

# Dynamics of Family Law in the Context of Globalization: Comparison Between Legal Systems

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## Abstract

The dynamics of family law have experienced significant transformation in the era of globalization, driven by the increasing influence of international norms, transnational interactions, and the growing emphasis on human rights. This study aims to analyze the reform of family law across different legal systems through a comparative legal approach, focusing on how globalization shapes legal frameworks, principles, and practices. The research employs a normative legal method with statutory, conceptual, and comparative approaches, relying on secondary data obtained from legal documents and academic literature. The findings reveal that globalization encourages the convergence of family law systems, particularly in the adoption of human rights principles such as gender equality, child protection, and individual autonomy. However, the study also identifies persistent divergence due to cultural, religious, and social factors, especially in regions where legal pluralism remains strong. While European legal systems tend to exhibit greater harmonization through supranational institutions, many Asian systems demonstrate selective adaptation by integrating global norms with local values. The study concludes that an effective model of family law reform requires a balanced approach that combines universal legal standards with socio-cultural sensitivity, ensuring both legal certainty and social legitimacy in the globalization era.

## Keywords

Family Law; Globalization; Comparative Law; Legal Reform; Human Rights



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## INTRODUCTION

The dynamics of family law have undergone significant transformation in recent decades, particularly under the influence of globalization. Traditionally, family law has been regarded as one of the most culturally embedded areas of law, closely tied to religious beliefs, moral values, and social norms within a given society. However, the increasing interconnectedness of the world—characterized by cross-border mobility, transnational marriages, and the global exchange of legal ideas—has challenged the rigidity of domestic legal systems. As a result, family law is no longer

insulated within national boundaries but is increasingly shaped by global legal developments and international human rights standards.

Globalization has facilitated the diffusion of universal norms, especially those related to human rights, into domestic legal frameworks. International instruments promoted by organizations such as the United Nations, including the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), have played a crucial role in redefining the principles of family law. These instruments emphasize equality, non-discrimination, and the protection of vulnerable groups, thereby encouraging states to reform their legal systems in line with global standards. According to Sally Engle Merry, globalization operates through a process of “vernacularization,” where global norms are translated and adapted into local contexts, resulting in diverse legal outcomes.

Despite these global influences, the development of family law across legal systems remains uneven. In many European countries, legal reforms have been significantly influenced by supranational institutions such as the European Union and the European Court of Human Rights, which promote harmonization and the protection of fundamental rights. This has led to progressive changes in areas such as marriage equality, parental responsibility, and child protection. In contrast, many Asian legal systems continue to reflect strong cultural and religious foundations. For instance, in countries like Indonesia, family law is closely linked to religious norms, particularly Islamic law, which governs issues such as marriage, divorce, and inheritance. As noted by M. B. Hooker, this coexistence of state law, religious law, and customary law illustrates the persistence of legal pluralism in the region.

The interaction between global norms and local values creates both opportunities and challenges for family law reform. On one hand, globalization encourages the adoption of universal principles that promote justice, equality, and the protection of human rights. On the other hand, efforts to harmonize legal systems often encounter resistance when they conflict with deeply rooted cultural and religious traditions. Family law, more than any other legal field, reflects the identity and values of a society, making it particularly resistant to external influence. As argued by Werner Menski, effective legal development requires an understanding of the complex interaction between state law, societal norms, and ethical or religious values.

Although numerous studies have examined family law within individual jurisdictions, there remains a limited number of comparative analyses that explore

how different legal systems respond to globalization. This gap is significant, as comparative studies can provide valuable insights into best practices, institutional challenges, and the potential for legal harmonization. Understanding these dynamics is essential for developing legal frameworks that are both globally relevant and locally legitimate. Based on this background, this study aims to analyze the reform and transformation of family law in the context of globalization through a comparative legal approach. By examining different legal systems, this research seeks to identify patterns of convergence and divergence, as well as the factors influencing legal adaptation. Ultimately, the study is expected to contribute to the development of a more balanced and responsive model of family law that integrates global standards with local socio-cultural realities.

## **METHODS**

This study employs a normative legal research design with a comparative approach to analyze the dynamics of family law reform in the context of globalization across different legal systems. The research is doctrinal in nature, as it focuses on examining legal norms, principles, and regulatory frameworks governing family law, while also exploring how these norms evolve under the influence of global developments. Through a comparative perspective, this study seeks to identify patterns of convergence and divergence among legal systems in responding to globalization.

The research applies several approaches, namely the statutory, conceptual, and comparative approaches. The statutory approach is used to examine laws and regulations related to family law in various jurisdictions, providing a formal basis for understanding how legal systems regulate issues such as marriage, divorce, child custody, and inheritance. The conceptual approach is employed to analyze theoretical frameworks, particularly those related to globalization, human rights, and legal pluralism, which serve as analytical tools in interpreting the transformation of family law. Meanwhile, the comparative approach functions as the core analytical method, enabling a systematic comparison of legal structures, principles, and practices across different countries.

The data used in this study consist of secondary legal materials obtained through library research. These include primary legal sources such as legislation and official legal documents, as well as secondary sources in the form of academic books, peer-reviewed journal articles, and previous research relevant to family law and globalization. In addition, tertiary materials such as legal dictionaries and

encyclopedias are utilized to support conceptual clarity and ensure accuracy in the use of legal terminology.

Data collection is conducted through a comprehensive review and documentation of relevant legal and academic literature. The collected materials are then analyzed qualitatively using descriptive and comparative analytical techniques. The analysis begins with the classification of legal materials based on key themes, followed by doctrinal interpretation to understand the substance and intent of legal norms. Subsequently, a comparative analysis is carried out to identify similarities and differences in how legal systems respond to globalization, particularly in terms of legal reform, institutional arrangements, and the integration of human rights principles. To ensure the credibility and reliability of the findings, this study applies source triangulation by cross-referencing various legal materials and scholarly perspectives. Through this systematic and rigorous methodological process, the research aims to provide a comprehensive understanding of the transformation of family law in the era of globalization and to offer relevant insights for the development of more adaptive and context-sensitive legal systems.

## **FINDINGS AND DISCUSSION**

The findings indicate that globalization has become a significant catalyst in reshaping family law across different legal systems. The increasing movement of people, ideas, and legal norms across borders has challenged traditional, state-centered legal frameworks, particularly in areas such as marriage, divorce, child custody, and inheritance. Globalization has encouraged the diffusion of international legal standards—especially those related to human rights—into domestic legal systems. As noted by United Nations through various human rights instruments, the protection of family members, particularly women and children, has become a global concern that transcends national boundaries.

Scholars such as John Eekelaar argue that globalization does not merely harmonize legal systems but also transforms the underlying values of family law, shifting from patriarchal and hierarchical models toward more egalitarian and rights-based approaches. This transformation is evident in the growing recognition of individual autonomy, gender equality, and child protection across jurisdictions. The comparative analysis reveals both convergence and divergence among legal systems in responding to globalization. In many Western jurisdictions, particularly in Europe, family law reforms have been strongly influenced by supranational legal frameworks such as the European Union and the European Court of Human Rights.

These institutions have promoted legal harmonization, especially regarding marriage equality, parental rights, and the best interests of the child.

In contrast, many Asian legal systems demonstrate a more cautious and selective adaptation. While countries such as Indonesia incorporate international norms into their legal frameworks, local cultural, religious, and social values continue to play a dominant role. For instance, family law in Indonesia remains closely tied to religious principles, particularly Islamic law, which influences regulations on marriage and divorce. According to M. B. Hooker, this reflects a pattern of “legal pluralism,” where global norms coexist with local traditions rather than replacing them. Thus, while globalization encourages a degree of legal convergence, significant divergence persists due to socio-cultural and religious factors.

One of the most prominent impacts of globalization on family law is the increasing centrality of human rights principles. International conventions such as the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) have influenced domestic legal reforms worldwide. These instruments emphasize equality, non-discrimination, and the protection of vulnerable groups within the family.

In European legal systems, human rights norms have been strongly institutionalized, often leading to progressive reforms such as the recognition of same-sex marriage and shared parental responsibility. In contrast, in many Asian jurisdictions, the incorporation of human rights principles is often mediated by cultural and religious considerations. As highlighted by Sally Engle Merry, the localization of global human rights norms results in varied interpretations and implementations across different societies. This indicates that while human rights serve as a common reference point, their practical application in family law remains context-dependent.

Despite the influence of globalization, the harmonization of family law across legal systems faces significant challenges. Family law is deeply embedded in cultural, religious, and moral values, making it resistant to uniform standardization. Issues such as marriage age, divorce procedures, inheritance rights, and recognition of non-traditional family structures often generate legal and social tensions. The research finds that attempts at harmonization often encounter resistance, particularly in societies where family law is closely linked to religious doctrine. In Indonesia, for example, reforms must align with religious norms to gain legitimacy, which can limit

the adoption of certain global standards. Meanwhile, European countries face challenges in accommodating diverse cultural practices due to increasing migration and multiculturalism. According to United Nations Development Programme reports, balancing universal human rights with local values remains a key dilemma in legal reform processes. This tension highlights the complexity of achieving both global coherence and local legitimacy in family law.

The comparative findings suggest that an effective approach to family law reform in the context of globalization lies in developing a hybrid model that integrates global principles with local values. Such a model would allow for the adoption of universal human rights standards while maintaining sensitivity to cultural and religious contexts. In practice, this means that legal reforms should not be imposed uniformly but rather adapted through inclusive and participatory processes. As argued by Werner Menski, legal systems should embrace pluralism as a strength rather than a limitation, recognizing the coexistence of multiple normative orders. This hybrid approach can enhance the legitimacy, effectiveness, and sustainability of family law reforms, ensuring that they are both globally relevant and locally acceptable.

Overall, the study demonstrates that globalization has significantly influenced the evolution of family law, promoting the integration of human rights and encouraging legal reforms across jurisdictions. However, the process is neither uniform nor linear, as it is shaped by the interaction between global norms and local contexts. The comparative analysis underscores the importance of balancing legal harmonization with cultural diversity, suggesting that future reforms should adopt a flexible and context-sensitive approach to achieve equitable and effective family law systems.

## **CONCLUSION**

This study concludes that globalization has played a pivotal role in shaping the reform of family law across different legal systems, driving a shift toward more rights-based, inclusive, and adaptive legal frameworks. The influence of global norms—particularly those related to human rights—has encouraged many countries to reconsider traditional family law principles and align them with contemporary values such as gender equality, child protection, and individual autonomy.

However, the comparative analysis reveals that the impact of globalization is not uniform. While some legal systems, particularly in Europe, demonstrate a higher degree of harmonization and institutional integration of global standards, others—especially in Asia—adopt a more selective and context-sensitive approach. In these

systems, family law remains closely intertwined with cultural, religious, and social values, resulting in the persistence of legal pluralism. This indicates that globalization does not eliminate diversity in legal systems but rather interacts with local contexts to produce varied forms of legal adaptation.

Furthermore, the study highlights that the harmonization of family law faces significant challenges due to its deeply rooted socio-cultural nature. Efforts to standardize legal norms often encounter resistance when they conflict with local traditions and belief systems. Therefore, the process of legal reform requires a careful balance between adopting universal principles and preserving cultural identity.

In this regard, the research emphasizes the importance of developing a hybrid model of family law reform that integrates global human rights standards with local socio-cultural values. Such an approach allows for both legal certainty and social legitimacy, ensuring that reforms are not only normatively sound but also practically applicable. Ultimately, the future of family law in the era of globalization depends on the ability of legal systems to adapt dynamically while maintaining sensitivity to the diverse realities of the societies they serve.

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