



Implementation of Spousal Rights and Obligations in Kawin Turun Marriage, South Kotamobagu

Implementasi Hak dan Kewajiban Suami Istri dalam Praktik Kawin Turun Kotamobagu Selatan

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Abstract

This study examines how spousal rights and obligations are implemented in the Kawin Turun marriage practice in South Kotamobagu. Kawin Turun is a socially negotiated marriage conducted after premarital pregnancy, but the husband commonly leaves the wife after the marriage ceremony. Using empirical legal research with a qualitative approach, this study draws on interviews, observation, and legal materials concerning marriage law and customary practice. The findings show that the legal bond of marriage does not automatically produce substantive domestic life. The husband's obligations to provide maintenance, protection, and residence are weakly fulfilled because economic readiness and cohabitation are absent. The wife's domestic role is also constrained because household management occurs without spousal support. This gap reveals limited legal protection for women and children when customary settlement dominates formal marital obligations. The study concludes that Kawin Turun requires preventive legal education, Religious Affairs Office supervision, and community-based intervention by local institutions.

Abstrak

Penelitian ini mengkaji implementasi hak dan kewajiban suami istri dalam praktik Kawin Turun di Kotamobagu Selatan. Kawin Turun merupakan perkawinan yang disepakati keluarga setelah terjadi kehamilan pranikah, tetapi pihak suami umumnya meninggalkan istri setelah akad dan resepsi selesai. Penelitian ini menggunakan metode hukum empiris dengan pendekatan kualitatif melalui wawancara, observasi, dan penelaahan bahan hukum perkawinan serta praktik adat. Hasil penelitian menunjukkan bahwa ikatan perkawinan yang sah tidak otomatis membentuk kehidupan rumah tangga secara substantif. Kewajiban suami untuk memberi nafkah, perlindungan, dan tempat tinggal tidak terpenuhi secara optimal karena ketidaksiapan ekonomi dan tidak adanya hidup bersama. Peran istri dalam mengatur rumah tangga juga terhambat karena dijalankan tanpa dukungan pasangan. Kesenjangan ini memperlihatkan lemahnya perlindungan hukum bagi perempuan dan anak ketika penyelesaian adat lebih dominan daripada kewajiban perkawinan formal. Penelitian ini menyimpulkan bahwa Kawin Turun memerlukan edukasi hukum preventif, pengawasan KUA, dan intervensi komunitas secara berkelanjutan di tingkat keluarga dan masyarakat lokal.



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A. INTRODUCTION

1. Background

Marriage in the Indonesian legal system is a spiritual and physical bond between a man and a woman as husband and wife with the aim of forming a happy and everlasting family based on the belief in the one and only God, as stipulated in Article 1 of Law Number 1 of 1974 concerning marriage.¹ The phrase "ikatan lahir batin" contains a dual meaning: a formal dimension concerning the legality of the relationship in the eyes of the state and society and a spiritual dimension concerning the harmony of hearts and mutual commitment between partners. The formulation emphasizes that marriage is not merely a civil contract, but rather a binding agreement (*mitsaqan ghalizhan*) that has legal implications as well as the value of worship.²

The legal consequence of a valid marriage bond is the emergence of reciprocal rights and obligations between husband and wife. Articles 30 to 34 of the Marriage Law detail these rights and obligations. The husband is obligated to provide protection and meet the family's living needs, while the wife is obligated to manage and organize household affairs as best as possible.³ The balance in the implementation of rights and obligations is the foundation for the formation of a harmonious, prosperous, and dignified family.⁴

However, Indonesian social life, particularly in areas that still uphold local wisdom and traditional customs, includes marriage practices that differ from the concept of marriage defined by national law. One of these phenomena is the practice of Kawin Turun, found in the South Kotamobagu District of found in the South Kotamobagu District, North Sulawesi Province. This practice was born from the culture of the Bolaang Mongondow community as a response to social pressure due to premarital pregnancies, especially since the post-Reformasi era of 1998, when the flow of information and globalization began to bring changes to the social interactions of teenagers in the region.⁵

Kawin turun etymologically comes from two words in the Mongondow language,

¹ Meliyani Sidiqah, "Wanita Ahlul Kitab dan Hukum Menikahinya di Indonesia," *Jurnal USM Law Review* 6, no. 3 (2023): 1150–69.

² Aditya Perkasa, "Pertimbangan Hakim Terhadap Dispensasi Persyaratan Umur Pernikahan yang Diajukan Anak di Bawah Umur Karena Alasan Agama (Studi Putusan Nomor 38/Pdt. P/2023/PA. Prw)," *Journal of Law, Education and Business* 2, no. 1 (2024): 510–21.

³ Maimun Maimun, "Pernikahan Dalam Kompilasi Hukum Islam Dan Perdata," *Jurnal Al-Mizan* 9, no. 1 (2022): 12–21.

⁴ Sehon Sehon, "Perlindungan Hukum Hak-Hak Perempuan Di Indonesia Menurut UU No. 1 Tahun 1974 Tentang Perkawinan," *Journal of Legal Sustainability* 1, no. 1 (2024): 47–59.

⁵ Ahmad Rajafi dan Ressi Susanti, "Kaweng Turung: The Absence of State's Role in Harmful Marriage Tradition," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (2023).

namely "kaweng," which means "to marry," and "turung," which means "to descend." Substantively, Kawin Turun is a premarital agreement between two families that allows for a formal marriage between a man and a woman who are expecting, with the condition that after the wedding ceremony and reception, the husband and his family will leave the wife's residence.⁶ The local community then interprets the condition as a form of social divorce, even though legally there has not yet been a divorce decree with permanent legal force from the Religious Court. Thus, the couple does not live a complete household life as mandated by national marriage law.

This condition raises fundamental problems from the perspective of marriage law. On one hand, a Kawin Turun marriage can be considered valid in religious terms because it meets the pillars and conditions of marriage. However, the lack of life together as husband and wife prevents the optimal implementation of the rights and obligations regulated by marriage law.⁷

The rights and obligations between husband and wife begin to take effect once they are bound in a lawful marriage through the marriage contract.⁸ The scope of these rights and obligations includes both material and immaterial aspects. Material obligations relate to the fulfilment of physical needs, such as clothing, food, and shelter, as well as health and education services. Meanwhile, immaterial obligations pertain to non-physical needs, including affection, a sense of security, and protection.⁹ These provisions are normatively regulated in Articles 30–34 of the Marriage Law.

The fulfilment of rights and obligations in marital relations should ideally be carried out proportionally based on the principle of *ma'ruf*, which is the principle of goodness that prioritises the life norms upheld by the community.¹⁰ This principle emphasises that one should not unilaterally fulfil responsibilities or impose their will on others. The balance between the rights and obligations of each party becomes the main indicator of the success of a marriage in forming a family that is *sakinah*, *mawaddah*, and *rahmah*.¹¹

⁶ Herlina H. Sayiu dan Ahmad Faisal, "Praktik Kawin Turun Pada Masyarakat di Kabupaten Gorontalo (Studi Analisis Menurut Hukum Islam dan Hukum Positif)," *AS-SYAMS* 1, no. 2 (2020): 21–40.

⁷ Badriah Badriah dkk., "Hak dan kewajiban suami istri perspektif hukum Islam (studi kasus wanita karir di Desa Benda Kec. Sirampog Kab. Brebes)," *Sultan Jurisprudence: Jurnal Riset Ilmu Hukum* 3, no. 1 (2023): 73–89.

⁸ Hardi Fardiansyah dkk., *PENGANTAR ILMU HUKUM* (CV. Intelektual Manifes Media, 2023).

⁹ Said Akbar Parlindungan Rambe dkk., "Analisis Hukum Tentang Daluwarsa Dalam Perkara Tindak Pidana Korupsi Ditinjau Dari Hukum Positif Indonesia," *Iuris Studia: Jurnal Kajian Hukum* 5, no. 2 (2024): 415–24.

¹⁰ Ahmad Ridha Jafar dkk., *Hukum Islam dan Dinamika Sosial: Perspektif Kontemporer* (CV. Gita Lentera, 2025).

¹¹ Nur Faizah dan M. Shaiful Umam, "Ikatan pernikahan: Menelusuri keseimbangan hak dan kewajiban

Sociologically, Kawin Turun is a marriage phenomenon that has developed in the Bolaang Mongondow community, including the South Kotamobagu District, as a social mechanism to address the issue of premarital pregnancies.¹² This marriage is *sui generis*: it follows religious rules, but there is an agreement that it won't lead to a real household.¹³

Unlike previous research that primarily placed Kawin Turun as an issue of marriage validity, customary practices, or the relationship between Islamic law and positive law, this article specifically examines Kawin Turun from the perspective of the implementation of husband and wife rights and obligations after the marriage contract takes place. That focus is important because the main issue in Kawin Turun does not lie merely in the legality of the marriage but rather in the failure of the marriage to fulfil its legal and social functions as a family institution. Thus, the novelty of this article lies in the analysis of the gap between national marriage law norms and the social realities of indigenous communities, particularly regarding the provision of livelihood, protection, housing, assistance, and legal certainty for women and children.

2. Problem Formulation

The practice of Kawin Turun in the South Kotamobagu District shows a gap between national marriage law provisions and their implementation in community life. Although the marriage is conducted legally, the husband-and-wife relationship is generally not realized in household life as mandated by the Marriage Law, leading to issues in fulfilling the rights and obligations of the parties involved. Based on these conditions, this research examines the implementation of husband and wife rights and obligations in the practice of Kawin Turun in the South Kotamobagu District.

3. Research Methodology

This research employs empirical legal research methods with a qualitative approach. Empirical legal research is used because the object of study is not only written norms in the Marriage Law and the Compilation of Islamic Law but also social practices that live within the community. A qualitative approach was chosen to deeply understand the experiences, reasons, and social consequences of the Kawin Turun practice.

antara suami dan istri," *Al-Muqaranah: Jurnal Perbandingan Mazhab dan Hukum* 3, no. 1 (2025): 12–20.

¹² Moh Rosil Fathony, "Bentuk Hubungan Suami Istri dalam Konteks Perbedaan Status Ekonomi dan Dampaknya Terhadap Keharmonisan Rumah Tangga (Studi Kasus di Kecamatan Masbagik, Kabupaten Lombok Timur)," *Journal for Islamic Studies* 8, no. 1 (2025).

¹³ Cut Dinatul Hayati dan Muhammad Rudi Syahputra, "Hak dan Kewajiban Istri dalam Rumah Tangga Menurut Tafsir Ibnu Katsir dan Tafsir Qurthubi," *Al-Qawānīn: Jurnal Ilmu Hukum, Syariah, Dan Pengkajian Islam* 1, no. 1 (2024): 23–54.

Primary data were obtained through field observations and in-depth interviews with those involved in the practice of Kawin Turun, the families of each party, and the head of the Kotamobagu Selatan Religious Affairs Office. Informants were purposively selected because they have direct experience, knowledge, or authority relevant to the research object. Secondary data is obtained from regulations, legal books, journal articles, and previous research related to marriage law, customary law, and legal protection for women and children.

Data analysis is conducted descriptively and analytically through three stages, namely data reduction, data presentation, and conclusion drawing. Data reduction is carried out by sorting information directly related to the implementation of the rights and obligations of husband and wife in the practice of Kawin Turun. Data presentation was carried out by linking field findings with the provisions of Articles 30 to 34 of the Marriage Law. The validity of the data is strengthened through source triangulation, namely by comparing the statements of the couple, family, and KUA officials. The limitation of this research lies in the small number of cases, so the findings are not intended to be statistically generalised but rather to explain the empirical legal patterns in the practice of Kawin Turun in South Kotamobagu.

B. DISCUSSION

1. Social and Cultural Overview of the Kotamobagu Selatan Community

The community of South Kotamobagu District is part of the Bolaang Mongondow ethnic group, known for their life philosophy of Mototompiaan, Mototabian, and Mototanoban, which means to correct each other, to love each other, and to remind each other. These values form a strong pattern of social relationships, including in the institution of marriage, where decisions regarding marriage are not solely determined by the couple themselves but also involve the consideration of their extended families and community leaders.¹⁴ The marriage customs of Bolaang Mongondow have specific rules and stages that each couple must go through, reflecting a value system that has been passed down through generations.

Based on the results of field research, several social factors were found to influence the dynamics of marriage in South Kotamobagu, including (1) strong kinship ties, where

¹⁴ Virginia Mokoagow dkk., "Penerapan delik adat susila masyarakat Suku Mongondow serta kedudukannya dalam hukum nasional (Studi kasus di Desa Tombolikat Selatan Kabupaten Bolaang Mongondow Timur)," *Lex Administratum* 12, no. 4 (2024).

extended family relationships significantly determine marriage decisions; (2) relatively limited education, resulting in uneven understanding of legal marriage rights and obligations; (3) economic factors affecting the ability to fulfill household responsibilities; and (4) the influence of modernization and social change, which has shifted the patterns of youth interactions.¹⁵ The combination of these four factors underlies the emergence and persistence of the Kawin Turun practice in the region.

2. Implementation of Downward Marriages Practice in South Kotamobagu District

Based on field findings, the implementation of Kawin Turun essentially begins with an agreement between two families before the marriage ceremony takes place. The agreement usually arises as a response to social pressure due to premarital pregnancy. This process involves deliberation among the extended family, which then results in a consensus to proceed with the marriage in order to maintain the family's dignity and provide legal status for the child to be born.¹⁶

From the three cases identified in this study, namely the DP & PM case in Kotamobagu Selatan Village (2022), the IM & YP case in Bungko Village (2018), and the AP & ID case in Pobundayan Village (2005), a consistent pattern was found: the marriage was conducted formally according to religious provisions, but after the wedding ceremony and reception were over, the husband and his family left the wife's residence. This condition causes the marital bond to form without being followed by a complete household life as it should be.

Although society views the marriage as over, the marital bond remains legally intact since it was never annulled through the appropriate legal channels. There is no divorce decree from the Religious Court that has permanent legal force. This condition creates a kind of suspended marriage that causes legal uncertainty for the parties involved, especially for the wife and children.

Table 1. Gap Between Marriage Law Norms and the Practice of Kawin Turun

Marriage Law Provision	Ideal Obligation	Findings in the Practice of <i>Kawin Turun</i>	Form of Legal Gap
Article 30 of the Marriage	Husband and wife are jointly obliged to uphold family life as	The marriage is formally conducted but is not followed	The essential function of family life is not substantively

¹⁵ P. M dan Orang Tua HK, "Hasil Wawancara," (Kotamobagu Selatan), 7 Januari 2026.

¹⁶ D. P dan Orang Tua KSM, "Hasil Wawancara," (Kotamobagu Selatan), 19 Februari 2026.

Law	the foundation of society.	by actual cohabitation as husband and wife.	established.
Article 31 of the Marriage Law	Husband and wife have equal status within the family and society.	The wife is placed in a more vulnerable position due to pregnancy, social stigma, and family responsibilities.	Legal equality is not reflected in social reality.
Article 32 of the Marriage Law	Husband and wife are required to have a permanent shared residence.	The husband leaves the wife immediately after the marriage ceremony and reception.	The obligation to establish a shared residence is not fulfilled.
Article 33 of the Marriage Law	Husband and wife are obliged to love, respect, remain faithful to, and provide mutual physical and emotional support.	The marital relationship does not develop because the marriage serves primarily as a social solution rather than the beginning of family life.	Mutual physical and emotional support is not realized.
Article 34 of the Marriage Law	The husband is obliged to protect the wife and provide maintenance according to his financial capacity.	Financial support and protection are not adequately provided because the husband is not economically prepared.	The wife and child are at risk of losing legal and economic protection.

3. Implementation of the Fulfillment of Husband and Wife Rights and Obligations

a. The Husband's Duties

Based on an interview with the source PM (husband) on January 7, 2026, it was found that the husband's obligation to provide for his wife as mandated by Article 34, paragraph (1) of the Marriage Law has not been optimally fulfilled.¹⁷ The source PM at the time of the marriage was still a student and did not have a stable income. As a result, the fulfillment of the economic needs of the wife and future child entirely depends on the support of the wife's family. This condition is substantively contrary to the legal provisions that require the husband to be the primary provider for the family's livelihood.

¹⁷ Zulkifli Reza Fahmi, "Pembagian Peran Suami dan Istri dalam Membangun Rumah Tangga Sakinah Menurut Syekh Nawawi Al-Bantani," *Qanun: Jurnal Hukum Keluarga Islam* 1, no. 1 (2023): 1–20, <https://doi.org/10.51825/qanun.v1i1.16>.

In addition to financial support, the husband also fails to fulfill his obligation to provide physical and psychological protection to the wife. The husband's departure from the wife's residence immediately after the marriage ceremony caused the wife to lack the protection, guidance, and companionship that are her normative rights. The husband's role as head of the family should guide the household toward marriage goals. The lack of togetherness prevents the husband from fulfilling his role as head of the family, which should guide the household toward marriage goals. due to the lack of togetherness.¹⁸

The emotional relationship between husband and wife does not develop harmoniously after marriage. In many cases of Kawin Turun, marriage occurs not based on genuine love and affection from both parties but rather on social pressure and family moral obligations. The absence of an emotional foundation exacerbates the disharmony in the household and reinforces the husband's tendency not to fulfill his responsibilities fully.¹⁹

b. The Wife's Duties

From the wife's perspective, the fulfillment of her duties as a companion to her husband in the household, as stipulated in Article 31 paragraph (3) of the Marriage Law, which states that "the husband is the head of the family and the wife is the homemaker," is also not functioning as it should.²⁰ The source DP (wife) revealed that she was completely unprepared to live a married life because the marriage occurred without any prior planning and against her will.

The wife's unpreparedness cannot be viewed as mere negligence. Sociologically, the position of the wife in the practice of Kawin Turun tends to be the most disadvantaged party. Wives not only lose their rights to sustenance, protection, and a decent life together but also have to bear the psychological burden due to the attached social stigma. In such conditions, the obligation to manage the household becomes a burden, and the wife must shoulder the burden of managing the household alone, without the presence and support of her husband. alone without the presence and support of a husband.

¹⁸ Mohammad Nurul Huda dan Abdul Munib, *Compilation of the Purpose of Marriage in Positive Law, Customary Law, and Islamic Law*, t.t.

¹⁹ Irnanda Lucky Ajisaputri, "Putusnya Perkawinan 'Perceraian' Terhadap Seseorang disebabkan Tidak Saling Menghormati dan Menghargai Antar Pasangan Suami Istri," *Jurnal Indonesia Sosial Sains* 2, no. 5 (2021): 780–91, <https://doi.org/10.36418/jiss.v2i5.297>.

²⁰ Dr Sigit Sapto Nugroho dkk., *METODOLOGI RISET HUKUM*, t.t.

c. The Gap between Legal Norms and Social Reality

Research findings consistently show a significant gap between the normative provisions in the Marriage Law and their actual implementation in the practice of Kawin Turun. Article 30 of the Marriage Law emphasizes that husband and wife bear the noble duty to establish a household that serves as the fundamental pillar of societal structure. However, in Kawin Turun, this fundamental obligation is absent from the beginning due to the lack of a real domestic life.²¹

Article 33 of the Marriage Law also says that husbands and wives must love, respect, be faithful to, and help each other both materially and spiritually. This provision is essentially a minimum prerequisite for the realization of the purpose of marriage. However, the Kawin Turun marriage serves more as an instrument for solving social problems than as a commitment to building a life together, which prevents the adequate fulfillment of all reciprocal obligations.²²

This condition is further exacerbated by the fact that a marriage not followed by cohabitation has the potential to violate Article 32 of the Marriage Law, which requires couples to have a permanent residence. A husband who leaves his wife's residence immediately after the marriage contract not only fails to fulfill the obligation to provide for her but also neglects the obligation to provide a decent place to live for his wife. The repeated failure to meet these obligations shows that the practice of Kawin Turun goes against the basic ideas behind national marriage law.

From the perspective of legal protection theory, the absence of state intervention in the practice of Kawin Turun is an issue that deserves criticism. The Marriage Law has provided a clear mandate regarding the rights and obligations of each party in marriage. However, without an effective enforcement mechanism, these norms only function as written provisions that cannot reach the social realities occurring on the ground. The wife in a Kawin Turun marriage does not receive adequate legal protection because her marital status is still legally ambiguous.

C. CONCLUSION

Based on the research findings, the practice of Kawin Turun in the South Kotamobagu District fails to effectively fulfill the rights and obligations of both husbands

²¹ "Metode Penelitian Hukum," t.t.

²² Naufal Arib Maulana Hasibuan dkk., "Hak dan Kewajiban Suami Istri Dalam Pernikahan," *Amaliah: Jurnal Pengabdian Kepada Masyarakat* 9, no. 1 (2025): 23–31.

and wives, and it also violates the regulations outlined in the rights and obligations of husbands and wives. The practice of Kawin Turun in the South Kotamobagu District has not been optimally realized as regulated in Law Number 1 of 1974 concerning marriage and the compilation of Islamic law. The absence of household life after the marriage contract causes the husband's obligations to provide sustenance, protection, and companionship, as well as the wife's role in managing the household, to be ineffective. This condition indicates a significant gap between the legal norms of marriage and the practice of Kawin Turun, resulting in the legal protection of wives and children not being optimally fulfilled. Therefore, continuous legal education, strengthening the role of the Office of Religious Affairs, and the involvement of local government and community leaders are needed to ensure the implementation of the rights and obligations of husband and wife in accordance with the purpose of marriage and applicable legal provisions.

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