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Constitutional Transformation of Indonesian Family Law: A Comparative Analysis of Constitutional Court Decisions on Marriage

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Abstract

Constitutional adjudication plays an important role in shaping Indonesian family law through the interaction of constitutional principles, state regulations, and religious norms. This study aims to identify and explain distinct patterns of constitutional transformation through a comparative analysis of Constitutional Court Decisions Nos. 22/PUU-XV/2017, 46/PUU-VIII/2010, and 24/PUU-XX/2022. Employing normative juridical research with statutory and case approaches, the study applies qualitative comparative and deductive analysis across five dimensions: constitutional issues, statutory provisions, judicial reasoning, operative rulings, and normative consequences. The findings reveal three patterns of transformation: reconstructive transformation, represented by the reform of minimum marriage-age regulation; expansive transformation, reflected in the extension of civil-law protection to children born outside marriage; and preservative transformation, demonstrated by the maintenance of the religious basis of marital validity in interfaith marriage. These patterns show that constitutional intervention does not follow a uniform trajectory but varies according to the legal issues and the Court's reasoning. The study proposes differentiated constitutional transformation as a context-specific analytical framework, with maqāṣid al-sharī'ah serving as a normative instrument for evaluating legal consequences and legal pluralism providing the contextual perspective for understanding the interaction between constitutional and religious norms.

Keywords Constitutional Court; Indonesian Family Law; Maqāṣid al-Sharī'ah

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1. INTRODUCTION

Indonesian family law has evolved in response to constitutional developments, changing social realities, and the growing recognition of individual rights. Marriage, as a religious, social, and legal institution, is subject to both state regulation and constitutional scrutiny. Its development reflects the interaction between religious norms, statutory law, constitutional principles, and human rights, particularly within Indonesia's plural legal system, where Islamic family law remains an important source of legal values (Hermanto, 2024; Miichi, 2025; Rosa et al., 2024). Accordingly, family-law

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transformation must be examined not only through legislative changes but also through judicial interpretation of existing legal norms.

The Constitutional Court of Indonesia (Mahkamah Konstitusi) plays a significant role in this transformation through its authority to review legislation. Decision No. 22/PUU-XV/2017 concerned the different minimum marriage ages prescribed for men and women under Article 7(1) of Law No. 1 of 1974 on Marriage. The Court found the gender-based distinction unconstitutional, prompting legislative reform through Law No. 16 of 2019, which established a minimum marriage age of 19 for both sexes. This decision illustrates how constitutional adjudication can reconstruct family-law norms in response to equality, gender justice, and child-protection concerns. (Hadiati & Ramadhan, 2022; Purnomo et al., 2023)

A different form of intervention emerged in Decision No. 46/PUU-VIII/2010 concerning the civil status of children born outside a lawful marriage. The Court reinterpreted Article 43(1) of Law No. 1 of 1974 to permit the recognition of a civil relationship between such children and their biological fathers when such a relationship can be established through legally recognized evidence (Taqiuddin & Martadinata, 2026; Yohanes & Djaja, 2024). Although this ruling expanded the basis for children's civil-law protection, it also raised debates within Islamic family law concerning nasab, inheritance, guardianship, and the distinction between biological ties and legally recognized lineage (Lestari et al., 2023; Sanmas et al., 2025). The decision thus illustrates how constitutional intervention may expand legal protection while generating tensions with established Islamic legal doctrines.

By contrast, Decision No. 24/PUU-XX/2022 illustrates the preservation of existing legal boundaries in interfaith marriage. The Court rejected the constitutional challenge and reaffirmed the role of religious law in determining marital validity under Indonesian law (Mauliana & Hanapi, 2023; Sidqi, 2023). This outcome demonstrates that constitutional adjudication does not invariably expand individual autonomy or reconstruct existing norms. Meanwhile, the continued practice of interfaith marriage through various social and legal mechanisms highlights the complex relationship between formal regulation and social realities (Ibnudin et al., 2025; Zaldi & Tanjung, 2023). Taken together, these decisions indicate that constitutional transformation in Indonesian family law follows no single trajectory but reflects differing interactions among constitutional rights, religious norms, legal certainty, and social change.

Previous studies have examined these constitutional controversies primarily in terms of their substantive issues. Research on Decision No. 22/PUU-XV/2017 has focused on the constitutionality of gender-differentiated marriage ages, gender equality, child protection, and the implications of the decision for marriage-law reform (Ilhami, 2020; Kasmiati, 2021; Manaf, 2019; Roslaili, 2021; Sautunnida, 2020; Septarini, 2019). These studies provide doctrinal and normative explanations of the constitutional

basis for reform and its relationship with the protection of women and children. However, their primary analytical focus remains the regulation of marriage age and its consequences, rather than its comparative relationship with other forms of constitutional intervention in family law.

Studies of Decision No. 46/PUU-VIII/2010 have concentrated on the legal status and civil rights of children born outside marriage, particularly the recognition of relationships with biological fathers and the implications for legal protection, inheritance, and Islamic family law (Handini, 2019; Hanum, 2019; Pusvita, 2018). Mardiana (2020), for example, examined the legal implications of Constitutional Court Decisions No. 46/PUU-VIII/2010 and No. 69/PUU-XIII/2015, demonstrating that comparative analysis of Constitutional Court decisions in the field of marriage law has already been undertaken. Nevertheless, the focus of these studies is on the legal consequences of particular decisions and related regulatory developments, rather than on developing a comparative typology of different forms of constitutional transformation across distinct family-law controversies. Furthermore, research concerning children born outside marriage continues to raise an important doctrinal distinction between civil-law recognition and the Islamic concept of nasab, including its implications for inheritance and guardianship. (H. Abid, Edi Rohaedi, 2022)

Research on interfaith marriage has examined the relationship between marital validity, religious freedom, and the interaction between religious norms and state regulation. Earlier studies discussed the normative position of interfaith marriage within Indonesian Islamic law and positive law (Islamiyati, 2016; Widjaja, 2021), while subsequent studies specifically examined Constitutional Court Decision No. 24/PUU-XX/2022 and its constitutional and legal implications (Mauliana & Hanapi, 2023; Sidqi, 2023). These studies provide important perspectives on the religious foundation of Indonesian marriage law and the constitutional arguments surrounding interfaith marriage. However, their principal concern remains the legal position of interfaith marriage rather than how the Court's approach compares with its interventions concerning marriage age and the civil status of children born outside marriage.

This literature indicates that previous research has established substantial doctrinal foundations for understanding each controversy, and some studies have also compared particular Constitutional Court decisions. The limitation, therefore, is not the complete absence of comparative research. However, the literature reviewed lacks an integrated analytical framework that compares these three distinct family-law controversies using common criteria. In particular, the relationship among the constitutional issue, the statutory norm under review, the Court's reasoning, the form of judicial intervention, and the resulting normative consequences has not been sufficiently articulated to explain why constitutional adjudication generates different directions of transformation within the same field of family law. This is the specific research gap addressed by the present study.

To address this gap, this study proposes a differentiated constitutional transformation as a context-specific comparative typology to explain three forms of constitutional intervention in Indonesian family law. The first is reconstructive transformation, represented by Decision No. 22/PUU-XV/2017, in which constitutional review identified a gender-based statutory inequality and initiated legislative reconstruction toward equality and child protection. The second is expansive transformation, represented by Decision No. 46/PUU-VIII/2010, in which constitutional interpretation expanded the possibility of civil-law protection for children born outside marriage, subject to legally recognized evidence, without automatically equating civil relations with nasab. The third is preservative transformation, represented by Decision No. 24/PUU-XX/2022, in which the Court maintained the existing religiously grounded framework for determining marital validity. These categories are distinguished not merely by whether a constitutional petition is granted or rejected, but by examining the constitutional issue, the Court's reasoning, the nature of its intervention, and the resulting normative implications.

The principal contribution of this study is the formulation of a three-part comparative typology that explains why constitutional adjudication in Indonesian family law does not necessarily produce a uniform trajectory of legal change. Rather than classifying judicial outcomes simply as progressive or restrictive, the typology identifies differences between the reconstruction of statutory norms, the expansion of civil-law protection, and the preservation of existing normative boundaries. Maqāṣid al-sharī'ah is employed as a complementary normative evaluative framework, not as the basis for constructing the typology, to assess the implications of these interventions in terms of maṣlaḥah, harm prevention, justice, and the protection of vulnerable parties and family interests. Meanwhile, legal pluralism provides the contextual perspective for examining the interaction between constitutional principles, state law, and religious norms. Thus, the study distinguishes three analytical functions: comparative typology as its principal conceptual contribution, maqāṣid al-sharī'ah as its normative evaluative instrument, and legal pluralism as its contextual framework. The proposed typology is intended for comparative analysis within Indonesia's specific institutional and legal context, rather than as a universal classification applicable to all constitutional courts or legal systems.

Accordingly, this study addresses three questions: (1) How has the Constitutional Court transformed Indonesian family-law norms through its marriage-related decisions? (2) What patterns of differentiated constitutional transformation emerge from comparing these decisions? Moreover, (3) How can these patterns be evaluated through Islamic family law and maqāṣid al-sharī'ah? These questions guide the analysis of judicial intervention, constitutional reasoning, and the position of religious norms in Indonesian family law.

2. METHODS

This study employs a normative juridical method, using statutory and case-based approaches, to examine constitutional transformation in Indonesian family law. As doctrinal research, it analyzes legal norms, constitutional principles, statutory provisions, and judicial reasoning, as well as their normative implications, rather than empirically measuring legal implementation or social behavior. The statutory approach examines the relationship between constitutional provisions and marriage legislation, while the case approach analyzes the legal reasoning, operative rulings, and normative implications of selected Constitutional Court decisions. These approaches are integrated through qualitative comparative and deductive legal analysis to identify variations in constitutional intervention and their implications for Indonesian family law.

The study purposively selects Constitutional Court Decisions Nos. 22/PUU-XV/2017, 46/PUU-VIII/2010, and 24/PUU-XX/2022 based on three substantive criteria. First, each decision concerns the constitutional review of statutory provisions directly related to marriage and family-law relations. Second, each addresses a distinct but interconnected constitutional controversy: minimum marriage age, the civil status of children born outside marriage, and interfaith marriage. Third, each provides a basis for examining the interaction between constitutional principles, state regulation, and religiously grounded family-law norms. These criteria enable comparisons of decisions across different dimensions of family law while maintaining a common constitutional and institutional context. The selection is analytical rather than statistical and is intended to identify contrasting patterns of constitutional intervention, not to represent the entire body of Constitutional Court jurisprudence on family law.

The scope of the study is therefore limited to these three decisions and the legal controversies directly examined in them. Other Constitutional Court decisions and legal developments are not treated as primary cases where they do not directly correspond to the selected controversies or are not necessary to explain their normative implications. Nevertheless, relevant legislative developments, particularly Law No. 16 of 2019 amending Law No. 1 of 1974 on Marriage, are considered as part of the legal context and subsequent normative consequences of Decision No. 22/PUU-XV/2017. This limitation allows the study to maintain analytical depth and consistency rather than expanding into an exhaustive examination of all constitutional disputes concerning Indonesian family law.

Primary legal materials comprise the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 1974 on Marriage, Law No. 16 of 2019 amending the Marriage Law, and the three selected Constitutional Court decisions. Secondary materials include scholarly books and journal articles addressing constitutional law, Islamic family law, legal pluralism, marriage regulation, child protection, and maqāṣid al-sharī'ah. The primary legal materials constitute the principal basis for identifying the applicable norms and interpreting the Court's reasoning and rulings. Secondary literature is used to

contextualize the legal controversies, clarify relevant doctrinal debates, and provide scholarly perspectives for interpreting the relationship between constitutional principles and Islamic family-law norms. It does not replace or override the authority of legislation and judicial decisions, which are the primary objects of analysis.

Each decision is examined through five analytical dimensions: (1) the constitutional issue raised in the case; (2) the statutory provision subjected to constitutional review; (3) the Court's principal legal considerations and constitutional arguments; (4) the operative ruling and the nature of judicial intervention; and (5) the resulting normative consequences for Indonesian family law. These dimensions function as common analytical units across the three decisions. The first and second dimensions identify the constitutional controversy and the legal object under review; the third and fourth examine how the Court reasons and exercises its constitutional authority; and the fifth identifies the legal position produced or maintained following the decision. Applying the same dimensions to each case provides a consistent basis for comparison despite differences in their substantive subject matter.

The comparative analysis proceeds through four stages. First, each decision is examined individually to reconstruct the constitutional controversy, identify the challenged statutory provision, and distinguish the Court's legal reasoning from its operative ruling. Second, the findings from each decision are organized according to the five analytical dimensions to establish their respective constitutional and normative characteristics. Third, the three cases are compared to identify similarities and differences in the constitutional interests involved, the Court's reasoning, the nature of judicial intervention, and the resulting legal consequences. Fourth, the comparative findings are synthesized into the context-specific framework of differentiated constitutional transformation. This framework comprises three categories: reconstructive transformation, which involves correcting and reconstructing an existing statutory norm in response to constitutional concerns; expansive transformation, which extends the possibility of civil-law protection to previously disadvantaged legal subjects; and preservative transformation, which maintains an existing normative framework following constitutional review. The classification is determined by examining the relationship among judicial reasoning, operative rulings, and normative consequences, rather than relying solely on whether a petition is granted or denied. Accordingly, the categories emerge from the comparative interpretation of the selected decisions and are not treated as predetermined or exhaustive classifications of constitutional adjudication.

The normative evaluation is conducted separately from the identification of the comparative typology. Maqāṣid al-sharī'ah serves as a complementary evaluative framework for assessing the implications of each form of constitutional intervention in terms of maṣlaḥah, the prevention of mafsadah, ḥifẓ al-nafs, ḥifẓ al-nasl, and the protection of vulnerable parties and family interests. This evaluation considers whether the legal reasoning and its normative consequences advance relevant objectives of Islamic law, while also examining potential tensions involving constitutional rights, religious doctrines, and legal certainty. It does not function as the basis for determining the categories of constitutional transformation, but rather as a normative instrument for critically evaluating their implications. Legal pluralism, in turn, provides the contextual lens for understanding the interaction between constitutional principles, state law, and religious norms within Indonesia's legal system. Through this procedure, the study distinguishes the comparative identification of constitutional transformation from its normative evaluation while maintaining the doctrinal scope and limitations of normative legal research.

3. FINDINGS AND DISCUSSION

This section compares three Constitutional Court decisions across five dimensions: the constitutional issue, the statutory provision under review, the judicial reasoning, the operative ruling, and the normative consequences. The comparison identifies three forms of transformation: reconstructive, expansive, and preservative, and explains how they arise from different modes of constitutional reasoning and intervention.

3.1. Constitutional Transformation of Marriage Age Regulation: Constitutional Court Decision No. 22/PUU-XV/2017

The regulation of the minimum marriage age illustrates constitutional transformation in Indonesian family law by reconstructing an established statutory norm (Mahkamah Konstitusi Republik Indonesia, 2018). Before Law No. 16 of 2019, Article 7(1) of Law No. 1 of 1974 set the minimum marriage age at nineteen for men and sixteen for women (Republik Indonesia, 1974). This distinction raised constitutional concerns regarding equality before the law, non-discrimination, and the protection of women and children, particularly given the implications of early marriage for their rights, opportunities, and welfare (Mahkamah Konstitusi Republik Indonesia, 2018). In Decision No. 22/PUU-XV/2017, the Constitutional Court partially granted the petition challenging the provision

Before Law No. 16 of 2019, Article 7(1) of Law No. 1 of 1974 set different minimum marriage ages: 19 for men and 16 for women (Republik Indonesia, 2019). This distinction raised constitutional concerns regarding equality before the law, non-discrimination, and the protection of women and children (Mahkamah Konstitusi Republik Indonesia, 2018). In Decision No. 22/PUU-XV/2017, the Court partially

granted the petition and declared the provision setting the minimum age at 16 for women unconstitutional and without binding legal force.

The Court did not directly replace the statutory age with a new numerical threshold. Instead, it instructed the legislature to amend the Marriage Law within three years, particularly concerning the minimum age for women. This approach reflected a distinction between the Court's authority to identify constitutional defects and the legislature's authority to formulate the replacement policy. The Court considered the unequal treatment constitutionally problematic but left the precise formulation of the new age threshold to the legislative process. (Hadiati & Ramadhan, 2022; Sania et al., 2024)

The legislative response was Law No. 16 of 2019, which amended Article 7(1) to establish 19 years as the minimum marriage age for both men and women (Republik Indonesia, 2019). This sequence demonstrates reconstructive transformation: the Court identified the constitutional defect and required legislative correction, while the legislature completed the reconstruction of the statutory norm. The transformation therefore resulted from judicial review combined with subsequent legislative action, rather than from the Court independently determining the entire replacement provision.

From the perspective of Islamic family law, the reform does not necessarily represent the replacement of religious norms by constitutional principles. Classical Islamic jurisprudence addresses marriageability through concepts such as *bulūgh*, legal capacity, maturity, and the ability to assume marital responsibilities, without prescribing a single numerical minimum age that matches the Indonesian statutory threshold (Suryantoro & Mansur, 2026). State regulation may instead be examined through *siyāsah shar'iyyah*, which permits public authorities to regulate social affairs to promote public benefit and prevent harm (Umah, 2026). Accordingly, *maqāṣid al-sharī'ah* offers evaluative criteria, particularly *ḥifẓ al-nafs* and *ḥifẓ al-nasl*, for assessing whether the regulation advances *maṣlaḥah* and prevents *mafsadah* (Iqbal, 2025; Shandana, 2024). These principles, however, do not automatically establish that the reform has achieved its intended protective objectives.

The distinction between normative change and practical implementation remains important. Article 7(2) of the amended Marriage Law retains the possibility of judicial marriage dispensations under specified circumstances (Republik Indonesia, 2019). Consequently, a uniform statutory age strengthens formal equality but does not, by itself, eliminate child marriage. Its effectiveness also depends on judicial assessments of dispensation applications and the protection of prospective spouses. Changes in the statutory threshold therefore need to be evaluated separately from their implementation. (Nugroho et al., 2026; Yasniwati et al., 2026)

Table 1. Normative Transformation of Marriage Age Following Constitutional Court Decision No. 22/PUU-XV/2017

No.	Analytical aspect	Before the decision	Constitutional intervention	Following Law No. 16 of 2019	Implication
1	Minimum age for men	19 years	Existing differentiated framework was challenged	19 years	Existing standard maintained
2	Minimum age for women	16 years	Considered problematic in relation to equality and protection	19 years	Increased legal protection for women
3	Equality principle	Different standards based on sex	Examined through equality and non-discrimination	Uniform minimum age	Strengthened formal equality
4	Child protection	Unequal age limits	Protection of children became relevant to constitutional review	Uniform age of 19 years	Normatively seeks to prevent child marriage
5	Institutional role	Legislative determination	Court identified a constitutional defect and required legislative action	Legislative amendment	Judicially initiated, legislatively completed reform
6	*Maqāṣid al-sharī'ah*	No uniform statutory standard	Protection became an important evaluative concern	Oriented toward *maṣlaḥah* and prevention of *mafsadah*	Relevant to *ḥifẓ al-nafs* and *ḥifẓ al-nasl*
7	Implementation	Early marriage remained a social issue	Normative reconstruction initiated	Marriage dispensation remains available	Requires continuing implementation assessment

Source: Author's analysis based on Constitutional Court Decision No. 22/PUU-XV/2017, Law No. 1 of 1974, Law No. 16 of 2019, and relevant literature

The defining feature of this reconstructive transformation is not merely that the petition was partially granted, but that the Court identified a constitutional defect and required legislative correction while leaving the detailed replacement rule to the legislature.

3.2. Expansion of Civil-Law Protection for Children Born Outside Marriage: Constitutional Court Decision No. 46/PUU-VIII/2010

Before the Court's intervention, Article 43(1) of Law No. 1 of 1974 limited the civil relationship of children born outside marriage to their mother and her family. The constitutional issue concerned whether such a restriction could exclude a legally provable biological relationship with the father, thereby limiting the child's civil protection (Judiasih et al., 2024; Mahkamah Konstitusi Republik Indonesia, 2012; Putri, 2022). In Decision No. 46/PUU-VIII/2010, the Court declared Article 43(1) unconstitutional and without binding legal force insofar as it excluded a civil relationship between a

child and a man whose biological relationship could be established through science and technology and/or other evidence recognized by law. The ruling consequently opened the possibility of a civil relationship with the biological father and his family, subject to legally sufficient proof. It did not, however, make an allegation of paternity sufficient by itself to establish every legal consequence of parentage. (Istiqomah, 2025; Mahkamah Konstitusi Republik Indonesia, 2012; Sisilia, 2025)

The constitutional rationale is closely connected to Article 28B(2) of the 1945 Constitution, which guarantees children's rights to survival, growth, development, and protection from violence and discrimination. The Court's reasoning challenges a legal interpretation that places the consequences of parental circumstances entirely upon the child (Anindyajati, 2021). Nevertheless, the recognition of a possible civil relationship must be distinguished from the determination of specific entitlements, which remain subject to evidentiary requirements and the applicable legal framework.

Scientific developments, particularly DNA testing, provide additional means of establishing biological paternity. Research by Pusvita and by Noval and Santiago discusses the relevance of DNA evidence to parentage and children's civil status (Noval & Santiago, 2025). However, the Court's reference to science and technology and/or other legally recognized evidence does not make DNA testing compulsory or exclusive in every case. The decision therefore combines expanded protection with an evidentiary threshold intended to maintain legal certainty.

A further distinction concerns the relationship between civil-law recognition and *nasab* in Islamic family law. *Nasab* concerns legally recognized lineage and its associated religious consequences. Classical Islamic jurisprudence generally links paternal *nasab* to a valid marriage, although detailed rules and scholarly discussions vary depending on the circumstances. Accordingly, recognition of a civil relationship with a biological father under state law does not automatically establish identical religious consequences concerning inheritance, guardianship, and lineage (Saputra, 2025). The decision expands civil-law protection without necessarily reconstructing the doctrinal framework governing *nasab*.

Table 2. Analytical Dimensions of Civil-Law Protection Following Constitutional Court Decision No. 46/PUU-VIII/2010

No.	Analytical dimension	Constitutional and legal position	Significance
1	Original statutory provision	Article 43(1) limited civil relations to the mother and her family	Identifies the restriction under review

2	Constitutional intervention	Recognized the possibility of a civil relationship with the biological father and his family	Expands the scope of civil-law protection
3	Evidentiary requirement	Biological relationship must be established through science and technology and/or other legally recognized evidence	Prevents automatic recognition based solely on allegation
4	Civil-law consequences	Provides a legal basis for recognizing a relationship with the biological father	Strengthens the possibility of legal protection
5	Relationship with *nasab*	Civil recognition does not automatically establish all religious consequences of *nasab*	Preserves the distinction between state law and Islamic doctrine
6	*Maqāṣid al-sharī'ah* evaluation	May be assessed through *maṣlaḥah*, prevention of *mafsadah*, and *ḥifẓ al-nasl*	Evaluates protective objectives and their limits

Source: Author's analysis based on Constitutional Court Decision No. 46/PUU-VIII/2010, Article 43 paragraph (1) of Law No. 1 of 1974, Article 28B paragraph (2) of the 1945 Constitution, and relevant literature.

This decision represents expansive transformation because the Court removed a categorical exclusion and broadened the constitutional meaning of the provision without requiring a new statutory scheme. Unlike the marriage-age case, the intervention directly expanded the possibility of civil-law protection. Its scope remains limited by evidentiary requirements and the distinction between civil relations and religious *nasab*. From a *maqāṣid al-sharī'ah* perspective, the decision raises questions about children's welfare, prevention of harm, and *ḥifẓ al-nasl*. Expanded recognition may strengthen legal protection, but it does not automatically resolve every claim relating to parentage. (Chotidjah, 2025; Faridah et al., 2026; Zahira, 2025)

3.3. Preservation of Religion-Based Boundaries in Interfaith Marriage: Constitutional Court Decision No. 24/PUU-XX/2022

Interfaith marriage raises a distinct constitutional issue concerning the relationship between the right to form a family, religious freedom, and the religious basis of marital validity. Decision No. 24/PUU-XX/2022 examined Articles 2(1), 2(2), and 8(f) of Law No. 1 of 1974, as amended by Law No. 16 of 2019. The Court rejected the petition in its entirety. (Mahkamah Konstitusi Republik Indonesia, 2023)

The Court's approach must be understood in light of the relationship among Pancasila, Article 29 of the 1945 Constitution, and Article 2(1) of the Marriage Law. Article 2(1) provides that marriage is valid when conducted in accordance with the laws of the respective religions and beliefs, while Article 2(2) governs registration. By maintaining these provisions, the Court reaffirmed the significance of religious requirements in determining marital validity (Mahkamah Konstitusi Republik Indonesia, 2023). This approach distinguishes substantive validity from administrative registration: registration provides legal documentation but does not replace the religious requirements for validity under Article 2(1). (Parwoto, 2026)

The decision also reflects a particular method of constitutional interpretation. Rather than treating the right to form a family under Article 28B(1) and religious freedom under Article 28E as isolated guarantees, the Court considered them within the broader constitutional framework of religion, particularly Articles 29 and 28E, and the Pancasila framework. Marriage was thus approached not merely as a private civil arrangement but as an institution whose legal validity is connected to religious norms. (Mahkamah Konstitusi Republik Indonesia, 2023)

This reasoning distinguishes preservative from reconstructive transformation. In Decision No. 22/PUU-XV/2017, the Court identified a constitutional defect and required legislative correction. In Decision No. 24/PUU-XX/2022, it did not find sufficient grounds to alter the challenged religious basis of marital validity and maintained the existing framework. Preservation is therefore not simply an absence of change; it is the result of constitutional review that retains the normative relationship between religious requirements and state marriage law.

Table 3. Constitutional Reasoning and Preservation of Religion-Based Boundaries in Decision No. 24/PUU-XX/2022

No.	Analytical dimension	Court's constitutional position	Consequence for family law
1	Constitutional issue	Relationship between the right to form a family, religious freedom, and marital validity	Frames interfaith marriage as a constitutional and religious-law issue
2	Object of review	Articles 2(1), 2(2), and 8(f) of the Marriage Law	Places religious validity and registration within constitutional review
3	Constitutional reference	Pancasila and Article 29 of the 1945 Constitution, considered alongside constitutional rights	Maintains the constitutional significance of religion in marriage regulation

4	Substantive validity	Marriage validity remains connected to the laws of the respective religions and beliefs	Preserves religion-based requirements
5	Administrative registration	Registration remains an administrative requirement under the statutory framework	Maintains the distinction between validity and registration
6	Judicial intervention	Petition rejected in its entirety	No constitutional reconstruction of the challenged provisions
7	Form of transformation	Preservative transformation	Retains the prevailing relationship between religious norms and state marriage law

Source: Author's analysis based on Constitutional Court Decision No. 24/PUU-XX/2022 and the relevant provisions of Law No. 1 of 1974 as amended by Law No. 16 of 2019.

The decision does not establish that interfaith marriage has disappeared as a social phenomenon. Practices such as marrying abroad, religious conversion, and attempts to obtain judicial or administrative recognition indicate ongoing negotiations between formal rules and social realities, even though they may yield different legal consequences. From the perspective of *maqāṣid al-sharī'ah*, preserving religion-based requirements may entail protecting religious values and family institutions. Nevertheless, rejection of a constitutional petition does not automatically establish that all objectives of Islamic law have been achieved. Legal certainty and its implications for individuals and families remain relevant to normative evaluation.

3.4. Comparative Synthesis of Constitutional Transformation in Indonesian Family Law: A Maqāṣid al-Sharī'ah Perspective

The three decisions reveal that different constitutional controversies generate different forms of judicial intervention. The distinction is not adequately explained by whether a petition is granted or rejected. It depends on how the Court identifies the constitutional problem, interprets the relationship between constitutional principles and the challenged statutory norm, and determines the appropriate institutional response.

Table 4. Comparative Analysis of Constitutional Transformation in Indonesian Family Law through a *Maqāṣid al-Sharī'ah* Perspective

No.	Analytical dimension	Decision No. 22/PUU-XV/2017	Decision No. 46/PUU-VIII/2010	Decision No. 24/PUU-XX/2022
1	Main legal issue	Different minimum marriage ages	Civil status of children born outside marriage	Constitutional challenge concerning interfaith marriage
2	Object of review	Article 7(1) of the Marriage Law	Article 43(1) of the Marriage Law	Articles 2(1), 2(2), and 8(f) of the Marriage Law
3	Constitutional concern	Equality and child protection	Children's rights and civil protection	Individual rights, religious freedom, and religiously grounded marital validity
4	Main reasoning approach	Identification of discriminatory statutory treatment and need for legislative correction	Rejection of categorical exclusion where biological relationship can be legally established	Interpretation of marriage validity within the constitutional position of religion
5	Form of judicial intervention	Constitutional correction followed by legislative action	Expansion of the provision's constitutional meaning	Rejection of the challenge and maintenance of the existing framework
6	Form of transformation	Reconstructive	Expansive	Preservative
7	Normative consequence	Law No. 16 of 2019 established a uniform minimum age of nineteen	Expanded possibility of civil relations with a biological father, subject to proof	Maintained the religious basis of marital validity
8	Principal legal boundary	Legislative discretion and marriage dispensation	Distinction between civil relations and *nasab*	Religious requirements remain central to marital validity
9	*Maqāṣid al-sharī'ah* evaluation	*Ḥifẓ al-nafs* and *ḥifẓ al-nasl*	*Ḥifẓ al-nasl* and prevention of harm	Protection of religious values, family interests, and legal certainty

Source: *Author's synthesis based on Constitutional Court Decisions No. 22/PUU-XV/2017, No. 46/PUU-VIII/2010, and No. 24/PUU-XX/2022, together with the relevant statutory provisions.*

The comparison establishes a conceptual distinction between reconstruction and preservation. Reconstructive transformation occurs when the Court identifies a constitutional defect in an existing norm and requires its correction. Preservative transformation occurs when the Court, after examining the constitutional challenge, maintains the existing normative framework. Expansive transformation occupies a distinct position: it does not necessarily replace the statutory provision but broadens its constitutional meaning to recognize a previously excluded form of legal protection.

These categories also reflect different modes of constitutional reasoning. In the marriage-age case, the Court emphasized equality and protection, identified the discriminatory effect of the statutory distinction, and required legislative action. In the children's civil-status case, the Court focused on the constitutional protection of children and rejected a categorical exclusion when biological relations could be legally proven. In the interfaith-marriage case, it interpreted the challenged provisions in light of the constitutional relationship between religion and the state, thereby maintaining the existing religious basis of marital validity. The typology consequently explains both the outcomes and the reasoning pathways that produced them.

The categories should not be treated as a universal hierarchy in which reconstructive or expansive intervention is necessarily more progressive than preservation. Each describes a different relationship between the constitutional issue, the statutory norm, the Court's reasoning, and the legal consequences. Their analytical value lies in identifying why judicial intervention varies across different areas of family law, rather than assuming that constitutional adjudication must always expand individual claims or always preserve existing religious norms.

Maqāṣid al-sharī'ah complements this comparative framework by evaluating the purposes and consequences of each form of intervention. In marriage-age regulation, *ḥifẓ al-nafs* and *ḥifẓ al-nasl* provide criteria for assessing protection against the potential harms of child marriage (Kasmiati, 2021). In the civil status of children born outside marriage, *ḥifẓ al-nasl* and the prevention of *mafsadah* support attention to children's welfare and legal protection. In contrast, the distinction between civil relations and religious *nasab* remains relevant (Faridah et al., 2026). In interfaith marriages, the preservation of religious values must be weighed against legal certainty and the implications for individuals and families. Thus, *maqāṣid al-sharī'ah* does not determine the typology; it provides a normative basis for critically evaluating the consequences of the three patterns.

The broader socio-legal context also indicates that judicial decisions and statutory amendments do not necessarily resolve every practical difficulty. Marriage dispensations, questions concerning the civil status of children born outside marriage, and attempts to obtain recognition for interfaith marriages demonstrate continuing interactions between formal legal rules and social practices (Sanjaya, 2023). *Nikah siri* similarly illustrates the distinction between religious validity and state registration, although it is not the principal object of the three constitutional cases examined here. These examples contextualize legal pluralism, but the direct social effects of the three decisions would require separate empirical investigation.

The principal contribution of this comparison is therefore the formulation of differentiated constitutional transformation as a context-specific analytical framework. It brings three constitutional controversies, often examined separately, into a single comparative analysis of constitutional issues, judicial reasoning, forms of intervention, and normative consequences. The framework explains why constitutional adjudication may reconstruct a statutory norm, expand civil-law protection, or preserve an existing normative boundary. It also clarifies that the relationship between constitutional principles and religious norms in Indonesian family law is shaped by the specific legal issue and the Court's method of reasoning, rather than by a single direction of legal development.

4. CONCLUSION

This study demonstrates that constitutional transformation in Indonesian family law follows no uniform trajectory. The comparative analysis of Constitutional Court Decisions Nos. 22/PUU-XV/2017, 46/PUU-VIII/2010, and 24/PUU-XX/2022 identifies three patterns: reconstructive, expansive, and preservative transformation. These patterns reflect different forms of judicial intervention, shaped by the constitutional issue, the statutory norm under review, the Court's reasoning, and the resulting normative consequences.

The study's principal contribution is the formulation of *differentiated constitutional transformation* as a context-specific framework for analyzing constitutional change in Indonesian family law. It examines three interconnected dimensions: the constitutional problem and challenged statutory norm; the Court's reasoning and form of intervention; and the resulting normative position and its implications. This framework moves beyond classifying decisions merely by whether petitions are granted or rejected, offering a more nuanced explanation of how different constitutional controversies generate distinct forms of legal transformation. However, it is derived from three selected marriage-related decisions and is neither an exhaustive typology of Constitutional Court jurisprudence nor a universal model applicable without contextual adjustment.

The supporting perspectives also serve distinct functions. *Maqāṣid al-sharī'ah* provides a normative basis for evaluating *maṣlaḥah*, preventing *mafsadah*, and protecting family interests, while legal pluralism contextualizes the interaction between constitutional principles, state law, and religious norms. Together, these perspectives enable a critical assessment of constitutional developments without assuming that expanded legal protection necessarily eliminates religious boundaries or that preserving religious norms automatically fulfills all objectives of Islamic law. Normatively, judicial and legislative institutions should ensure legal certainty, protect vulnerable parties, and maintain consistency between statutory regulation and constitutional principles, particularly in matters affecting children and families.

This study is limited by its normative juridical method and its focus on three selected decisions; it does not establish the outcomes of their implementation or their direct social effects. Further empirical research is therefore needed to examine marriage-dissolution practices, the realization of children's civil rights, and the legal experiences of families affected by interfaith marriage regulations. Such research would complement this framework by connecting constitutional reasoning with the practical operation of Indonesian family law.

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