

## Addressing Indonesian Child Marriage: Comparative Study of Global Standards and Best Practices

Ampuan Situmeang<sup>1</sup>, Ninne Zahara Silviani<sup>2</sup>, Winda Fitri<sup>3</sup>

<sup>1</sup>Faculty of Law, Universitas Internasional Batam, Indonesia, [ampuan.situmeang@uib.ac.id](mailto:ampuan.situmeang@uib.ac.id)

<sup>2</sup>Faculty of Law, Universitas Internasional Batam, Indonesia

<sup>3</sup>Faculty of Law, Universitas Internasional Batam, Indonesia

### ABSTRACT

*Child marriage is a significant human rights issue as it deprives children around the world of their childhood, education, and safety. It's unfortunately a practice that still has prevalence in Indonesian society. This research is done for the purpose of analyzing the threat of child marriage and the urgency for a dedicated effort to tackle this issue normatively. Through the normative legal research method and supported by comparative analysis, this research analyzes how the Indonesian legal framework fare up to international human rights standards and best practices around the world, in tackling the practice of child marriage. Findings of this research suggest that child marriage can still be considered a neglected human rights abuse, due the minimum number of legal developments throughout the years. The findings expose the legal loophole and the lack of criminalization which can contribute to the prevalence of this dangerous phenomenon. This research serves the purpose of the betterment of human rights protection in Indonesia, specifically on vulnerable underage girls, by providing insights and recommendations that the government may consider for future legal development.*

#### Keywords

Child Marriage; Human Rights Abuse; International Law

#### Cite This Paper

Situmeang, A., Silviani, N. Z., & Fitri, W. (2023). Addressing Indonesian Child Marriage: Comparative Study of Global Standards and Best Practices. *Legal Spirit*, 7(2).

### PRELIMINARY

Child marriage, a serious issue in various regions around the world, continues to be a significant concern in Indonesia.<sup>1</sup> This practice is unfortunately deeply embedded in many cultures, with damages threatens the well-being of children. Child marriage not only affects the children involved, but also socio-economic structures, and even health of many parts of society.<sup>2</sup> This dangerous practice is monumental challenge in realizing the human rights of children, who should be protected in their youth development.<sup>3</sup> Various international legal instruments, have sought to address and tackle this dangerous practice, by emphasizing the protection of children's rights. Indonesia, with its diverse cultural landscape, presents a

<sup>1</sup> Sus Eko Zuhri Ernada et al., "The Prevention of Child Marriage Through The Women's School To Improve Quality of Life (Sekoper PKH) In Mengen Village, Bondowoso Regency," *Devotion Journal of Community Service* 3, no. 14 (2022): 2652–58, <https://doi.org/10.36418/dev.v3i14.323>.

<sup>2</sup> Hari Disemadi, Sholahuddin Al-Fatih, and Mochammad Yusro, "Indonesian Children Protection against Commercial Sexual Exploitation through Siri Marriage Practices in Maqashid Al-Shariah Perspective," *Brawijaya Law Journal* 7, no. 2 (October 31, 2020), <https://doi.org/10.21776/ub.blj.2020.007.02.04>.

<sup>3</sup> Lotus McDougal et al., "Beyond the Statistic: Exploring the Process of Early Marriage Decision-Making Using Qualitative Findings from Ethiopia and India," *BMC Women's Health* 18, no. 1 (2018): 144–59, <https://doi.org/10.1186/s12905-018-0631-z>.

unique challenge and opportunity to understand the efficacy of International Human Rights Law in addressing child marriage, with many determinants that are unique to Indonesia's position as a multicultural nation.<sup>4</sup> The nation's commitment to international conventions juxtaposed against its local customs provides a fertile ground for analysis.

In the broader context of international law, the efficacy of conventions and treaties often hinges on the willingness and capability of individual nations to adopt and enforce them, as national interest is paramount to every state.<sup>5</sup> The nuances of Indonesia's legal system, combined with factor such as the weight of customary law provides a unique challenges, in understanding how the legal culture works.<sup>6</sup> Understanding these complexities is crucial to any comparative study. Therefore, it's crucial to analyze the existing legal framework relating to child marriage within the Indonesian legal system. Normative analysis is important as it can help understand underlying values and principles that shape legal and policy decisions. It can also help understand the gaps between existing practices and ideal standards or benchmarks.

Furthermore, the experiences of other nations can provide invaluable insights. Some countries have successfully navigated the intricate balance between upholding international human rights standards and respecting local customs and traditions. By examining these success stories, as well as instances where challenges persist, we can better understand the potential pathways and pitfalls that Indonesia might encounter. Through this comparative study, we aspire to contribute to the discourse on child marriage, offering potential pathways for Indonesia to further align its practices with international human rights norms.

Child marriage in Indonesia is deeply rooted in historical and socio-cultural dynamics.<sup>7</sup> A study analyzing many emerging aspects of marriage in Asia found that high levels of child marriage continue to characterize Cambodia, Lao PDR, and Indonesia.<sup>8</sup> This problem is further complicated by other findings explaining how difficult it is for women, particularly, to escape from a disharmonious marriage. The study also noted the similarity of findings regarding these issues with South Asian countries. For boys, a study analyzing 82 countries across seven regions indicate that about 1 in 21 young men were married in childhood, with substantial variation in prevalence across countries and regions.<sup>9</sup> This study also highlighted the fight that the problem with child marriage among boys, according to data, is disproportionately less prevalent, with reduced number instances for the last 25 years.

Another study showed an even worse consequences of child marriages, by showing its links with slavery, creating a vicious cycle for children.<sup>10</sup> This study also exposed the disturbing reality that many children have to face, forcing them to end up in child marriages and slavery, chained of bonded labor or human trafficking.<sup>11</sup> The international legal

---

<sup>4</sup> Lauren Rumble et al., "An Empirical Exploration of Female Child Marriage Determinants in Indonesia," *BMC Public Health* 18, no. 1 (2018): 1–13, <https://doi.org/10.1186/s12889-018-5313-0>.

<sup>5</sup> Abdul Hamid Kwarteng, "Is International Law Really Law?," *Asian Research Journal of Arts & Social Sciences* 5, no. 4 (March 2018): 1–9, <https://doi.org/10.9734/ARJASS/2018/39608>.

<sup>6</sup> Sardjana Orba Manullang, "Understanding the Sociology of Customary Law in the Reformation Era: Complexity and Diversity of Society in Indonesia," *Linguistics and Culture Review* 5, no. S3 (July 2021): 16–26, <https://doi.org/10.21744/lingcure.v5nS3.1352>.

<sup>7</sup> Winda Fitri, "Children Protection Against Sexual Exploitation Through Siri Marriage: An Indonesian Experience," *Tadulako Law Review* 6, no. 1 (2021): 63–74.

<sup>8</sup> Wei Jun Jean Yeung and Gavin W. Jones, "Emerging Dimensions of Marriage in Asia," *Journal of Family Issues Ahead of P* (2023): 1–8, <https://doi.org/10.1177/0192513X231157403>.

<sup>9</sup> Colleen Murray Gastón, Christina Misunas, and Claudia Cappa, "Child Marriage among Boys: A Global Overview of Available Data," *Vulnerable Children and Youth Studies* 14, no. 3 (2019): 219–28, <https://doi.org/10.1080/17450128.2019.1566584>.

<sup>10</sup> Cécile Aptel, "Child Slaves and Child Brides," *Journal of International Criminal Justice* 14, no. 2 (2016): 305–25, <https://doi.org/10.1093/jicj/mqv078>.

<sup>11</sup> Bonded labor is a specific form of forced labor in which compulsory servitude is derived from debt. See Kittiphong Praphan, "Re-Creation of Tribals: Debt, Bonded Slavery and Bonded Prostitution in Mahasweta

frameworks addressing child marriage present various strategies and provisions. One study highlighted the impact of international efforts, insinuating the importance of it in the fight to protect children from temporary child marriages, which are popular in some middle eastern countries.<sup>12</sup> It also highlights the fact that child marriage can take many forms, which can be influenced by local cultures. Other study assesses various international strategies to combat child marriage, highlighting the importance of those international strategies to be culturally appropriate, so they can be more accepted by people.<sup>13</sup> Although the findings are found in Tanzania, the issue of cultural appropriation is nonetheless relevant, particularly with Indonesia, a country with a multicultural society. An interesting study highlighted the basic requirement to tackle human rights, which is legal certainty. It comes to the conclusion that it's indeed the most important element, by analyzing the lack of legal protection for people who are suffering under the legal term "statelessness" where they don't belong to any country at all.<sup>14</sup> It also emphasizes the role of international community through many treaties, even the ones that do not directly touch the issue of human rights for children, particularly girls.

When it comes to Indonesia's legal stance on child marriage, there's a clear need for alignment with international standards. A study critically evaluates Indonesia's legal framework, pinpointing gaps and potential areas for reform.<sup>15</sup> On the practical side, another study discusses the challenges in enforcing laws to tackle child marriage in Indonesia, underscoring the obstacles faced by authorities and the importance of a multi-pronged approach. The study highlighted other important factors, such as the availability of educational institutions to prolong. The study also quoted the fact that Indonesian girls who marry before reaching the age 18 are found to be six times less likely to complete senior secondary school, while also highlighting the importance of educational institutions and educational costs.<sup>16</sup>

Research gap exists in the effort to align Indonesia's legal framework with international standard of human rights. While it's clear that Indonesia needs to strengthen its laws and regulations, it's still unclear how the existing laws and regulations can be updated to tackle these issues, while also abiding to international standards and respecting cultural values. This research aims to address this gap, through normative exploration supported by comparative analysis for international standard of human rights and best practices around the world. Due to the findings of the mentioned literatures emphasizing the fact that girls are disproportionately more at risk than boys in regards to this human rights problem, this research will also narrow the analysis to only underage girls, and how the government can support them through the legal system.

## METHOD

---

Devi's Imaginary Maps," *Manusya: Journal of Humanities* 21, no. 1 (2018): 1-19, <https://doi.org/https://doi.org/10.1163/26659077-02101001>.

<sup>12</sup> Mohinder Watson, "Temporary and Child Marriages in Iran and Afghanistan: Historical Perspectives and Contemporary Issues," in *Temporary and Child Marriages in Iran and Afghanistan: Historical Perspectives and Contemporary Issues*, ed. S Behnaz Hosseini (Singapore: Springer Singapore, 2021), 1-29, [https://doi.org/10.1007/978-981-33-4469-3\\_1](https://doi.org/10.1007/978-981-33-4469-3_1).

<sup>13</sup> Isabela Warioba, "Child Marriage in Tanzania: A Human Rights Perspective," *The Journal of Law, Social Justice and Global Development*, no. 23 (2019): 1-18, <https://doi.org/10.31273/lgd.2019.2201>.

<sup>14</sup> Sheila Menz, "Statelessness and Child Marriage as Intersectional Phenomena: Instability, Inequality, and the Role of the International Community," *California Law Review* 104, no. 2 (2016): 497-544, <https://doi.org/10.15779/Z38ZC4H>.

<sup>15</sup> Rizky Irfano Aditya and Lisa Waddington, "The Legal Protection Against Child Marriage in Indonesia," *Bestuur* 9, no. 2 (2021): 126-34, <https://doi.org/10.20961/bestuur.v9i2.55144>.

<sup>16</sup> Kimia Ghomeshi, Farwah Qasim, and Mayssam Zaaroura, "Uprooting Our Beliefs: Examining Social Norms Contributing to Violence against Women and Girls, Including Child Marriage," *Oxfam Policy and Practice* (Ottawa, March 2020).

This research employed the normative legal research method to analyze the positive laws in Indonesia,<sup>17</sup> and analyze how they fare against international standards of human rights. To support the analysis, this research utilized the statutory and comparative approaches, using secondary data in the form of primary Indonesian, foreign, and international law sources. This research analyzes the problem as a human rights abuse, dissecting the phenomenon mainly using Indonesian laws, namely Law No. 1 of 1974 on Marriage, Law No. 16 of 2019 on Revisions of Law Number 1 of 1974 on Marriage, Law No. 23 of 2002 on Child Protection, Law No. 35 of 2014 on the Revision of Child Protection Law.

## RESULT AND DISCUSSION

### Prevalence and Damages of Child Marriage in Indonesia

Child marriage in Indonesia, while a deeply entrenched practice, is more than just a cultural or traditional norm. It's a manifestation of a myriad of socio-cultural, economic, and legal dynamics. The statistics surrounding child marriage in Indonesia are not just numbers, as they are a testament to the lived realities of countless young girls. The prevalence of this practice, while alarming on a national scale, becomes even more intricate when dissected regionally. Some regions, due to a combination of historical, cultural, and economic factors, exhibit higher rates of child marriage than others.<sup>18</sup> This suggests that while there might be overarching national trends, the localized customs, traditions, and economic conditions significantly influence the persistence of child marriage.<sup>19</sup> These regional disparities not only highlight the multifaceted nature of the issue but also emphasize the need for interventions that are both nationally relevant and regionally sensitive.

Diving deeper into the underlying causes, it becomes evident that the persistence of child marriage in Indonesia is a complex tapestry woven from socio-cultural, economic, and legal threads. Culturally, many communities view child marriage as a deeply rooted tradition, a practice that has been passed down through generations and is seen as a rite of passage. Economically, the challenges are multifaceted. In areas with limited economic opportunities, families might perceive child marriage as a pragmatic decision, a means to reduce the financial burden on the household or to ensure the perceived 'security' of a daughter. The legal landscape, while ostensibly clear in its stance against child marriage, often grapples with challenges in enforcement. Existing laws sometimes clash with local customs or face resistance due to lack of awareness, leading to a scenario where legislation might exist, but its practical impact is diluted.

Knowledge plays an important role, not just in the lives of underage girls, but also the lives of the people around her. Lesser level of education compared to the general population in Indonesia has shown to lead underage girls into marriage, with data showing the prevalence of child marriage among girls who only had some or only completed secondary level of education.<sup>20</sup> Data from the same study also displayed other important factors such as wealth and place of residence, which are relatively closely related to education as well. These data lead to the conclusion that underage girls in rural areas are more likely to get married before reaching 18. These factors affect underage girls and their environments, which can force them to accept marriage, even if it's against their will.

Other peculiar but nonetheless relevant factor is natural disasters. This is due to the fact that natural disasters can exacerbate welfare issues. Data from a study found that large

---

<sup>17</sup> Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (November 30, 2022): 289, <https://doi.org/10.37253/jjr.v24i2.7280>.

<sup>18</sup> Winda Fitri, "Polemik Dibalik Perkawinan Usia Dini: Kontradiksi Hukum Perkawinan Yang Pluralisme Di Indonesia," *Jurnal Pro Hukum: Jurnal Penelitian Bidang Hukum Universitas Gresik* 11, no. 5 (December 2022): 478-95.

<sup>19</sup> Karisa Cloward, *When Norms Collide: Local Responses to Activism against Female Genital Mutilation and Early Marriage*, Oxford University Press (New York: Oxford University Press, 2016), <https://doi.org/10.1093/acprof:oso/9780190274917.001.0001>, p. 32.

<sup>20</sup> Rumble et al., "An Empirical Exploration of Female Child Marriage Determinants in Indonesia."

welfare losses that cause people to reduce household burden, could lead to child marriage.<sup>21</sup> Interestingly, both empirical studies that analyze the prevalence of child marriage in Indonesia come to the same conclusion that secondary education plays a significant role in preventing child marriage. This conclusion is in line with other studies that focus on other parts of the world.<sup>22</sup> These findings show that underage girls are often trapped in multi-causal effects of poor level of welfare and education, combined with the lack of individual agency to create changes locally.<sup>23</sup>

The repercussions of child marriage ripple through various facets of a child's life. From an educational standpoint, child brides often face an abrupt end to their schooling, which is an important part of childhood.<sup>24</sup> It not only curtails their academic aspirations but also limits their future economic prospects and independence.<sup>25</sup> On the other hand, education can decrease the likelihood of child marriage. This is supported by a study indicating that girls with low level of education or with only primary education have a higher probability of getting married before reaching adulthood. However, the likelihood of young girls becoming child brides starts declining with secondary education. Higher secondary and higher levels of education significantly reduce the prevalence of child marriage among young girls.<sup>26</sup>

The health implications are equally dire. Early pregnancies pose heightened health risks, with complications during childbirth being more prevalent among younger mothers.<sup>27</sup> Not only the physical toll, the psychological toll cannot be understated either. The sudden shift from childhood to a life burdened responsibilities of being a wife and a mother without going through all the phases of teenage years can be extremely challenging, leading to many different kinds of psychological issues that are most likely too much for underage girls.<sup>28</sup> Furthermore, these young girls often find themselves in abusive environments, as data shows that child brides are more susceptible to many forms of domestic violence<sup>29</sup> and have diminished agency, further exacerbating their vulnerability.<sup>30</sup> The recurring element here is the denial of basic rights, where these child brides are deprived of the rights that they would otherwise enjoy, such as the right to education, self-determination, and most childhood.

<sup>21</sup> Luh Putu Ratih Kumala Dewi and Teguh Dartanto, "Natural Disasters and Girls Vulnerability: Is Child Marriage a Coping Strategy of Economic Shocks in Indonesia?," *Vulnerable Children and Youth Studies* 14, no. 1 (2019): 1–13, <https://doi.org/10.1080/17450128.2018.1546025>.

<sup>22</sup> Bruce Rasmussen et al., "Evaluating the Employment Benefits of Education and Targeted Interventions to Reduce Child Marriage," *Journal of Adolescent Health* 65, no. 1 (2019): S16–24, <https://doi.org/https://doi.org/10.1016/j.jadohealth.2019.03.022>.

<sup>23</sup> Shamnaz Arifin Mim, "Effects of Child Marriage on Girls' Education and Empowerment," *Journal of Education and Learning (EduLearn)* 11, no. 1 (2017): 9–16, <https://doi.org/10.11591/edulearn.v11i1.5130>.

<sup>24</sup> Novita Dewi, "CHILD MARRIAGE IN SHORT STORIES FROM INDONESIA AND BANGLADESH: VICTOR, SURVIVOR, AND VICTIM," *International Journal of Humanity Studies (IJHS)* 2, no. 1 (September 2018): 51–60, <https://doi.org/10.24071/ijhs.v2i1.1511>.

<sup>25</sup> Amber N Lusvardi, "The End of the Child Bride: Social Movements and State Policymaking on Underage Marriage," *Purdue University Graduate School* (2022), <https://doi.org/10.25394/PGS.19660461.v1>, p. 18.

<sup>26</sup> Pintu Paul, "Effects of Education and Poverty on the Prevalence of Girl Child Marriage in India: A District-Level Analysis," *Children and Youth Services Review* 100 (2019): 16–21, <https://doi.org/https://doi.org/10.1016/j.childyouth.2019.02.033>.

<sup>27</sup> Babatunde Ahonsi et al., "Child Marriage in Ghana: Evidence from a Multi-Method Study," *BMC Women's Health* 19, no. 1 (2019): 126–40, <https://doi.org/10.1186/s12905-019-0823-1>.

<sup>28</sup> Somayyeh Naghizadeh et al., "Knowledge and Viewpoint of Adolescent Girls Regarding Child Marriage, Its Causes and Consequences," *BMC Women's Health* 21, no. 1 (2021): 351–60, <https://doi.org/10.1186/s12905-021-01497-w>.

<sup>29</sup> Mavra Qamar, M Anne Harris, and Jordan L Tustin, "The Association Between Child Marriage and Domestic Violence in Afghanistan," *Journal of Interpersonal Violence* 37, no. 5–6 (August 2020): 2948–61, <https://doi.org/10.1177/0886260520951310>.

<sup>30</sup> Rachel Kidman, "Child Marriage and Intimate Partner Violence: A Comparative Study of 34 Countries," *International Journal of Epidemiology* 46, no. 2 (April 2017): 662–75, <https://doi.org/10.1093/ije/dyw225>.

Child marriage not only affects the individual but also has broader societal implications.<sup>31</sup> Communities with prevalent child marriage often witness intergenerational cycles of limited education and economic stagnation. Such practices hinder community progress, as a significant segment of the population remains undereducated and economically dependent. Moreover, the societal acceptance of child marriage can create terrible legal culture, reducing the awareness of communities on the importance of criminalization of this practice, to protect the future of underage girls.<sup>32</sup>

### Child Marriage Through the Lens of International Law

Child marriage is recognized as a violation of human rights. This practice disproportionately affects girls and women globally, depriving them of their rights to live free from violence. Child marriage often results in the disruption of education, increased vulnerability to abuse, and limited participation in societal activities. The international community, through many legal instruments, have put out basic principles of human rights, to tackle a lot of social, economic, and cultural issues around the world, including principles that are fundamentally against the practice of child marriage.

There are some important international law sources that are against the practice of child marriage:

Legal Instrument	Provision
Convention on the Rights of the Child, 1989	Article 19(1): States' responsibilities in preventing any form of abuse, exploitation, and violence, along with injury and negligent treatment of children, under the care of legal guardian.  Article 19(2): Regulatory delivery and inspection for measures of prevention of as explained in (1)
Universal Declaration of Human Rights, General Assembly Resolution 217 A (III), 1948	Article 16(1): Right to marriage and equal rights during marriage and divorce.  Article 16(2): Free and full consent as essential requirements of marriage.
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Slavery Convention), 1956	Article 2: Suitable minimum ages of marriage and the importance of consent validity. Consent be freely expressed in the presence of religious or civil authority, and marriage must be encouraged to be registered.
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1964	Article 2: States' responsibility in ensuring legal framework to determine the minimum age of marriage, with the exception of a dispensation granted by competent authority, for serious reasons, within the interest spouses.

<sup>31</sup> Miriam Chinyere Anozie, Millicent Ele, and Elizabeth Ijeamaka Anika, "The Legal, Medical and Social Implications of Child Marriage in Nigeria," *International Journal of Law, Policy and the Family* 32, no. 2 (August 2018): 119–39, <https://doi.org/10.1093/lawfam/eby002>.

<sup>32</sup> Fatum Abubakar, "Islamic Family Law Reform: Early Marriage and Criminalization (A Comparative Study of Legal Law in Indonesia and Pakistan)," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 4, no. 2 (December 2019): 97–118, <https://doi.org/10.22515/alahkam.v4i2.1667>.

International Covenant on Civil and Political Rights (ICCPR), 1966	<p>Article 23(2): The right of men and women of marriageable age to marry and to found a family.</p> <p>Article 23(3): Free and full consent of the spouses as requirement of marriage.</p> <p>Article 23(4): States' responsibility to take appropriate steps to ensure equality of rights during marriage and divorce</p>
Committee on the Elimination of Discrimination against Women, General Recommendation 21, Equality in marriage and family relations, 1994	(Para. 38): Abolishment of different ages for marriage for men and women. In other countries, and the abolishment of forced betrothal.

**Source:** International Primary Law Sources

Convention on the Rights of the Child explained that states should take measures to protect children from many forms of abuses, exploitation, and neglect. The identification of child marriage as a form of human rights abuse categorically falls into the threats of which states, according to this convention, have to protect children from. UDHR, while making sure that everyone has the right to marriage, emphasizes the importance of consent, which children aren't capable of giving in the context of marriage. The slavery convention, on the other hand, directly mentions that states should decide the suitable ages of marriage, which has to be in line with the process of marriage registration. This is directly related to child marriage, due to the fact that child marriages are mostly not registered, due to not reaching the legal marriageable age.<sup>33</sup> Another international legal instrument was even established, explicitly mentioning this issue in the name of the convention, which is Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. This convention stated that no marriage shall be legally entered into by any person under the legal age of marriage. It also puts a limitation on the possibility of states in making exception, by stating that there should be serious reasons, within the interests of the spouses. The ICCPR emphasized that no marriage shall be entered into without the free and full consent of the spouses, and that there should be equal rights and responsibilities between spouses during marriage and divorce. The mention of divorce is very important here, because due to the fact that child marriages are not registered, the rights of the child bride after the divorce also can't be protected.<sup>34</sup>

### Evaluation of the Indonesian Legal Framework

The Indonesian legal framework addressing child marriage primarily revolves around Law No. 1 of 1974 on Marriage and Law No. 23 of 2002 on Child Protection (Child Protection Law), which was later revised by Law No. 35 of 2014 on the Revision of Child Protection Law (Revised Child Protection Law). Historically, the Marriage Law allowed females as young as 16 and males as young as 19 to marry. However, in 2019, Indonesia raised the minimum age for brides in an attempt to curtail child marriage, making it 19 for both males and females, through Law No. 16 of 2019 on Revisions of Law Number 1 of 1974

<sup>33</sup> Takudzwa S Sayi and Amson Sibanda, "Correlates of Child Marriage in Zimbabwe," *Journal of Family Issues* 39, no. 8 (January 2018): 2366–88, <https://doi.org/10.1177/0192513X18755198>.

<sup>34</sup> Niva Golan-Nadir, "The Turkish Case: The Lack of Societal Pressure to Modify Secular Marriage Policy BT - Public Preferences and Institutional Designs: Israel and Turkey Compared," in *Public Preferences and Institutional Designs: Israel and Turkey Compared*, ed. Niva Golan-Nadir (Cham: Springer International Publishing, 2022), 183–214, [https://doi.org/10.1007/978-3-030-84554-4\\_8](https://doi.org/10.1007/978-3-030-84554-4_8).

on Marriage.<sup>35</sup> This change was a significant step towards aligning the nation's legal stance with global standards, specifically the one set by Committee on the Elimination of Discrimination against Women, General Recommendation 21, which identified the importance of equating the minimum age of marriage for both male and female. Moreover, the Child Protection Law emphasizes the rights of children and the state's responsibility to ensure their protection. While this law does not directly address child marriage, it provides a foundation for child rights, which can be interpreted to include protection from early marriage.

It's important to analyze the existing laws and regulations, along with best practices from other countries around the world, in a comparative analysis to further develop the scrutinize Indonesia's legal development for the better.

Country	Legal Instrument	Related Provisions of the Articles
India	Prohibition of Child Marriage Act, 2006	"A child is a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age."
Bangladesh	Child Marriage Restraint Act, 2017	"The minimum age for marriage in Bangladesh is 21 for males and 18 for females."
Pakistan	Sindh Child Marriage Restraint Act, 2013	"No person shall contract, cause to contract or arrange a child marriage. Whoever contravenes the provisions of subsection (1) shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall be liable to fine."
Nigeria	Child Rights Act, 2003	"The Act prohibits child betrothal and marriage and sets the minimum age of marriage at 18 years."
Indonesia	Law No. 16/2019	"The minimum age for marriage has been raised to 19 for both males and females."

**Source:** Indian, Bangladeshi, Pakistani, Nigerian, and Indonesian primary law sources.

Indonesia has taken the right step in revising the old Marriage Law in 2019, by raising the minimum age for marriage, equating the males and females. This has put Indonesia normatively in a better position than India, Bangladesh, who still differentiate the minimum age between males and females. However, the legal framework in Indonesia doesn't necessarily address the problem of child marriage, in a way that warrants urgency. This legal development is not in line with overwhelming literature and empirical data that often cites Indonesia as one of the countries struggling with this human rights issue. The overall legal framework for marriage itself doesn't even have a criminal provision, despite indicating a criminal problem with Article 7 paragraph (1) on the minimum age of marriage.

Interestingly, there's a provision regarding the prevention of child marriage in the Revised Child Protection Law. Article 26 paragraph (1) letter c of the Revised Child Protection states that *"Parents are obliged and responsible for: c. preventing marriage at a young age."* First normative issue here is the fact that the Child Protection Law normatively emphasizes the role of parents in preventing child marriage, which according to the definition of a child as provided by the same law, is someone under the age of 18. This is not

<sup>35</sup> Rani Dewi Kurniawati, "Efektifitas Perubahan UU No 16 Tahun 2019 Tentang Perubahan Atas UU No 1 Tahun 1974 Tentang Perkawinan Terhadap Penetapan Dispensasi Kawin (Studi Kasus Di Pengadilan Agama Majalengka Kelas 1A)," *Journal Presumption of Law* 3, no. 2 (2021): 160–80, <https://doi.org/10.31949/jpl.v3i2.1505>.

in line with the provision of the newly revised Marriage Law which states that the minimum age of marriage is 19 for both males and females. The second normative issue is the fact that this provision is practically useless. There's no further explanation within the Revised Child Protection Law on the failure of parents in fulfilling this responsibility. In other words, the provision is nothing more than a moral obligation, engraved within a normative structure. The absence of criminal provision regarding child marriage, is fundamentally an evidence child marriage is a neglected form of child abuse.<sup>36</sup> It's also a sign of a slow legal development and a terrifying reality for young girls, who should be participating for the betterment of their lives, fulfillment of their dreams, and the future of Indonesia. Indonesia, in this case, can follow the steps taken by Nigeria, who banned child betrothal. Furthermore, it's important to criminalize any attempt to force a child into marriage, as already done by Pakistan, to create a safer environment for underage girls to pursue their dreams. This can also help fight peer pressure from old cultural and societal norms, which are no longer compatible with modern system of morality.

## CLOSING

Normative exploration supported by comparative analysis found that there are indeed problems within the Indonesian legal framework in tackling the practice of child marriage. Despite the effort to update its legal framework through a minor revision of the Marriage Law, Indonesia's legal development still neglects the urgency of tackling the practice of child marriage. Loopholes such as forced betrothal and the lack of criminalization, both of which can be abused by family members or close relatives of underage girls, remains a looming threat to underage girls in areas where child marriage is common. Based on the comparative analysis, Indonesia urgently needs to revise its legal framework to follow the steps taken by Pakistan and Nigeria, to criminalize the act of forcing a child into a marriage, and the betrothal of a child.

## BIBLIOGRAPHY

- Abubakar, Fatum. "Islamic Family Law Reform: Early Marriage and Criminalization (A Comparative Study of Legal Law in Indonesia and Pakistan)." *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 4, no. 2 (December 2019): 97–118. <https://doi.org/10.22515/alahkam.v4i2.1667>.
- Aditya, Rizky Irfano, and Lisa Waddington. "The Legal Protection Against Child Marriage in Indonesia." *Bestuur* 9, no. 2 (2021): 126–34. <https://doi.org/10.20961/bestuur.v9i2.55144>.
- Ahonsi, Babatunde, Kamil Fuseini, Dela Nai, Erika Goldson, Selina Owusu, Ismail Ndifuna, Icilda Humes, and Placide L Tapsoba. "Child Marriage in Ghana: Evidence from a Multi-Method Study." *BMC Women's Health* 19, no. 1 (2019): 126–40. <https://doi.org/10.1186/s12905-019-0823-1>.
- Anozie, Miriam Chinyere, Millicent Ele, and Elizabeth Ijeamaka Anika. "The Legal, Medical and Social Implications of Child Marriage in Nigeria." *International Journal of Law, Policy and the Family* 32, no. 2 (August 2018): 119–39. <https://doi.org/10.1093/lawfam/eby002>.
- Aptel, Cécile. "Child Slaves and Child Brides." *Journal of International Criminal Justice* 14, no. 2 (2016): 305–25. <https://doi.org/10.1093/jicj/mqv078>.
- Cloward, Karisa. *When Norms Collide: Local Responses to Activism against Female Genital Mutilation and Early Marriage*. Oxford University Press. New York: Oxford University

---

<sup>36</sup> Loretta M. Kopelman, "The Forced Marriage of Minors: A Neglected Form of Child Abuse," *Journal of Law, Medicine and Ethics* 44, no. 1 (2016): 173–81, <https://doi.org/10.1177/1073110516644208>.

- Press, 2016. <https://doi.org/10.1093/acprof:oso/9780190274917.001.0001>.
- Dewi, Novita. "CHILD MARRIAGE IN SHORT STORIES FROM INDONESIA AND BANGLADESH: VICTOR, SURVIVOR, AND VICTIM." *International Journal of Humanity Studies (IJHS)* 2, no. 1 (September 2018): 51–60. <https://doi.org/10.24071/ijhs.v2i1.1511>.
- Disemadi, Hari, Sholahuddin Al-Fatih, and Mochammad Yusro. "Indonesian Children Protection against Commercial Sexual Exploitation through Siri Marriage Practices in Maqashid Al-Shariah Perspective." *Brawijaya Law Journal* 7, no. 2 (October 31, 2020). <https://doi.org/10.21776/ub.blj.2020.007.02.04>.
- Disemadi, Hari Sutra. "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies." *Journal of Judicial Review* 24, no. 2 (November 30, 2022): 289. <https://doi.org/10.37253/jjr.v24i2.7280>.
- Fitri, Winda. "Children Protection Against Sexual Exploitation Through Siri Marriage: An Indonesian Experience." *Tadulako Law Review* 6, no. 1 (2021): 63–74.
- . "Polemik Dibalik Perkawinan Usia Dini: Kontradiksi Hukum Perkawinan Yang Pluralisme Di Indonesia." *Jurnal Pro Hukum: Jurnal Penelitian Bidang Hukum Universitas Gresik* 11, no. 5 (December 2022): 478–95.
- Gastón, Colleen Murray, Christina Misunas, and Claudia Cappa. "Child Marriage among Boys: A Global Overview of Available Data." *Vulnerable Children and Youth Studies* 14, no. 3 (2019): 219–28. <https://doi.org/10.1080/17450128.2019.1566584>.
- Ghomeshi, Kimia, Farwah Qasim, and Mayssam Zaaroura. "Uprooting Our Beliefs: Examining Social Norms Contributing to Violence against Women and Girls, Including Child Marriage." *Oxfam Policy and Practice*. Ottawa, March 2020.
- Golan-Nadir, Niva. "The Turkish Case: The Lack of Societal Pressure to Modify Secular Marriage Policy BT - Public Preferences and Institutional Designs: Israel and Turkey Compared." In *Public Preferences and Institutional Designs: Israel and Turkey Compared*, edited by Niva Golan-Nadir, 183–214. Cham: Springer International Publishing, 2022. [https://doi.org/10.1007/978-3-030-84554-4\\_8](https://doi.org/10.1007/978-3-030-84554-4_8).
- Hamid Kwarteng, Abdul. "Is International Law Really Law?" *Asian Research Journal of Arts & Social Sciences* 5, no. 4 (March 2018): 1–9. <https://doi.org/10.9734/ARJASS/2018/39608>.
- Kidman, Rachel. "Child Marriage and Intimate Partner Violence: A Comparative Study of 34 Countries." *International Journal of Epidemiology* 46, no. 2 (April 2017): 662–75. <https://doi.org/10.1093/ije/dyw225>.
- Kopelman, Loretta M. "The Forced Marriage of Minors: A Neglected Form of Child Abuse." *Journal of Law, Medicine and Ethics* 44, no. 1 (2016): 173–81. <https://doi.org/10.1177/1073110516644208>.
- Kumala Dewi, Luh Putu Ratih, and Teguh Dartanto. "Natural Disasters and Girls Vulnerability: Is Child Marriage a Coping Strategy of Economic Shocks in Indonesia?" *Vulnerable Children and Youth Studies* 14, no. 1 (2019): 1–13. <https://doi.org/10.1080/17450128.2018.1546025>.
- Kurniawati, Rani Dewi. "Efektifitas Perubahan UU No 16 Tahun 2019 Tentang Perubahan Atas UU No 1 Tahun 1974 Tentang Perkawinan Terhadap Penetapan Dispensasi Kawin (Studi Kasus Di Pengadilan Agama Majalengka Kelas IA)." *Journal Presumption of Law* 3, no. 2 (2021): 160–80. <https://doi.org/10.31949/jpl.v3i2.1505>.

- Lusvardi, Amber N. "The End of the Child Bride: Social Movements and State Policymaking on Underage Marriage." *Purdue University Graduate School*, 2022. <https://doi.org/10.25394/PGS.19660461.v1>.
- Manullang, Sardjana Orba. "Understanding the Sociology of Customary Law in the Reformation Era: Complexity and Diversity of Society in Indonesia." *Linguistics and Culture Review* 5, no. S3 (July 2021): 16–26. <https://doi.org/10.21744/lingcure.v5nS3.1352>.
- McDougal, Lotus, Emma C Jackson, Katherine A McClendon, Yemeserach Belayneh, Anand Sinha, and Anita Raj. "Beyond the Statistic: Exploring the Process of Early Marriage Decision-Making Using Qualitative Findings from Ethiopia and India." *BMC Women's Health* 18, no. 1 (2018): 144–59. <https://doi.org/10.1186/s12905-018-0631-z>.
- Menz, Sheila. "Statelessness and Child Marriage as Intersectional Phenomena: Instability, Inequality, and the Role of the International Community." *California Law Review* 104, no. 2 (2016): 497–544. <https://doi.org/10.15779/Z38ZC4H>.
- Mim, Shamnaz Arifin. "Effects of Child Marriage on Girls' Education and Empowerment." *Journal of Education and Learning (EduLearn)* 11, no. 1 (2017): 9–16. <https://doi.org/10.11591/edulearn.v11i1.5130>.
- Naghizadeh, Somayyeh, Mojgan Mirghafourvand, Azam Mohammadi, Marzieh Azizi, Saba Taghizadeh-Milani, and Hadiseh Ganbari. "Knowledge and Viewpoint of Adolescent Girls Regarding Child Marriage, Its Causes and Consequences." *BMC Women's Health* 21, no. 1 (2021): 351–60. <https://doi.org/10.1186/s12905-021-01497-w>.
- Paul, Pintu. "Effects of Education and Poverty on the Prevalence of Girl Child Marriage in India: A District-Level Analysis." *Children and Youth Services Review* 100 (2019): 16–21. <https://doi.org/https://doi.org/10.1016/j.childyouth.2019.02.033>.
- Praphan, Kittiphong. "Re-Creation of Tribals: Debt, Bonded Slavery and Bonded Prostitution in Mahasweta Devi's Imaginary Maps." *Manusya: Journal of Humanities* 21, no. 1 (2018): 1–19. <https://doi.org/https://doi.org/10.1163/26659077-02101001>.
- Qamar, Mavra, M Anne Harris, and Jordan L Tustin. "The Association Between Child Marriage and Domestic Violence in Afghanistan." *Journal of Interpersonal Violence* 37, no. 5–6 (August 2020): 2948–61. <https://doi.org/10.1177/0886260520951310>.
- Rasmussen, Bruce, Neelam Maharaj, Peter Sheehan, and Howard S Friedman. "Evaluating the Employment Benefits of Education and Targeted Interventions to Reduce Child Marriage." *Journal of Adolescent Health* 65, no. 1 (2019): S16–24. <https://doi.org/https://doi.org/10.1016/j.jadohealth.2019.03.022>.
- Rumble, Lauren, Amber Peterman, Nadira Irdiana, Margaret Triyana, and Emilie Minnick. "An Empirical Exploration of Female Child Marriage Determinants in Indonesia." *BMC Public Health* 18, no. 1 (2018): 1–13. <https://doi.org/10.1186/s12889-018-5313-0>.
- Sayi, Takudzwa S, and Amson Sibanda. "Correlates of Child Marriage in Zimbabwe." *Journal of Family Issues* 39, no. 8 (January 2018): 2366–88. <https://doi.org/10.1177/0192513X18755198>.
- Warioba, Isabela. "Child Marriage in Tanzania: A Human Rights Perspective." *The Journal of Law, Social Justice and Global Development*, no. 23 (2019): 1–18. <https://doi.org/10.31273/lgd.2019.2201>.
- Watson, Mohinder. "Temporary and Child Marriages in Iran and Afghanistan: Historical Perspectives and Contemporary Issues." In *Temporary and Child Marriages in Iran*

*and Afghanistan: Historical Perspectives and Contemporary Issues*, edited by S Behnaz Hosseini, 1–29. Singapore: Springer Singapore, 2021. [https://doi.org/10.1007/978-981-33-4469-3\\_1](https://doi.org/10.1007/978-981-33-4469-3_1).

Yeung, Wei Jun Jean, and Gavin W. Jones. “Emerging Dimensions of Marriage in Asia.” *Journal of Family Issues Ahead of P* (2023): 1–8. <https://doi.org/10.1177/0192513X231157403>.

Zuhri Ernada, Sus Eko, Honest Dody Molasy, Linda Dwi Eriyanti, Bachtiar Nur Budiman, and Bella Dewi Safitri. “The Prevention of Child Marriage Through The Women’s School To Improve Quality of Life (Sekoper PKH) In Mengen Village, Bondowoso Regency.” *Devotion Journal of Community Service* 3, no. 14 (2022): 2652–58. <https://doi.org/10.36418/dev.v3i14.323>.