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### Family Law in the Era of Migration: Legal Protection for Transnational Families Based on the Sustainable Development Goals (SDGs)

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#### ABSTRACT

The phenomenon of global migration has created complex challenges in ensuring legal protection for transnational families, particularly with regard to the legal status of marriage, child custody, and access to social services across jurisdictions. The lack of harmony among national legal systems generates legal uncertainty and the potential for discrimination against migrant families, which is contrary to the principles of inclusion and equality embodied in the Sustainable Development Goals (SDGs). This study aims to critically examine how international family law responds to the protection needs of transnational families in the context of migration, and to evaluate the extent to which existing regulations align with global commitments to reducing inequality. The distinctiveness of this study lies in its interdisciplinary approach, which combines legal analysis, migration policy, and moral dimensions within the SDG framework. The research employs a qualitative approach with a systematic literature review. The stages of the study include the identification of primary and secondary sources such as international conventions, United Nations documents, legal journals, and reports from human rights institutions; the selection of materials based on their relevance to the issue of transnational families and the principle of non-discrimination; and content analysis using thematic coding techniques. Validation was carried out through peer review and triangulation with case studies from various jurisdictions. The findings show that although relevant international legal frameworks exist, their implementation remains partial and uneven. Several countries have not yet fully adopted the principle of non-discrimination in their family law systems. This study concludes that legal harmonization and stronger interstate cooperation are required to ensure fair, inclusive, and sustainable legal protection for transnational families, in line with the commitments of the SDGs.

**Keywords:** *Transnational Families; Legal Non-Discrimination; Sustainable Development Goals (SDGs)*

## INTRODUCTION

In an era of increasingly intensive globalization, international migration has become an unavoidable social phenomenon. The movement of individuals and families across national borders is driven not only by economic factors, but also by political conflict, climate change, educational opportunities, and the search for a better quality of life. According to the United Nations Department of Economic and Social Affairs (UN DESA, 2023), the number of international migrants exceeded 280 million in 2023, showing a consistent increase over time. This phenomenon affects not only demographic dynamics but also generates serious challenges in the legal sphere, particularly in the area of family law.

Transnational families, namely families whose members are dispersed across more than one country, face a variety of complex legal obstacles. The cross-jurisdictional non-recognition of marital status, fragmented child custody arrangements, and unequal access to social services and legal protection constitute major issues encountered by migrant families. The lack of harmonization among legal systems across countries creates legal uncertainty and the potential for discrimination against migrant families, which runs counter to the principles of inclusion and equality embedded in the Sustainable Development Goals (SDGs), particularly those emphasizing the reduction of inequality.

In this context, family law can no longer be understood merely as a domestic legal domain. It must evolve into a system capable of responding to dynamic global realities. To understand the complexity of this issue comprehensively, this study adopts five major theories as complementary conceptual foundations for analyzing the dynamics of family law in the context of migration. Legal functionalism positions law as a social mechanism that must adapt dynamically to transformations in social structure; thus, in the migration context, family law is required to adjust to transnational realities, including recognition of non-conventional family forms and the cross-border mobility of family members. This adaptive approach is aligned with the ethical framework offered by global justice theory, which evaluates the extent to which national and international legal systems ensure equal protection for all individuals regardless of migrant status or nationality, emphasizing the principles of non-discrimination and social inclusion in line with the SDG commitment to reducing global inequalities.

Furthermore, the driving factors behind these dynamics may be explained through neoclassical migration theory, which suggests that the movement of individuals and families is often motivated by economic disparities and unequal

opportunities across regions. Consequently, family law must respond to the needs of migrants who move in pursuit of greater welfare, even when they encounter jurisdictional barriers in destination countries. This perspective is further enriched by transnationalism theory, which broadens the conceptualization of the family as an entity not confined to a single national jurisdiction, but rather operating within social and legal spaces that transcend geographical boundaries. This theory highlights the need for legal flexibility in accommodating family practices that are cross-cultural and cross-jurisdictional in nature. Finally, the complexity of these interactions is addressed by legal pluralism theory, which recognizes the coexistence of multiple legal systems within a single social space, including interactions among state law, religious law, and community norms, in order to create sustainable harmony. In the context of transnational families, legal pluralism poses a distinct challenge, as differences in the interpretation and application of family law among countries may generate normative conflict and legal uncertainty.

A number of studies conducted in the last five years have highlighted these dynamics. Maulidia (2022) examined the relationship between diaspora and transnational migration in the context of immigration sociology, showing that the identity and family structure of migrants are strongly shaped by cross-cultural and cross-legal interactions. Husni (2023) investigated reforms in family law through decisions of Indonesia's religious courts and their implications for legal protection, emphasizing the need for more inclusive legal reform. Fadliyati and Djazimah (2024) explored the role of digital media in cross-cultural marriage education, demonstrating that technology can serve as an important tool for bridging legal and cultural gaps. Hadi et al. (2024) discussed human rights in Islamic family law as a response to the globalization of values, emphasizing the importance of integrating human rights principles into domestic regulation. Meanwhile, Rajafi (2020) highlighted the progress of Islamic family law following the reform era and the challenges of harmonizing it with international law, showing that legal reform must take global contexts into account.

However, these studies have not explicitly examined the relationship between transnational family law and global commitments to the SDGs, particularly in the context of legal harmonization and social inclusion. This study offers novelty by integrating legal, moral, and migration policy approaches within the framework of sustainable development. By combining normative and empirical analysis, this study seeks to identify legal gaps that hinder the protection of migrant families and to offer recommendations grounded in the principles of global justice.

Contemporary developments show that many migrant families face legal discrimination in host countries. For example, marital status that is valid in the country of origin may not be recognized in the destination country, thereby affecting inheritance rights, child custody, and access to social services. In some cases, children from migrant families do not possess valid legal documents, preventing them from accessing education and health services. These inequalities affect not only family stability, but also social integration and the welfare of future generations. Historically, national legal systems have tended to be inward-looking and insufficiently responsive to global dynamics. From this phenomenon, it may be understood that family law is often designed on the basis of local norms without adequately considering increasingly dominant transnational realities.

The principal problem addressed in this study is the absence of a harmonious and inclusive legal framework capable of protecting transnational families fairly amid the growing flow of global migration. This lack of harmonization not only creates legal uncertainty, but also risks violating the principles of human rights and sustainable development. Therefore, a more adaptive, collaborative, and universally grounded legal approach is required. This study contributes by providing a critical analysis of existing regulations, identifying legal gaps, and offering recommendations based on the principles of global justice and sustainable development. Accordingly, the findings are expected to strengthen the normative and policy foundations for ensuring equal legal protection for cross-border families. More broadly, this study also seeks to encourage interstate dialogue in formulating family law standards that are more inclusive and responsive to the needs of global society.

## **METHOD**

The object of this research is the legal protection of transnational families in the era of migration, with a particular focus on how international family law and national regulations interact in order to guarantee the rights of migrant families. This study examines how the legal status of marriage, child custody, access to social services across jurisdictions, and the principle of non-discrimination are integrated within the framework of the Sustainable Development Goals (SDGs). The sustainability of legal protection for migrant families constitutes the main focus of this research, with particular attention given to equality of access and social justice across national borders. The approach employed is qualitative and descriptive-analytical. This approach enables an in-depth understanding of the mechanisms of legal protection for transnational families through an analysis of

international legal concepts, migration policies, and national practices. In addition, this approach allows for a critical interpretation of the extent to which the principle of non-discrimination is understood and operationalized within the context of national family law.

The research method applied in this study is a qualitative approach using a systematic literature review. This study emphasizes a chronological and systematic explanation of how international legal frameworks and national regulations shape legal protection for migrant families of a transnational nature. The research process begins with the identification of primary and secondary sources that are conceptually and empirically relevant. Primary sources include international conventions that explicitly regulate family rights, children's rights, and the legal status of cross-border marriages, such as relevant human rights conventions and international instruments concerning family protection. In addition, policy documents and official statements issued by United Nations bodies addressing migration, child protection, and non-discrimination constitute an important part of constructing the theoretical framework and the global policy context. Secondary sources include accredited legal journals, reports from human rights institutions, studies on migration policy, and comparative analyses of how certain countries adopt or adapt international principles within their national legal systems. The selection of these sources is based on their relevance to the issue of transnational families, the depth of analysis regarding the legal status of marriages across jurisdictions, child custody, access to cross-border social services, and the principle of non-discrimination, which serves as a key foundation within the SDGs.

Source selection was conducted through strict inclusion and exclusion criteria in order to ensure that the study remained focused on the legal protection of families in the context of migration and the harmonization of international standards with national practices. The inclusion criteria comprised: (a) sources that explicitly discuss legal protection for transnational families; (b) cross-border migration contexts; (c) discussion of non-discrimination and access to services across jurisdictions; and (d) relevance to SDG objectives related to social justice and inclusion. The exclusion criteria covered documents that did not discuss legal protection for families, were unrelated to migration, or lacked relevance to either international standards or national practices. The selection process was carried out through screening of titles, abstracts, and subsequently full-text documents, with the reasons for inclusion or exclusion recorded to maintain an audit trail.

Table 1. Source Selection Criteria

<b>No.</b>	<b>Source Category</b>	<b>Inclusion Criteria</b>	<b>Examples of Elements Considered</b>	<b>Exclusion Criteria</b>	<b>Screening Process</b>	<b>Reason for Inclusion/Exclusion (Audit Trail)</b>
<b>1</b>	Primary sources	Discusses legal protection for transnational families; addresses cross-border migration; relevant to the SDGs on social justice	International conventions on family rights and children's rights; UN documents on migration protection	Documents that do not address legal protection for families or are unrelated to migration	Title screening, abstract screening, followed by full-text review	Included if relevant to the study focus; excluded if not relevant to the legal protection of transnational families
<b>2</b>	Primary sources	Focuses on non-discrimination in family law	Policy statements or conventions emphasizing non-discrimination	Lacks a clear focus on non-discrimination	Full-text selection after abstract review	Included if non-discrimination is explicitly mentioned; excluded if it only discusses migration issues in general
<b>3</b>	Secondary sources	Authoritative legal journals discussing national-international harmonization	Comparative analyses of family law regulations across countries	Opinion-based documents without empirical data	Review of citations and research methodology	Included if the analysis is transparent; excluded if the methodology is weak
<b>4</b>	Secondary sources	NGO/LSM reports on access to services across jurisdictions	Reports on migrant access to services, education, and healthcare	Reports that are anonymized and lack concrete data	Verification of the existence of data or actual cases	Included if supported by data or case material; excluded if no empirical evidence is provided
<b>5</b>	National policy	Explains the	National regulations	Documents that do	Scrutiny of the	Included if relevant to

documents	implementation of family law in relation to migration	on cross-border marriage, child custody, and related matters	not discuss family protection	regulatory text	international standards; excluded if not relevant
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Content analysis was conducted using a thematic coding technique. The initial step involved a comprehensive reading of each document in order to identify recurring major themes, such as the legal status of marriage across jurisdictions, child custody, access to social services across national borders, migrants’ ability to obtain legal recognition and protection for their families, as well as mechanisms for harmonizing national law with international standards. Thematic coding enabled the researcher to contextualize the thematic findings within a broader theoretical framework concerning the protection of human rights and the principle of non-discrimination. Furthermore, comparative analysis was carried out to assess the extent to which national regulations reflect international norms and how jurisdictional differences affect the protection of transnational families. This analysis addressed not only legal aspects, but also the implications of migration policy and access to social services for migrant families.

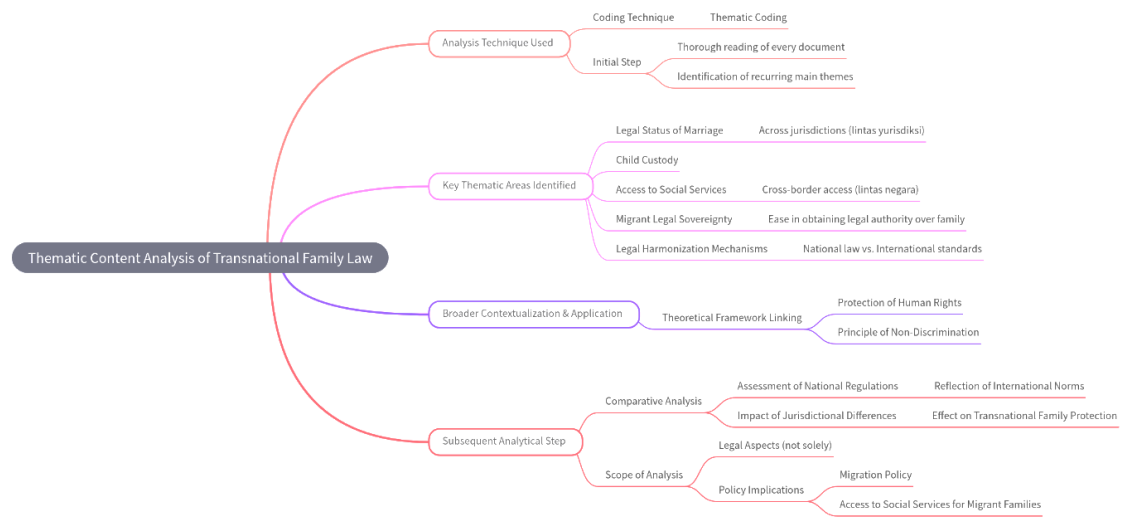


Figure 1. Thematic Coding Technique

The validity of the findings was maintained through several mechanisms. First, construct validity was ensured through the clear operationalization of key concepts, such as “transnational family,” “family legal protection,” and “non-discrimination.” Second, data reliability was maintained through a transparent audit trail procedure, including how sources were selected, how inclusion

criteria were applied, and records of changes in document selection throughout the analytical process. Third, triangulation was conducted by combining findings from various types of sources (primary and secondary) and by using case-study triangulation from several jurisdictions, so that the findings were supported across contexts and did not rely on a single source alone. Fourth, peer review was undertaken to assess the reliability of the analysis and to test the coherence and sustainability of the arguments, thereby enabling methodological or interpretive issues to be identified and corrected prior to publication.

## **Results**

In the context of the development of contemporary international law, a legal framework has emerged that explicitly affirms the importance of the principle of non-discrimination as a fundamental basis for the protection of human rights. Legal instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), and the Convention on the Rights of the Child (CRC) explicitly provide that every individual, regardless of gender, social status, or cultural background, is entitled to fair and equal treatment in various aspects of life, including the domain of family law. In this context, the principle of non-discrimination does not merely encompass equal treatment between men and women, but also includes the protection of children, minority groups, and persons with disabilities within the family structure. This international legal framework has become a normative reference for United Nations member states in aligning their national legal systems with global standards that uphold equality and social justice.

Nevertheless, although this international legal framework is available and widely recognized, its implementation at the national level remains partial and uneven. Differences in legal systems, social traditions, and domestic political dynamics have resulted in significant variations in the application of the principle of non-discrimination in family law across countries. For example, some states have comprehensively incorporated this principle into laws governing marriage, divorce, child custody, and inheritance, while others continue to maintain patriarchal and discriminatory legal norms. In India, for instance, although the state has ratified CEDAW, practices such as dowry death still occur, reflecting the weak implementation of the principle of non-discrimination in family law practice. In Indonesia, children born outside marriage often face difficulties in obtaining birth certificates, which in turn affects their access to education and other public services. This indicates that the

principle of non-discrimination has not yet been fully integrated into the administrative system of family law.

Table 2. Literature Analysis

No	Source	Document Type	Main Focus/Subject	Key Thematic Codes	Relevant Findings
1	CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)	International Convention	Women's rights in marriage and family	Gender Equality; Legal Harmonization	Emphasizes equality of rights in marriage and child-rearing, relevant to transnational families
2	CRC (Convention on the Rights of the Child)	International Convention	Child protection within the family context	Child Protection; Non-Discrimination	Guarantees children's rights without discrimination, including those from transnational families
3	ICCPR (International Covenant on Civil and Political Rights)	International Convention	Right to family and equal legal protection	Equality Before the Law; Family Rights	Ensures the right to form a family and legal protection without discrimination
4	UNHCR Guidelines on Family Unity and Refugee Protection	UN Document	Refugee families and family reunification	Transnational Family; Migration Rights	Emphasizes the importance of cross-border family reunification in refugee contexts
5	OHCHR Report on Discrimination in Family Law	UN Human Rights Report	Discrimination in national family law systems	Legal Reform; Gender Bias	Identifies discriminatory practices in family law across various countries

6	Journal of International Law and Politics (Vol. 52, Issue 3)	Legal Journal	Comparative transnational family law	Comparative Law; Cultural Conflict	Highlights conflicts between national laws and international principles in cross-border families
7	Human Rights Watch Report: <i>Unequal and Unprotected</i>	Human Rights Report	Discrimination against women in family law	Gender Disparity; Legal Access	Demonstrates unequal legal access for women in transnational family contexts
8	UN Women Policy Brief on Gender and Migration	UN Document	Migrant women and family rights	Migrant Rights; Intersectionality	Highlights the vulnerability of migrant women in forming and maintaining transnational families
9	International Commission of Jurists: Practitioner's Guide on Family Law Reform	Human Rights Report	Human rights-based family law reform	Human Rights-Based Law Reform	Provides guidance on reforming family law in line with non-discrimination principles
10	European Court of Human Rights Case Law (e.g., <i>Abdulaziz v. United Kingdom</i> )	International Jurisprudence	Discrimination in migrant family reunification	Judicial Interpretation; Family Unity	Establishes key precedents on cross-border family reunification rights without gender discrimination

The discussion presented in Table 2 demonstrates that CEDAW establishes standards of gender equality in family law by emphasizing women's rights to marry, to choose a spouse, and to obtain rights related to children. The CRC affirms the protection of children without discrimination, including children from migrant or non-traditional families. The ICCPR guarantees the right to form

a family and to receive equal legal protection for all individuals, including migrants and minorities. The UNHCR Guidelines highlight the importance of family reunification for refugees and cross-border migrants as an integral part of human rights. The OHCHR Report identifies discrimination in national family law systems and calls for human rights-based legal reform. The *Journal of International Law and Politics* discusses conflicts between international norms and domestic law in cases involving cross-border families. The Human Rights Watch Report reveals unequal legal access for women in transnational families. The UN Women policy brief highlights the double discrimination faced by migrant women in forming and maintaining families. The ICJ Guide offers a framework for family law reform grounded in the principle of non-discrimination. Finally, the jurisprudence of the European Court of Human Rights in *Abdulaziz v. United Kingdom* establishes that immigration policies must not discriminate against migrant families on the basis of gender or nationality.

This inconsistency in implementation can also be traced to differing interpretations of the principle of non-discrimination itself. Some states interpret this principle narrowly, limiting it to the elimination of discrimination based on sex, while others adopt a broader understanding that includes discrimination based on the legal status of children, birth order, physical and mental condition, and sexual orientation. These differences have a direct impact on the quality of legal protection afforded to individuals in the family context. In countries with pluralistic legal systems, such as Nigeria or Pakistan, family law is often shaped by religious or customary law, which in some cases conflicts with universal principles of non-discrimination. As a result, women and children in certain communities may not receive legal protection equal to that enjoyed by other groups within the same society.

Furthermore, the challenge of implementing the principle of non-discrimination in family law is closely related to the institutional capacity and political commitment of individual governments. In some countries, even where regulations supporting gender equality and child protection already exist, weak law enforcement, insufficient training for legal and judicial officers, and limited public awareness of legal rights constitute major obstacles to the realization of an inclusive and just family law system. In this context, the role of non-governmental organizations, international institutions, and the academic community becomes highly significant in promoting legal reform and policy advocacy in favor of the principle of non-discrimination.

Taking these complexities into account, it may be concluded that although international legal frameworks have provided a strong normative foundation for

the application of the principle of non-discrimination in family law, the reality of implementation at the national level remains far from ideal. The inconsistency and unevenness in the application of this principle demonstrate the need for a more systematic and sustainable approach to harmonizing national law with international standards. Family law reform grounded in the principle of non-discrimination is not only a moral and legal imperative, but also a prerequisite for the creation of an inclusive, just, and civilized society.

## RESULTS AND DISCUSSION

The principle of non-discrimination in transnational family law has become a widely recognized normative element in various international legal instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the International Covenant on Civil and Political Rights (ICCPR). These three conventions establish that every individual, regardless of gender, legal status, or country of origin, is entitled to equal treatment within the family structure. However, a review of the literature and thematic analysis of international documents and human rights reports indicate that the implementation of this principle at the national level remains partial and uneven. Many states continue to maintain family law systems influenced by patriarchal norms and gender bias, which directly affect women and children, particularly in the context of cross-border families.

In the context of transnational families, implementation challenges become increasingly complex due to differences in legal definitions of family, child status, and the rights of migrant women. Migrant women, for instance, experience double discrimination stemming from both their migration status and gender constructions within national legal systems, which affects their access to legal protection, social services, and recognition of their family structures. Children from cross-border families also encounter administrative and legal barriers in obtaining legal identity, inheritance rights, and access to education. International jurisprudence, such as the decision in *Abdulaziz v. United Kingdom* by the European Court of Human Rights, affirms that immigration policies must not be discriminatory toward migrant families and that the right to family unity constitutes an integral part of human rights that must be universally guaranteed.

Findings from *Familia* critically examine how international norms such as CEDAW and CRC have not been fully internalized within national family law systems, particularly in relation to the recognition of the rights of children born outside marriage and migrant women. Meanwhile, tensions between the

principle of non-discrimination and immigration policies in European countries are evident in cases where migrant family reunification is often hindered by restrictive domestic regulations. Research by Pells highlights, from an intersectional perspective, the vulnerability of migrant women within family law systems, emphasizing that discrimination based on gender and migration status often intersects and exacerbates legal inequalities. Furthermore, data from the United Nations Department of Economic and Social Affairs (UN DESA) propose a human rights-based and participatory approach in designing inclusive family policies, supporting the recommendation that harmonization of national law with international standards must be accompanied by the inclusion of vulnerable groups and the strengthening of legal institutional capacity.

Empirical data also demonstrate significant support for the principle of non-discrimination in family law. The Global Campaign for Equality in Family Law (2024) reports that more than 80 countries have initiated family law reforms to eliminate discriminatory provisions, particularly those affecting women and children. Data from UN Women indicate that approximately 70% of UN member states have integrated gender equality principles into family policies, although the level of implementation varies. Studies by the International Commission of Jurists (ICJ) reveal that human rights-based approaches to family law reform have been actively implemented in Scandinavia, Latin America, and parts of Southern Africa, resulting in improved legal access for vulnerable groups.

Nevertheless, resistance to this principle remains strong in many countries. The RESIST Project (2024) identifies that, in numerous case studies, there is active opposition from conservative groups toward family law reforms based on gender equality and the recognition of non-traditional families. This resistance often manifests in the form of political pressure, social campaigns, and legislative restrictions. A study by Freedom House (2025) shows that transnational repression, including intimidation against migrant families and political exiles, remains a serious threat to cross-border family rights, particularly in authoritarian states such as Russia and China. Research by Al Jizawi further notes that legal intimidation practices and digital surveillance of migrant families have created systemic barriers to the implementation of non-discrimination principles in certain jurisdictions.

Academically, this study adopts an intersectional and multidisciplinary approach, emphasizing that family law reform must take into account overlapping vulnerabilities such as gender, migration status, and ethnicity. This research contributes to strengthening both academic discourse and public policy by highlighting the importance of harmonizing national law with international

standards, as well as the need for advocacy mechanisms and civil society participation in promoting family law systems that are inclusive, just, and responsive to transnational realities. The principle of non-discrimination is not merely a legal requirement, but also an ethical and social foundation for the development of a just and civilized global society.

## CONCLUSION

The findings of this study indicate that although the principle of non-discrimination in transnational family law has been affirmed through international instruments such as CEDAW, the CRC, and the ICCPR, its implementation at the national level continues to face serious challenges due to patriarchal norms, gender bias, and resistance to inclusive family law reform. At the global level, there has been normative progress, with many countries beginning to incorporate the principle of equality into family policies. However, conflicts between international norms and domestic law, as well as pressure from conservative political forces, remain significant obstacles. This study recommends the harmonization of national law with international standards, the involvement of vulnerable groups in legislative processes, and the strengthening of human rights-based advocacy. The limitation of this study lies in its reliance on a literature-based approach without field data; nevertheless, it contributes academically to the development of family law scholarship and, in practical terms, offers policy direction that is more just and responsive to transnational realities. Its implication underscores that the principle of non-discrimination is not merely a legal requirement, but also an ethical foundation for the development of a just and civilized global society.

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