after the traditional ceremony. This allows for recognition social customs are maintained while ensuring adequate legal protection. Socialization involving traditional leaders and the government is a strategic step to increase public awareness of the importance of official records without ignoring traditional values.

#### IV. CONCLUSION and SUGGESTION

The validity of marriage registration according to customary law in Indonesia reflects the richness of local traditions and values that are highly respected by indigenous communities. In law custom, the validity of a marriage is based on the implementation of customary rituals, agreement extended family, and local community recognition, without the need for formal registration in state institutions. Although the legitimacy of this custom is recognized by the indigenous community, its recognition is limited in the context of national law. As a result, customary marriages that are not being registered can give rise to various legal problems, such as unclear legal status spouse, children, and other civil rights.

To overcome the gap between customary law and national law, there needs to be more inclusive legal harmonization. Official registration after traditional ceremonies can be solutions to ensure legal protection without ignoring customary values. Socialization about the importance of marriage registration and ease of access to registration in the regions customary areas is a strategic step that can strengthen the integration between customary law and national law. In this way, the continuity of traditional traditions can be maintained, while meet the need for legal certainty and protection at the national level.

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