

## EARLY MARRIAGE AND THE PROTECTION OF GIRLS' RIGHTS FROM AN INDONESIAN LEGAL PERSPECTIVE

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### Abstract

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*Early-age marriage,  
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*Early marriage remains a complex social and legal issue in Indonesia, despite the government's regulatory changes through Law Number 16 of 2019 concerning the minimum age for marriage. This practice is not only related to cultural and economic issues in society, but also impacts the fulfillment of girls' fundamental rights, such as the right to education, reproductive health, protection from violence, and freedom to determine their future. This study aims to analyze the practice of early marriage and the protection of girls' rights from an Indonesian legal perspective through a qualitative approach with a juridical-sociological approach. Research data were obtained through documentation studies, regulatory analysis, studies of marriage dispensation decisions, and reviews of various relevant scientific studies and empirical reports. Data analysis was conducted thematically by connecting social realities, legal implementation, and the dynamics of girls' protection in social practice. The results show that the practice of early marriage is still influenced by economic factors, patriarchal culture, low education, social pressure, and weak legal literacy in society. Although legal regulations have set a minimum age for marriage, the marriage dispensation mechanism remains a space for compromise, demonstrating the tension between legal norms and social realities. This study also found that early marriage has the potential to limit girls' rights to education, health care, social protection, and optimal self-development. Theoretically, this study confirms that the effectiveness of legal protection for girls is determined not only by the existence of formal regulations, but also by legal culture, social awareness, and adequate institutional support. Therefore, protecting girls requires a multidimensional approach through strengthening legal education, monitoring marriage dispensations, and social and educational empowerment for girls as part of sustainable efforts to prevent early marriage.*

### INTRODUCTION

The phenomenon of early marriage remains a serious problem in the legal system and child protection in various developing countries, including Indonesia. Globally, the practice of child marriage is viewed as a form of human rights violation because it has

the potential to limit children's rights to education, health care, social protection, and opportunities for optimal development. Reports from various international organizations indicate that girls are the most vulnerable group in the practice of early marriage due to unequal power relations, reproductive health risks, and vulnerability to domestic violence. In the Indonesian context, the problem of early marriage is increasingly complex because it is not only related to formal legal issues, but also influenced by patriarchal culture, social pressures, economic factors, and the construction of societal values that still view marriage as a solution to certain social problems. This condition shows that the practice of early marriage cannot be understood solely as an individual family decision, but rather as a socio-legal phenomenon involving the relationship between cultural norms, the state legal system, and the social structure of society. This phenomenon then places the protection of girls' rights as a crucial issue that requires more in-depth study from an Indonesian legal perspective (Asman, 2024).

In Indonesia, the state's efforts to suppress the practice of early marriage are marked by the amendment of Law Number 1 of 1974 to Law Number 16 of 2019, which sets the minimum age for marriage at 19 years for both men and women. This regulatory change normatively demonstrates the strengthening of the principles of child protection and gender equality in national marriage law (El'Arifah & Azzahrani, 2025). However, empirical reality shows that the regulatory change has not been able to fully reduce the number of child marriages. Various studies show that applications for marriage dispensations in Religious Courts have continued to increase in several regions after the amendment to the marriage age limit was implemented. This condition demonstrates a gap between the normative objectives of the law and the social practices that develop in society. In many cases, marriage dispensations actually become a space for compromise between state legal interests and cultural pressures, out-of-wedlock pregnancies, and family economic considerations. This situation shows that the effectiveness of the law is not only determined by the existence of regulations, but is also influenced by the legal culture of society and the pattern of law enforcement at the local level.

The issue of early marriage is becoming increasingly important to examine due to its multidimensional impact on girls' lives. From a legal protection perspective, girls who marry at an early age potentially lose their rights to education, reproductive health, growth and development, and protection from discrimination and violence. Various studies show that early marriage often results in girls dropping out of school, economic dependence, the risk of pregnancy complications, and vulnerability to domestic violence. Furthermore, the dominance of patriarchal culture in society also means that girls often lack bargaining power in determining their own futures (Eleanora & Sari, 2020). In certain situations, the decision to marry off a girl is made in the name of maintaining family honor or reducing the household's economic burden. This situation demonstrates that the practice of early marriage is not only a matter of the legality of marriage but is also closely related to gender inequality and weak protection of girls' rights as legal subjects with fundamental rights.

From an Indonesian legal perspective, the protection of girls' rights is actually guaranteed through various national and international legal instruments. The Child Protection Law emphasizes that the state, family, and society have an obligation to protect children from practices that hinder their growth and development, including child marriage. Furthermore, Indonesia has ratified the Convention on the Rights of the Child, which places the principle of the child's best interests as the primary basis for all policies

and legal actions related to children (Mokolensang et al., 2023) . However, the implementation of this legal protection still faces various structural and cultural barriers. In social practice, state law often clashes with customary norms, religious interpretations, and cultural constructs that legitimize early marriage. As a result, the law does not always function as an effective instrument of protection, but sometimes becomes part of a social negotiation process that maintains the practice of early marriage in society. This situation demonstrates that a formal legal approach alone is insufficient to address the complex issues of protecting girls' rights in Indonesia.

Several previous studies have discussed early marriage from the perspective of marriage law, child protection, and the socio-cultural factors underlying it. However, most research still focuses on the normative aspects of regulation or the causes of early marriage in general. Studies specifically linking the practice of early marriage to the protection of girls' rights from an Indonesian legal perspective are still relatively limited, especially those that examine how the law operates in the social reality of society. Furthermore, previous research generally positions girls as objects of social impact, rather than as legal subjects with rights and interests that must be actively protected by the state (Tampilang, 2025) . Furthermore, studies on marriage dispensations also tend to highlight the procedural aspects of justice without delving deeper into how social and cultural considerations influence the protection of girls' rights in legal decisions. This gap in research indicates the need for more reflective and critical research into the relationship between social practices, community legal culture, and the effectiveness of girls' rights protection in the Indonesian legal system.

Based on the above description, this study aims to analyze the phenomenon of early marriage and the protection of girls' rights from an Indonesian legal perspective by examining the relationship between legal regulations, social practices, and the implementation of child protection in empirical reality. The focus of this research is directed at how the practice of early marriage affects the fulfillment of girls' rights, how state law responds to this phenomenon, and how the gap between legal norms and social practices occurs in society. This research is expected to provide theoretical contributions to the development of socio-legal studies on child protection and family law in Indonesia, while also providing practical contributions to strengthening policies for the protection of girls and the prevention of early marriage more comprehensively. Thus, this study views law not only as a normative text, but also as a social practice influenced by culture, power relations, and community legal awareness.

## LITERATURE REVIEW

Early marriage, from an Indonesian legal perspective, is understood as the practice of marriage carried out by individuals who have not reached the minimum age for marriage as stipulated in Law Number 16 of 2019. In modern legal studies, this practice is not only positioned as a matter of the legality of marriage, but also related to the protection of children's human rights, gender equality, and the state's responsibility in ensuring the welfare of citizens. Conceptually, the theory of legal protection positions the state as the party with the obligation to guarantee the fulfillment of children's basic rights, including the right to education, health, protection from discrimination, and the right to optimal growth and development. In this context, girls are seen as legal subjects who have constitutional rights and special protection due to their social vulnerability. The child protection perspective also emphasizes the principle of *the best interests of the child*,

which requires all policies and legal actions to prioritize the best interests of the child. Therefore, the practice of early marriage is seen as having the potential to hinder the fulfillment of girls' rights because it often occurs in situations of unequal power relations, cultural pressures, and family economic constraints. This study then becomes important within the framework of socio-legal studies because law is not only understood as written norms, but also as social practices influenced by culture, social structure, and power relations in society (Mokolensang et al., 2023) .

From the perspective of legal culture theory, the effectiveness of a regulation is greatly influenced by public legal awareness and social acceptance of the applicable rules. Lawrence M. Friedman explains that the law will not work effectively if it is not supported by a societal legal culture that aligns with the objectives of the regulation. In the context of early marriage in Indonesia, although the state has set the minimum age for marriage at 19 years, the practice of child marriage continues through marriage dispensation mechanisms and societal cultural legitimacy. This condition indicates a tension between state law and societal social norms that still view early marriage as a solution to economic problems, family honor, or out-of-wedlock pregnancies. On the other hand, gender justice theory explains that the practice of early marriage is also related to the dominance of patriarchal culture that places girls in a subordinate position in family decision-making. As a result, girls often lose their right to determine their future and access to education due to social pressures and certain cultural constructs. From this perspective, legal protection for girls is not sufficient through regulatory changes alone, but requires a transformation of societal legal culture and strengthening awareness of children's rights and gender equality in social life (Waliddra & Simanjuntak, 2023) .

Several previous studies have shown that early marriage remains a serious problem in Indonesia's child protection system. Research by Mokolensang et al. (2023) found that low public understanding of children's rights and weak legal implementation are factors contributing to the persistence of early marriage despite tightened regulations. Meanwhile, research by Waliddra and Simanjuntak (2023) emphasized that cultural factors and social pressure significantly influence the persistence of early marriage, particularly in regions with strong patriarchal cultures. Internationally, research by Yaya et al. (2020) shows that child marriage in developing countries is closely linked to poverty, gender inequality, and limited access to education for girls. However, most previous research has focused on the causes or social impacts of early marriage in general. Studies specifically emphasizing the protection of girls' rights from an Indonesian legal perspective are relatively limited. Furthermore, previous research tends to focus on a normative approach without delving deeply into how the law operates within the social realities of society and how legal culture influences the implementation of girls' protection in everyday practice.

Based on this description, this study uses the legal protection theory, legal culture theory, and a gender justice perspective as the analytical basis for understanding the relationship between early marriage practices and the protection of girls' rights from an Indonesian legal perspective. Legal protection theory is used to analyze the extent to which state regulations are able to guarantee girls' rights in social practices. Legal culture theory is used to examine how cultural factors, legal awareness, and social values influence the effectiveness of marriage law implementation in Indonesia (Yusuf & Arifin, 2022) . Meanwhile, a gender justice perspective is used to understand the power relations and gender inequality that leave girls vulnerable in early marriage practices. Through this

approach, this study is expected to provide a more comprehensive reading of the gap between legal norms and social realities in the protection of girls' rights in Indonesia, while also enriching socio-legal studies on family law and child protection in the context of developing societies.

## RESEARCH METHODOLOGY

This research uses a qualitative approach with a case study . This approach was chosen because the research seeks to deeply understand the phenomenon of early marriage and the protection of girls' rights within the context of social practices and legal implementation in Indonesia. Case studies allow researchers to explore the relationship between legal norms, societal culture, and social reality holistically, so that the phenomenon is understood not only as a normative issue but also as a complex social practice. This approach is relevant because the issue of early marriage cannot be separated from cultural, economic, gender relations, and legal policies that mutually influence community life. The research was conducted from January to April 2025 in several regions with a tendency towards relatively high rates of marriage dispensations and early marriage practices, based on reports from the Religious Courts and data from the Women's Empowerment and Child Protection Agency. The research focused on how the law operates in social practices and how the protection of girls' rights is implemented in cases of early marriage. Thus, the case study approach is considered capable of producing a more in-depth empirical reading of the social and legal dynamics occurring within the research context (Yin, 2021) .

The research subjects consisted of Religious Court judges, parents of children who had married early, girls who had experienced early marriage, community leaders, and representatives from child protection agencies. Informants were selected using a *purposive sampling technique*, taking into account the informants' direct involvement in the practice of early marriage and the legal protection process for girls. This technique was used because the research requires informants with experience, knowledge, and substantive involvement in the phenomenon being studied, so that the data obtained is in-depth and contextual. In the data development process, the study also used a *snowball sampling technique* to find additional informants deemed relevant based on recommendations from previous informants. The informant selection criteria included direct experience in the practice of marriage dispensation, involvement in the child protection process, and an understanding of the implementation of marriage law in the community. This approach allows researchers to gain diverse perspectives so that the phenomenon of early marriage can be analyzed multidimensionally, from both legal, social, and cultural perspectives. The use of purposive techniques in qualitative research is considered effective in producing rich data and is appropriate for the exploration of complex social phenomena (Campbell et al., 2020) .

Data collection was conducted through semi-structured interviews, limited participant observation, and documentation. Semi-structured interviews were used to allow researchers to explore informants' experiences, views, and interpretations regarding early marriage practices and the protection of girls' rights in a more flexible manner while remaining focused on the research focus. Observations were made of the community's social situation, family interaction practices, and the dynamics of legal services related to marriage dispensation and child protection. Meanwhile, documentation was used to examine marriage dispensation decisions, legal regulations, reports from child protection

agencies, and statistical data related to early marriage. To maintain data validity, the study applied source and method triangulation by simultaneously comparing the results of interviews, observations, and documentation. Furthermore, the study also employed *member checking techniques* by reconfirming the researcher's interpretations with several key informants to ensure the consistency of the meanings and experiences conveyed. This technique is important in qualitative research because it helps increase data credibility and minimize researcher interpretation bias (Candela, 2023) .

Data analysis was conducted using the interactive model of Miles, Huberman, and Saldaña, which includes a continuous process of data condensation, data presentation, and drawing conclusions throughout the research. In the initial stage, researchers conducted data reduction by grouping information based on key themes such as the causes of early marriage, the implementation of legal protection, marriage dispensations, and the impact on girls' rights. The next stage involved narrative and thematic data presentation to examine patterns of relationships between phenomena emerging from interviews, observations, and documentation. Furthermore, conclusions were drawn reflectively through an interpretation process of the relationship between legal norms and social practices. This analysis focuses not only on superficial appearances but also seeks to understand the social meanings, power relations, and legal culture that influence the practice of early marriage in the context of girls' protection in Indonesia. With this approach, the research is expected to produce in-depth, contextual findings that will contribute scientifically to the development of family law and child protection studies in Indonesia (Miles et al., 2020) .

## RESULTS AND DISCUSSION

### *The Social Reality of Early Marriage in Indonesia*

The phenomenon of early marriage in Indonesia demonstrates that the practice persists in a complex manner and is influenced by social, cultural, and economic relations, as well as societal value structures that persist in various regions. Empirical data shows that although Law Number 16 of 2019 raised the minimum age for marriage to 19 for both men and women, the practice of child marriage remains high, often through marriage dispensations and unregistered marriages (Akbar, 2022) . This study found that communities in several rural areas still view early marriage as a social mechanism to maintain family honor, avoid the social stigma associated with adolescent relationships, and reduce the household's economic burden. This situation demonstrates that state law often clashes with local cultural constructs that have stronger social legitimacy than formal legal norms. In certain contexts, families view the marriage of girls as a form of social protection against the risks of promiscuity and economic uncertainty, even though the practice has the potential to restrict girls' basic rights. This phenomenon demonstrates that the decision to marry children is not simply an individual choice but part of a social mechanism shaped by power relations, environmental pressures, and patriarchal cultural constructs.

Research also shows that economic factors are a dominant factor driving early marriage, particularly in families with low levels of well-being. In some cases, girls are positioned as part of a family's survival strategy when access to education and economic opportunities is increasingly limited. This situation is not unique to Indonesia, but also occurs in several developing countries such as Bangladesh, India, and Nigeria, where child marriage is often associated with structural poverty and low access to education for

girls (Siswanto, 2025) . Studies in developing countries show that poor families tend to view marriage as a form of transfer of economic responsibility from parents to their daughters' husbands. A similar situation is evident in the social reality of Indonesian society, particularly where girls are considered more vulnerable to social stigma if they do not marry soon after entering adolescence. Thus, the practice of early marriage demonstrates a close relationship between social inequality, patriarchal culture, and weak state social protection for vulnerable groups. In this context, state law has not fully shifted the social paradigm that views early marriage as a pragmatic solution to family social and economic problems.

In addition to economic and cultural factors, this study found that low legal literacy in society contributes to the persistence of early marriage. Some communities still believe that biological maturity is sufficient to legitimize marriage, without considering the psychological, educational, and social preparedness of girls. In analyzed interviews, several informants stated that marriage is considered safer than the risk of extramarital relationships that could tarnish the family's reputation. This pattern of thinking demonstrates the dominance of social morality that emphasizes control over women's bodies and behavior rather than substantive protection of children's rights. This situation demonstrates that legal practices at the community level are often influenced by a social culture that places women in a subordinate position. This is where the academic problem arises: formal law has not been fully internalized as a societal legal culture. As a result, the protection of girls still faces a social structure that views girls more as objects of social control than legal subjects with the fundamental right to determine their own future (Mokolensang et al., 2023) .

### ***Girls' Rights from the Perspective of Legal Protection***

From an Indonesian legal perspective, girls have fundamental rights guaranteed by the Child Protection Law, the Convention on the Rights of the Child, and various other national legal instruments that position children as legal subjects obligated to be protected by the state. Research shows that the practice of early marriage has the potential to hinder the fulfillment of girls' basic rights, particularly the right to education, the right to reproductive health, and the right to optimal growth and development. In many cases, girls who marry at an early age drop out of school and lose access to self-development (Wijayanti, 2025) . This situation demonstrates that early marriage not only impacts girls' individual lives but also impacts the quality of human resources and broader social development. Normatively, the state has placed child protection as part of its constitutional responsibilities, but the implementation of this protection still faces various social and cultural barriers at the community level.

This research found that girls' rights are often negotiated within family relationships and societal culture. In certain social practices, the decision to marry off a girl is more influenced by parental authority and environmental pressure than by the child's own consent. This situation demonstrates the unequal power relations within the family, making it difficult for girls to make free life choices. The child protection perspective in modern law places the best interests of the child as the primary principle in all policies and legal actions related to children (Muqaffi et al., 2021) . However, social reality shows that this principle is often overridden by considerations of social morality, cultural pressures, and societal stigma against women. This situation demonstrates a gap between the principles of child protection in legal texts and social practices still influenced by patriarchal culture. In the context of developing countries, a similar

phenomenon is also found in Pakistan and Ethiopia, where girls' rights are often marginalized due to the dominance of traditional values and weak access to legal education in the community.

Furthermore, this study shows that early marriage has the potential to increase girls' vulnerability to domestic violence, economic dependence, and social exploitation. Girls who marry at a young age generally lack the psychological readiness or economic capacity to lead an independent household life. In some cases, they experience social pressure to immediately assume reproductive roles without having the opportunity to develop their education or careers. This situation demonstrates that legal protection for girls cannot be understood solely as an effort to prevent child marriage, but must also encompass protection of the right to life, health, education, and the right to be free from discrimination. Therefore, protecting girls requires a multidimensional approach that relies not only on legal regulations but also on broader social and cultural transformation of society (Alam et al., 2024).

## CONCLUSION

This research shows that the practice of early marriage in Indonesia cannot be understood solely as a normative legal issue, but rather as a social phenomenon influenced by the interaction between cultural factors, economics, education, gender relations, and weak legal literacy in society. Although the state has implemented regulatory reforms through Law Number 16 of 2019 concerning changes to the minimum age for marriage, empirical reality shows that the practice of early marriage continues through cultural legitimacy and marriage dispensation mechanisms. This condition indicates a gap between state legal norms and social practices. In this context, the protection of girls' rights has not been fully optimal because girls are still often positioned as objects of family decisions and social pressure, rather than as legal subjects who have the right to determine their future freely and safely.

The findings of this study demonstrate that early marriage directly impacts the limitation of girls' fundamental rights, particularly the right to education, reproductive health, protection from violence, and the opportunity to develop optimally. The study also found that marriage dispensations often create a compromise between the ideals of legal protection and the social realities of a society still influenced by patriarchal culture. From an academic perspective, this study contributes to the development of child protection law studies by demonstrating that the effectiveness of laws is determined not only by the existence of regulations, but also by legal culture, social awareness, and power structures within society. Therefore, protecting girls requires a multidimensional approach that integrates legal instruments, social education, women's empowerment, and the ongoing strengthening of child protection systems.

The practical implications of this research emphasize the importance of strengthening legal education and public awareness regarding girls' rights, particularly in areas with high rates of early marriage. The state, educational institutions, law enforcement officials, and families need to develop more substantive prevention mechanisms so that child protection does not stop at merely administrative aspects. Furthermore, oversight of marriage dispensation practices needs to be strengthened so that the principle of the child's best interests truly becomes the primary basis for every legal decision. This research has limitations because it focuses on a qualitative legal and social approach, thus not reaching a broader empirical perspective on girls' experiences

in a cross-regional context. Therefore, further research can be directed at more in-depth empirical studies of the experiences of victims of early marriage, the effectiveness of marriage dispensation decisions, and the transformation of societal legal culture in protecting girls' rights in Indonesia and other developing countries.

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