



MIZAN: JOURNAL OF ISLAMIC LAW

P-ISSN: 2598-974X. E-ISSN: 2598-6252

Vol. 8 No. 2 (2024), pp. 128-138

<https://www.jurnalfai-uikabogor.org/index.php/mizan/index>

Pancasila Perspective Marriage System: Harmony of National Values in Family Institutions

Dul Jalil, Ecep Ishak Fariduddin, Muhammad Farhan Qurroto Yasir¹

Nahdhatul Ulama College of Sharia Sciences (STISNU) Nusantara



<https://doi.org/10.32507/mizan.v8i2.3068>

Abstract

This article attempts to explain that marriage is defined as a spiritual and physical bond between a man and a woman to achieve happiness. However, in reality, many marriages are forced, resulting in unhappiness. This goes against the purpose of marriage stated in the law. The inclusion of the phrase "Belief in the Almighty God" in the definition of marriage in Article 1 of Law no. 1 of 1974 shows that marriage is not only a personal matter, but also a legal relationship that contains religious values based on Pancasila as the Indonesian philosophy of life. The marriage law explains that marriage is a spiritual and physical bond between a man and a woman, but this explanation is different from that regulated in the Civil Code, especially Book III. This difference is the background for this research. The purpose of this research is to find out and explain that there should be no substantive differences between the 1974 Marriage Law and the Civil Code, especially Book III. This is necessary so that the public gets legal certainty, both in terms of the Marriage Law and the Civil Law. This research uses qualitative methods, with a type of library research that is based on library data or documentation that is relevant to the title of this research. The research results show that there is legal uncertainty in the field of marriage law, which is caused by the provisions in Article 66 of Law No. 1 of 1974 which states that colonial product legal provisions do not apply, even though the Civil Code is also a colonial product. Therefore, there needs to be legal certainty to avoid confusion in society.

Keywords: National Sharia Council; Dispute Resolution; Religious Court

A. INTRODUCTION

Humans are creatures created by God who have different needs in their lives. Every individual certainly wants to meet his needs so that he can live a perfect life, both as an individual and as a member of society. According to A. H. Maslow (1954), human efforts to meet their needs have a hierarchy consisting of five types, namely:

First, physiological needs, include fulfilling basic needs such as eating, drinking, breathing air, resting, avoiding pain, and having sex. Second, the need for safety arises after physiological needs are satisfied. These needs include protection, security, order, law, and stability. If this need is not met, anxiety or fear will arise that can hinder the fulfillment of other needs. Third, the *need for a sense of belonging and affection* arises after physiological needs and a sense of security are satisfied. It involves finding friends, lovers, descendants, and the

¹ Manuscript received date: August 15, 2024, revised: Nov 22, 2024, approved for publication: Desc 30, 2024.

desire to be part of the community. Fourth, the need for self-esteem (*the need for self-esteem*), is divided into two types: the need for status, attention, and reputation (the lowest), and the need for confidence, competence, success, independence and freedom (the need for self-esteem). Fifth, the need for self-realization, which is related to the desire to realize and develop one's potential. Personality reaches its highest level when these primary needs interact with each other, and through self-realization, one can realize one's full potential.

According to Maslow, physiological needs are one of the basic human needs, including the need to channel sexual desire. People channel their sexual desires in various ways, both unusual (for example, same-sex sexual relations) and in accordance with applicable norms, including marriage. However, it needs to be understood that marriage is not just the satisfaction of sexual needs. Marriage also has a broader meaning, including having children, so that marriage also fulfills the need for belonging and love *needs*.

The term marriage actually comes from the Arabic language and is known as the term Nikah (Munawwir, 2007). Word *Al-Nikah* has a meaning *Al-Wathi'* and *Al-Dammu wa Al-Tadakhul*, which is sometimes also called *Al-Dammu wa Al-Jam'u* or as *'an al-wath wa al-'aqd'*, where "related" means having sex, meeting and contracting (Nuruddin & Akmal, 2019). In terminology, nikah or nikah is also called "*ziwaaq*" in Arabic, so that the word nikah has two meanings, namely the actual meaning (essence) and the figurative meaning (*majaaz*) (Al-Jazairi, n.d.). Marriage is literally called "*Tap*" which means "extort", "overlap" or "collect", while figuratively it is called "*wathaa*" which means "to have sex". In everyday usage, the word marriage is used more often in a figurative sense than in its actual meaning, and its true meaning is now rarely used.

Koswara et al. explained that marriage is living together between a man and a woman who meet certain conditions. Marriage is basically a covenant that binds the mind and body based on faith (Koswara et al., 2023). Some similar opinions suggest that marriage at first glance appears to be a social agreement between a man and a woman, similar to a sale and purchase agreement or lease. Ansari views marriage as a sacred agreement between a man and a woman to create a family (Ansari, 2020). Meanwhile, Abdul Rahman Ghazaly defines marriage as a legal relationship between a man and a woman for a long period of time (Ghazaly, 2020).

Marriage is an agreement (akad), but the meaning of the agreement here is different from the agreement regulated in the third book of the Civil Code. Marriage is an agreement that aims to create happiness between both parties (husband and wife), not limited to a certain period of time and religious (worship aspect). It is true, as quoted by Lisnawati, Sidi Gazalba explained that a bond cannot be qualified as a marriage if it is unhappy, temporary, or not based on faith in God Almighty (Lisnawati, 2022). Marriage is closely related to religion and spirituality, therefore in addition to the external aspect, the internal aspect also plays an important role. Therefore, there is a need for legal certainty that can bridge the gap between the Marriage Law No. 1 of 1974 and the Civil Code.

In Islam, marriage is considered a norm that brings peace, prosperity and justice to the family institution. Marriage is defined as an agreement between a man and a woman on the basis of equality (Firdhauzi, 2022). In his research entitled "Discourse on Interreligious Marriage in the Perspective of Pancasila and the Constitution," Muhamad Najih explained, in the Indonesia legal system, religious law is a legal instrument to determine the validity of marriages held by the community. Najih also added that the values and attitudes of the people of Indonesia are

reflected in Pancasila which is in line with religious values. Therefore, marriage activities that are in accordance with Pancasila values are also in line with religious values.

Based on the description above, this article formulates an assessment of the problem of how Pancasila formulates the marriage system in Indonesia and what is the philosophical and sociological basis related to the marriage system in Indonesia from the perspective of Pancasila? On that basis, the purpose of the author of this article is to try: Exploring the marriage system in the formulation of Pancasila; and Discuss the philosophical and sociological foundations related to the marriage system in Indonesia from the perspective of Pancasila.

B. METHOD

The method used by the author in this study is a qualitative research method (*library research*). This research is a type of literature research that is based on literature data or documentation relevant to this research.

This study uses a descriptive analysis method. This descriptive research focuses on solving the problem of opinions contained in legal sources (Ali, 2020). In addition, the author also uses the content analysis method, which is a technique to draw conclusions through objective and systematic news identification (Moleong, 2019). Content analysis has several characteristics, namely: first, the text must be processed according to the rules and procedures developed; Second, the text is processed systematically and based on the rules given, it is determined which text belongs to a category. Third, text analysis must contribute to theory and have theoretical relevance; Fourth, the analysis depends on the description that is embodied. The data sources of this study are divided into two data sources, namely primary and secondary. The main data sources used are the Marriage Law Number 1 of 1974 and the Civil Code, especially Book III. Secondary data sources consist of books and journals relevant to this study.

C. RESULT AND DISCUSSIONS

Legal Development in Indonesia

The progress of human thinking, both individually and in groups, has given birth to a common vision and understanding to improve the values of human life. Society consists of different tribes and nations, this affects the diversity of ideologies due to thoughts, cultures, customs, and values that exist in society. Human beings cannot achieve and improve their dignity individually. Therefore, as social beings, humans always have to interact with others in their lives. In this context, society forms a living community called the state, but the character of society from one country to another is greatly influenced by an ontological understanding of human nature.

The differences in the characteristics of society in different regions of the world affect the direction of legal development in these countries. Therefore, the existing legal system in a country must reflect the cultural character of its people. There are several legal systems around the world, including the Anglo-Saxon legal system, the Continental European legal system, the Islamic legal system, *the common law legal system*, and in some countries it is also called the socialist/communist and canonical legal system. Legal system.

The development of various legal systems in a country is also influenced by the country's political system, because law is the result of a political process. However, a country's history also influences its legal system in several ways. An example is Indonesia, which still knows and applies three legal systems, namely the continental European legal system, the Islamic

legal system, and the customary law system. The continental European legal system emerged in Indonesia because the Netherlands government applied Netherlands law in its colony based on the principle of concordance for approximately 350 years during the Netherlands colonial period. On the other hand, the Netherlands government also recognizes the application of Islamic law and customary law for the population of Indonesia based on Articles 131 and 161 IS (*Indische Staatsregeling*). Although the transitional provisions of the 1945 Constitution state that the provisions of IS remain in force, Indonesia's legal system, especially in private legal matters, remains pluralistic, with the application of colonial law (continental European law), Islamic law, and customary law.

According to D. Simamora (et al., 2023), the development of national laws in various countries is in line with the development of power in these countries. National law is basically a law that is legitimate in its creation and implementation, resulting from the power and authority of the state. Along with the expansion of life from local communities to larger political communities such as the modern state, the need for a single, firm (positive) legal system has arisen. Therefore, the movement towards the unification and codification of law is important in the process of nationalization, nationalization, and modernization which leads to the reduction of the existence of local and traditional elements. In Indonesia, the legal system has become a topic of discussion involving various experts and legal observers as well as the wider community. This is understandable, because in reality the rule of law permeates almost all aspects of life, as the saying goes: "Where there is society, there is law" (*UBI sociates ibi ius*), which underscores how important law is as a social institution. Continuity. Society lives as a social unit, Saladin T. emphasizes that law is a normative instrument created by society that is intended to be applied to the society that creates it, so that the legal system starts from society and ultimately ends in society that regulates and enforces it (Saladin, 2021).

Each part of the legal system must function effectively as a whole. A legal system is a system or structure composed of interconnected components, because this system is a set of elements that interact with each other and are arranged in sequence towards an overall goal. The characteristics of a system include:

First, a system is a complexity of elements formed through integrated interactions. It is an orderly and organized structure with a consistent methodology. *Second*, this structure is a complete set of various elements that are subsystems of the system. *Third*, each element is interconnected with each other in an interdependent relationship. *Fourth*, the subsystems function according to their respective roles, both in their own interests and in relation to the other elements of the system, thus forming a whole and unified whole; the set of elements determines the nature of each of its constituent parts. *Fifth*, parts of a whole cannot be understood if they are understood separately or independently of that whole. *Sixth*, the subsystems of a system are arranged according to a certain structure, shape, pattern or plan, which was previously determined by thought or formed naturally.

Seventh, certain guidelines are used as the basis that a system must follow in compiling its structure, form, pattern, or plan, so as to avoid conflicts or overlaps between the sub-systems in the system. *Eighth*, sometimes, the system can interact with the external environment to make the necessary adjustments automatically, without disturbing the integrity and unity of the system's existence. *Ninth*, everything done by the system is directed to the achievement of certain goals that have been set beforehand, which is the basis for the preparation of plans, patterns, or forms to enable the effective achievement of those goals.

A law is basically a system that must meet the characteristics of the system described above. This legal system can be interpreted as a neatly organized legal structure consisting of various complex elements such as regulations, court decisions, institutions or organizations, and values. This legal system is durable, autonomous and functions to maintain the balance of the social order (*restitutio in integrum*) (Mertokusumo, 2019).

The understanding of the legal system is in harmony with the concept of law itself. According to Austin, law refers to regulations that apply to all legal entities. Therefore, according to him, the legal system focuses on a set of rules (Raz, 2019). Hart also views law as a system composed of various rules that are hierarchically interconnected and have a complex structure (Budiono, et al., 2023). Hans Kelsen developed this vision by emphasizing that law is a special commandment, a commandment that is the embodiment of the personal will (Kelsen, 2017). This concept of law is associated with the authority given to the individual who issued it. This legal concept is associated with the authority given to the person who announces it.

The legal system is not only limited to the relationship between rules in its hierarchical structure, but also includes institutions and law enforcement processes by the authorities. Successful prosecution is essential for creating a sense of justice in society, which is an important element in a democratic legal system. John Rawls emphasized the importance of the legal system in implementing the principles of freedom and justice, so that the existence of the legal system becomes a necessity in a society. Rawls views the legal system as a tool that uses coercive power to enforce regulations that target the interests of individual members of society and serve as a guideline in implementing social order.

Friedman explained that the success of law enforcement depends on the performance of three main components of the legal system, namely legal structure, legal content, and legal culture. The legal structure is the foundation, framework, and permanent form of an unshakable system. The substance of the law includes regulations and legislation that are actually implemented by the institution, which reflects the reality and behavior of actors in the system. Meanwhile, legal culture includes ideas, attitudes, beliefs, expectations (Arinanto, 2020), and opinions about the law. Friedman then added a fourth element in the next development, namely legal impact.

Based on the explanation above, it can be understood that the legal system not only includes the relationship between various regulations, but also includes institutions or organizations that have the authority to design and implement the legal system. This system consists of several subsystems that depend on each other and interact. According to Mochtar Kusumaatmadja, the components of the legal system include: (1) principles and rules; (2) the structure of legal institutions; and (3) the process of translating regulations into real practice (Kusumaatmadja, 2019).

In the context of the marriage legal system, it should be understood that the legal system in question is a national legal system rooted in the principles of ideology and the state constitution (Pancasila and the 1945 Constitution). In other words, the system is based on creations and activities that reflect the nation's unique values and framework. However, the marriage legal system also remains pluralistic.

The Indonesia nation has characteristics that are rooted in the values it had before the formation of the modern state. These values include customary, cultural, and religious values, which then became the basis of the value system known as Pancasila. In an effort to establish a state, Indonesia adheres to the vision of life contained in Pancasila. Through the uniqueness and process of forming the country, Indonesia highlights its identity as a country that is

different from other countries. Therefore, the term "Indonesia's state of law" must be distinguished from the concept of "state of law" that applies in other countries. However, this does not mean that the common legal principles that apply in other countries are ignored.

Law arises and is formed from various aspects of people's lives, so that law in essence also forms the structure of people's lives. Therefore, in developing the laws of a country, it is very important to pay attention to the values and aspects that are alive and developing in society. This is to ensure that legally produced products do not cause negative impacts or are contrary to the values that are developing in society. On that basis, the laws and regulations that are formulated must reflect the values that live and develop in society, and in Indonesia these values are crystallized in Pancasila.

When we talk about law and the state of law, the main focus is on the concept of the state of law itself. Jimly Asshiddiqie (2019) argues that the idea of a state of law arises from the development of a functional and just legal system, as well as the orderly implementation of infrastructure and political, economic, and social institutional superstructures. In addition, it is also necessary to develop a legal culture and legal awareness that is rational and impersonal in coexisting with society, nation, and state. Therefore, the design and implementation of the legal system must be carried out carefully (legislation) and efficiently (law enforcement), starting from the establishment of the Constitution as the supreme law that is the foundation of the legal system. To ensure the validity of the Constitution as the highest basic law, the Constitutional Court was also established which functions as the guardian and interpreter of the Constitution (Asshiddiqie, 2019).

The state of law is often considered synonymous with the terms "rule of law" and "*rule of law*", but in reality the two have different meanings. The term "*rule of law*" is most commonly used in continental European countries that are based on civil law systems, while "*rule of law*" is more commonly associated with Anglo-Saxon countries whose systems are based on civil law. The civil law system tends to emphasize more on administrative law, while customary law emphasizes more on jurisprudence.

Oemar Seno Adji explained three forms of the state of law, namely the state of law, socialist legality, and the state of Pancasila law. He said *rechtstaat* and *rule of law* Resting on the same ground (Rudiyi, 2023). The concept of the state of law is actually just a further development of the concept of the state of law, whereas the difference between the concept of the state of law and socialist legality is related to different histories and ideologies. The state of law and the rule of law flourished in countries such as the United Kingdom, continental Europe and the United States, while the concept of socialist legality emerged in communist and socialist countries. These three concepts have the same origin, namely human beings as the main axis (anthropocentric), and emphasize the values of rationalism, humanism, and secularism as the source of value. According to Rahman A (2024), the 1945 Constitution emphasizes that Indonesia is a country of law. Originally, the term state of law only appeared in the explanation of the 1945 Constitution which emphasized that the state of Indonesia is based on the state of law and not just a state of power. However, the concept of the state of law contained in the 1945 Constitution and its implementation in state life is not explained in more detail. Therefore, the concept of the Western legal state, as explained by Julius Stahl, can be used as a reference to identify the key elements of the state of law, including the protection of human rights (HAM), the separation of government, and the separation of the state. power, government based on laws and state administrative courts (Asshiddiqie, 2019). A V. Dicey

also developed the term *rule of law* in the Anglo-American legal tradition, where he emphasized three essential elements: the absolute rule of law, equality before the law, and the legal process. These three concepts are closely related to individual freedom and human rights (Mahmood and Seror, 2023).

In all the concepts of the legal state in the West, the focus is on the protection of individual rights and freedoms, which can be summarized in terms of human dignity and the arrangement of power, as well as the actions of the state to respect the rights of the individual, which must be carried out on the basis of equality. Therefore, there is a need for a separation of powers within the state to avoid the dominance of one branch of power over the other and to emphasize the importance of an independent judiciary to monitor and ensure compliance with existing laws and regulations. In continental European countries, state administrative courts are required to monitor state actions in order to comply with legal requirements. Therefore, the vision of the Western legal state is based on the idea of limiting the power of the state over individual rights.

After studying the evolution of the practice of the modern state of law, Jimly Asshiddieqie concluded that there are twelve basic principles of the state of law that apply today. These principles include the primacy of the law, equality before the law, the principle of legality, the limitation of power, the existence of an independent executive institution, a free and impartial judicial system, state administrative justice, constitutional justice, and the protection of human rights. human rights, democracy with character, functioning as a tool to achieve state goals, as well as transparency and social control. These twelve principles are an important foundation that essentially supports the existence of a modern legal state.

Pancasila as a Legal Basis in Indonesia

Indonesia's legal state, also known as the Pancasila legal state, has a different origin from the concept of a legal state that is commonly known in the Western world. Although the term rule of law as referred to in the 1945 Constitution is inspired by concepts known in the West, it is clear in Soepomo's thinking that when referring to the 1945 Constitution, we mean the concept of the rule of law. law, which is considered a Western concept. Inspired by the concept of the Western legal state, especially the state of law, the 1945 Constitution stipulates that the elements of the state of law and the state of law are part of the principle of Indonesia's legal state.

In contrast to *rechtstaat*, *rule of law*, and *socialist legality*, in the context of the state of Pancasila law or the so-called state of law of Pancasila, in the state of law and the state of law there are elements similar to *rechtstaat* and *rule of law*, but it also has certain elements that distinguish it from the commonly known concept of the state of law. According to Hamdan Zoelva, the difference lies in the values contained in the preamble to the 1945 Constitution which contains Pancasila with the principle of the One God and the absence of separation between the state and religion, as well as the principle of deliberation. In the implementation of the government, power must adhere to the principles of social justice, kinship and mutual cooperation, as well as laws and regulations that maintain the integrity of the unitary state of Indonesia.

Pancasila as the Basis of the State emphasizes that all aspects of the constitutional life of the Unitary State of the Republic of Indonesia must be in accordance with the values of Pancasila. All laws in Indonesia must be based on Pancasila because it is considered the highest source of law. Therefore, all forms of power in society must be based on the rule of

law, which is at the same time the norm that governs the life of the state. Therefore, Indonesia must become a country of law.

The Marriage System in the View of Pancasila Values

Based on the principle of the state of law based on Pancasila, the Indonesia nation shows the nature of unity, family, and religion, showing that the Indonesian nation is basically a nation that believes in God Almighty. The concept of the One God contained in the Preamble to the 1945 Constitution gives its own characteristics to the state of Indonesia, which is not a secular state that separates religion from state affairs, nor a religious state that bases everything on a certain religion. Faith in God Almighty emphasizes that Indonesia respects all religions that live there, as stated in Article 1 of Law Number 1.1 of 1974 which regulates marriage as a physical and spiritual bond between a man and a woman to form a happy and eternal family based on the principle of kinship, the principle of faith in God Almighty.

Although marriage is closely related to religious values, due to religious pluralism in Indonesia, it is impossible to establish marriage rules based on only one religion without paying attention to the values of other religions. Therefore, the law states that the purpose of marriage is to create a happy and eternal family based on faith in God Almighty. In the general explanation of Law No. 1 of 1974, the third part also emphasizes that this law must reflect the principles of Pancasila and the 1945 Constitution and adjust to the reality of today's society. This marriage law includes the legal and regulatory elements of the different religions and worldviews of the people involved.

The marriage system in Indonesia is regulated in Law Number 1 of 1974 which has a sociological significance. These laws reflect the norms that exist in society, including the norms of loyalty. The provision on fidelity is included in the Marriage Law which emphasizes that the purpose of marriage is to achieve happiness for a man and a woman, and loyalty is one of the elements that supports the achievement of happiness.

Based on this general explanation, Indonesia is also not included in the category of secular countries that separate religion from state affairs. Indeed, Article 2 paragraph 1 of Law No. 1 of 1974 expressly states that marriage is considered valid if it is held according to the legal norms of religion and belief respectively. This shows that although the state creates marriage norms through the legislative process, religious legal norms or individual beliefs related to marriage, which are in essence closely related to religious aspects, are not ignored by the state. Thus, according to Rudy N. (2023), Law no. 1 of 1974, implemented by Government Regulation No. 9 of 1975 covering various aspects such as social, economic, cultural, political, religious, psychological, and legal aspects. The Marriage Law clearly states that marriage is considered valid if it is in accordance with religion and belief. Therefore, the religious aspect embedded in the Marriage Law shows that the laws made by the state of Indonesia are not secular.

Article 2 paragraph 1 of Law No. 1 of 1974 emphasizes that marriage is considered valid if it is carried out according to the legal norms of their respective religions and beliefs. This shows that the religious aspect must be taken seriously by those who are going to get married, so that the marriage is considered valid only if the process is in accordance with the religious teachings they adhere. On the other hand, the provisions of the marriage law in the Civil Code as stipulated in Article 26 only refer to civil relations. According to Moh. Idris Ramulyo (1996),

Article 26 emphasizes that the validity of a marriage is only based on the conditions stipulated in the civil law, without taking into account the conditions based on religious law. This provision is not in line with the principle of Indonesia's state of law based on Pancasila, because Indonesia does not separate religion from state affairs and the religious aspect is an important part of marriage.

The difference with marriage in the state system of Pancasila law regulated in Law Number 1 of 1974 states that marriage is no longer considered solely as an individual relationship between a man (husband) and a woman (wife) in a pure civil context. but it must be seen as a sacred bond (physical and spiritual bond) based on faith in God Almighty. According to Sidi Gazalba quoted by Lisnawati (2022), a bond cannot be said to be a marriage if the physical and spiritual bond does not bring happiness or is not permanent and is not based on the principle of faith in God Almighty. This is in accordance with Sidi Gazalba's statement quoted by Mohd. Idris Ramulyo said that it is not a marriage if the inner and outer bonds are not happy or the marriage is temporary and "not based on the One Godhead".

D. CONCLUSION

The main problems in the field of law today are mainly related to legal uncertainty which is often an obstacle to the administration and development of the state. This problem arises because legal rules continue to overlap, are inconsistent, unclear, or can be interpreted differently. In addition, the problem is also that colonial regulations in Indonesia are still in force and are not in accordance with the values of Pancasila. Sociologically, Pancasila contains social values such as mutual cooperation and loyalty that are relevant in the context of marriage. The purpose of marriage is to create a happy family, which can be achieved with loyalty, in accordance with the values of loyalty embraced by Pancasila.

The formulation of the One God in Law Number 1 of 1974 shows that Indonesia is not a secular country and not a religious country. Article 1 of this law states that marriage is a spiritual and physical union between a man and a woman as husband and wife, with the aim of creating a happy and eternal family based on faith in God Almighty. However, there is legal uncertainty in the field of marriage, especially related to Article 66 of the Law, which emphasizes that no colonial laws and regulations other than those regulated in this Law are applicable.

It can be interpreted that a discipline related to marriage is not regulated in Law No. 1 of 1974, the legal basis is traced back to colonial legal norms. This means that from a normative point of view, these legal norms are not in accordance with Pancasila as the philosophy of the Indonesian nation. Therefore, efforts to unify marriage law are still lacking, which has an impact on legal uncertainty in this field. Article 26 of the Civil Code is not in accordance with the principle of Indonesia's state of law based on Pancasila, because Indonesia does not regulate the separation between state and religious affairs. Indonesia as a Pancasila country strongly upholds religious values, especially in marriage law which emphasizes that marriage is considered valid if it is celebrated in accordance with the laws of religion and their respective beliefs.

Ideally, the law should ensure legal certainty by supporting three interrelated elements: legal content, legal structure, and legal culture. If these three elements are not fulfilled at the same time, then legal certainty will only become rumors and dreams that will

not be realized. To achieve legal security in a country based on the rule of law, adequate legal rules are needed that can solve all problems in the legal field in accordance with the spirit of the concept of legal substance formulated by Friedman.

References

- Adams, J. N., & Brownsword, R. (1999). *Understanding Law* (2nd ed.). Sweet & Maxwell.
- Adji, S. U. (1989). *Elopement and Interfaith Marriage*. Liberty.
- Adjie, O. S. (1980). *Free Judiciary, State of Law*. Erlangga.
- Al-Jazairi, A. (n.d.). *Al-Fiqh 'Ala Al-Madzahib Al-Arba'ah*. Dar Al Fikr.
- Arinanto, S. (2006). *The Politics of National Legal Development in the Post-Reform Era*. UI-Press.
- Asshiddiqie, J. (2006). *Constitution & Indonesia Constitutionalism*. Secretariat General of the Constitutional Court of the Republic of Indonesia.
- Firdhauzi, S. (2022). The essence of marriage is reviewed from Law Number 16 of 2019 concerning Marriage. *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*, 2(2), 301–320. <https://doi.org/10.53363/bureau.v2i2.37>
- Harahap, M. Y. (2007). *The Position of Authority and Procedures of the Religious Court Law No. 7 of 1989* (2nd ed.). Sinar Grafika.
- Kelsen, H. (2017). *General Theory of Law and State*. Routledge.
- Kusumaatmadja, M. (2006). *Legal Concepts in Development*. Alumnus.
- Mertokusumo, S. (2010). *Getting to Know the Law (An Introduction)*. Liberty.
- Moleong, L. J. (2007). *Qualitative Research Method*. Remaja Rosdakarya.
- Nuruddin, A., & Akmal, A. (2004). *Islamic Civil Law in Indonesia, A Critical Study of the Development of Islamic Law and Fiqh, Law No. 1/1974 to KHI*. Prenadamedia Group.
- Prodjodikoro, W. (1981). *Marriage Law in Indonesia*. Well.
- Rahardjo, S. (2006). *Law in the Universe of Order*. UKI Press.
- Ramulyo, M. I. (1995). *Marriage Law, Inheritance Law, Procedural Law of Religious Justice and Zakat According to Islamic Law*. Sinar Grafika.
- Ramulyo, M. I. (1996). *Islamic Marriage Law, An Analysis of Law Number 1 of 1974 and a Compilation of Islamic Law*. Bumi Aksara.
- Rasjidi, L. (2008). *Development of the Legal System in the Context of National Legal Development (In Points of Legal Thought; Commemorating the 70th Anniversary of Prof. Dr. B. Arief Sidharta, SH)*. Refika Aditama.
- Raz, J. (1971). The Concept of a Legal System: An Introduction to the Theory of Legal System. In *The Philosophical Quarterly* (Vol. 21, Issue 85). Oxford University Press. <https://doi.org/10.2307/2218669>
- Subekti, R. (1985). *Principles of Civil Law*. Intertime.
- Surakhmad, W. (2012). *Introduction to Scientific Research, Basics, Methods and Techniques*. Tarsito.
- Thalib, S. (1986). *Family Law in Indonesia*. UI-Press.
- Yunus, M. (1973). *Indonesia Arabic Dictionary*. Foundation for Translator/Interpretation of the Qur'an.

