

Legal Perspectives on Underage Marriage in the Dayak Customary Society: Challenges and Human Rights Protection

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Abstract. *This study examines the conflict between state law and Dayak customary law regarding underage marriage practices. Using a legal pluralism framework and a socio-legal approach, this study analyses the customary rationality that legitimises these practices and their impact on human rights, particularly for women. The method used is empirical legal research, which fundamentally examines law in its social context. This choice is based on the research objective to understand how state law, particularly the Marriage Law, interacts and often conflicts with Dayak customary law that is alive and practised by the community. The results of this study show that customary marriage, driven by socio-economic factors and efforts to avoid communal sanctions, creates legal dualism that hinders children's access to fundamental rights to education and health. This study concludes that repressive law enforcement is ineffective and recommends an accommodative protection model.*

Keywords: *Community; Indigenous; Marriage; Underage.*

1. Introduction

Fundamentally, marriage is a sacred bond intended to last a lifetime. However, in reality, certain conditions may cause a marital relationship to become unsustainable. When the continuation of such a relationship results in harm to one or both parties, Islam permits divorce as a last resort to prevent greater damage. Nevertheless, divorce does not automatically eliminate a father's responsibility toward his children. After divorce, the father remains fully responsible for the care and education of the children, including fulfilling their daily needs and ensuring their future welfare in a proper manner (Achmad Ichsan, 1986).

Underage marriage is a crucial issue in Indonesia that lies at the intersection of state law and customary law. Constitutionally, the state recognizes the existence of indigenous legal communities along with their traditional rights; however, at the same time, it enforces national legislation such as the Marriage Law, which

clearly stipulates a minimum age for marriage. This practice, which is often legitimized by customary norms, presents complex challenges in efforts to protect human rights, particularly children's rights. This phenomenon requires an in-depth analysis that does not merely view it as a violation of positive law, but also as a manifestation of a living normative system within society.

The issue of early marriage arises due to differences in views regarding the nature of regulations on child marriage, both from the perspective of positive law and fiqh or Islamic law. These two legal systems clearly have different sources and foundations. Marriage law within the framework of positive law is based on substantive law, which includes customs, social norms, and various other sources that form the basis of legal material. (Fadel, F. M., Khairul Musthafa, M., Johari, & Akbarizan. 2025).

Underage marriage is still common in Indonesia. This phenomenon is influenced by strong customs and religious factors that do not explicitly set a minimum age limit for marriage. This situation contradicts positive law, particularly the Marriage Law, which stipulates that although marriage is a personal matter, its implementation must still refer to legal provisions that require a minimum age of 19 years for both men and women. (Dewi Judiasih, Sonny. 2023).

A study by Nurmin K. Martam and Yayan Hanapi found that underage marriage in Owata Village, Bulango Ulu Subdistrict, Bone Bolango Regency, is not in line with applicable law, namely Law No. 16 of 2019, which sets the minimum age for marriage at 19 years. Despite the clear stipulation of this regulation, the practice of underage marriage continues in the village. (Nurmin K. Martam, and Yayan Hanapi. 2025).

This concern is justified given data indicating that Indonesia ranks seventh globally in terms of the prevalence of child marriage. In contemporary times, the purpose of marriage has increasingly shifted toward sexual relations. Age criteria for marriage have been clarified and accompanied by practical guidance within modern Islamic marriage discourse. Child marriage, for instance involving girls who have not yet reached the age of 16, is one of the contributing factors to the slow pace of development in Indonesia. Nevertheless, many parents in Indonesia still adhere to the belief that if their daughters remain unmarried beyond the age of 20, it is considered a disgrace or a source of shame for the family (G. Gusnarib and R. Rosnawati, 2020).

In general society, numerous legal problems arise in relation to marriage, one of which is underage marriage. This issue is considered serious because it generates controversy not only in Indonesia but also at the international level. In fact, underage marriage continues to occur frequently due to various reasons and perspectives, including traditions or social customs that tend to tolerate or even

support the practice, despite being regarded as inappropriate and contrary to children's rights and modern social development (Sonny Dewi Judiasih et al., 2018).

Underage marriage is a serious issue that can have various adverse effects and potentially violate children's fundamental rights, such as the right to education, the right to adequate health services, the right to protection from all forms of violence, and the right to grow and develop optimally. (Amalia, Cindy, Frilia Lili Rahmawati, Marsya Amalina Djatmiko, Rosaria Vani Kurniasari, Aurellia Nayla Putri Wijaya, Mohammad Arya Dharmaputra, Fathan Akbar Hernando, and Azzawa Fisarra Sinta. 2025).

Underage marriage refers to marriage conducted by individuals who have not yet reached a productive age, namely under 20 (twenty) years for females and under 25 (twenty-five) years for males. Marriage at such ages is considered less than ideal, as psychologically, physically, and socially, the individuals are not sufficiently mature to undertake married life in a healthy and responsible manner. Moreover, underage marriage often contradicts existing laws and regulations and can negatively affect a child's future, particularly in terms of education, health, and overall well-being (Eka Yuli Handayani, 2014).

From a human rights perspective, child protection is both a mandate and a fundamental right, as children are gifts as well as trusts from God that must always be safeguarded and protected. In every child are inherent dignity, worth, and human rights that must be upheld. Children's rights are an inseparable part of human rights, as stipulated in the 1945 Constitution of the Republic of Indonesia and the United Nations Convention on the Rights of the Child. Children represent hope for life and the future of the nation and the state. As successors to national ideals, every child has the right to survival, optimal growth and development, participation in social life, and legal protection from all forms of violence, discrimination, and exploitation (Mardi Candra, 2017).

Early marriage can have various negative consequences for the couple involved, as well as broader adverse effects. These effects include an increase in divorce rates, a higher risk of domestic violence, and a lack of readiness on the part of the couple to understand and fulfil their roles and responsibilities as husband and wife. Ultimately, this situation also affects the welfare of both families. (Lianningsih, W. D., & Fathinnuddin, M. 2024).

The widespread occurrence of underage marriage in society can also be said to contradict Article 1 of Law Number 35 of 2014 concerning Child Protection. Such marriages fall within the category of child marriage because they are conducted by individuals under the age of 18, who are still legally classified as children. Furthermore, the provisions of Article 7 paragraph (1) of Law Number 1 of 1974

on Marriage, which set the minimum marriage age at 16 for women and 19 for men, are considered inconsistent with the principles of child protection. This is because the age of 16, as stated in the law, still falls within the category of a child under the Child Protection Law, rendering marriages at that age incompatible with efforts to safeguard children's rights (R. Bukido, 2018).

Law Number 16 of 2019 amending Law Number 1 of 1974 states in Article 6 paragraph (2) that individuals under the age of 21 must obtain parental consent to enter into marriage. However, in practice, many people in Indonesia continue to engage in marriages below the stipulated age limit. Data show that approximately 26.95% of marriages are conducted by individuals under the age of 16. This aligns with a 2018 report by Bappenas, which recorded that 34.5% of the total 2,049,000 marriages occurring that year were child marriages (Dwi Rifiani, 2018).

The primary cause of underage marriage is the family's desire to quickly gain additional family members, either as in-laws or as successors to the lineage. Additionally, the low level of public awareness regarding the negative impacts of early marriage further exacerbates the situation. These impacts are not only felt by the married couple but also affect the quality of life of the children who will be born. Another contributing factor is the strong influence of customs or traditions that are followed uncritically, without consideration of societal development or the protection of children's rights as regulated by law (Bukido).

This context is particularly relevant within the Dayak indigenous community, where customary law continues to play a central role in regulating social order. Underage marriage practices among the Dayak are often not viewed as violations but rather as customary mechanisms to resolve social issues, such as avoiding shame due to premarital pregnancy or as an economic strategy. Conflict arises when this customary legitimacy directly confronts Law Number 16 of 2019, which explicitly prohibits such practices. Consequently, legal dualism emerges, creating vulnerability for children and families while simultaneously challenging the effectiveness of state law enforcement.

Based on this complexity, this study aims to analyze the challenges and models of human rights protection in the context of underage marriage within the Dayak indigenous community. Utilizing a legal pluralism framework, this research does not merely judge customary practices but seeks to understand the internal rationality and logic underlying them. However, this understanding is integrated with a human rights perspective as an evaluative standard to assess the impact of such practices on children's fundamental rights. Through this approach, the study is expected to formulate policy recommendations that are both accommodative and culturally sensitive.

This analysis is elaborated using legal pluralism theory. This theory, pioneered by scholars such as John Griffiths, rejects the view of legal centralism that regards state law as the sole legitimate legal system. Legal pluralism asserts that within a single social space, multiple normative orders including customary law, religious law, and state law operate simultaneously and interact with one another. This concept enables a more comprehensive analysis of situations in which indigenous practices, such as underage marriage, intersect with national legislation (ella Sri Wahyuni, 2013). Legal pluralism reflects Indonesia's social and cultural diversity and provides opportunities to develop a more inclusive legal system. However, on the other hand, this pluralism also presents a number of challenges, such as legal uncertainty, overlapping jurisdictions, and inequality in access to justice. (Achmad Hariri, & Basuki Babussalam. 2024).

Legal pluralism is a concept that recognises the diversity and interaction of various legal systems within the same geographical area or jurisdiction. In the context of Indonesia, the state recognises the existence of state law, customary law and religious law (including Sharia law). However, this recognition is still considered a weak form of legal pluralism. (Al Haq, S., Pratama, A. A., Rozaan, Z., Sadiq, M. F., & Rukmini, N. V. N. 2024).

The relevance of legal pluralism becomes particularly significant in the Indonesian context, a country that constitutionally recognizes indigenous legal communities along with their traditional rights. This recognition creates an arena in which state law specifically Law Number 16 of 2019 on Marriage directly confronts Dayak customary law, which may hold different views regarding the minimum age of marriage. The interaction between these two legal systems often generates tension, overlapping jurisdictions, and challenges in achieving uniform law enforcement across regions.

From a legal pluralism perspective, underage marriage practices within the Dayak indigenous community cannot be viewed solely as violations of positive law. These practices represent manifestations of a customary normative system with its own logic, values, and internal enforcement mechanisms. The reasons behind such practices are often complex, involving economic and social factors, as well as efforts to maintain communal harmony or avoid customary sanctions. Therefore, a deep understanding of the structure and rationality of customary law is crucial prior to legal intervention.

Although legal pluralism explains the coexistence of multiple legal orders, this study integrates it with a human rights framework as an evaluative standard. Human rights principles, particularly those enshrined in the Convention on the Rights of the Child, serve as universal benchmarks for assessing the impact of legal practices, whether derived from state or customary law. Consequently, the

protection of children's fundamental rights to health, education, and freedom from exploitation becomes a critical lens through which the legitimacy and acceptability of underage marriage practices are analyzed, beyond purely legalistic debates.

This research positions legal pluralism not only as an explanatory tool but also as a framework for seeking accommodative solutions. This approach implies that addressing underage marriage issues cannot rely solely on repressive state law enforcement. Instead, dialogue between state stakeholders and customary leaders is essential. The goal is to encourage internal reform within customary legal systems, allowing human rights-based child protection values to be internalized without eliminating the existence of customary law itself.

2. Research Methods

This research is empirical legal research that fundamentally examines law in its social context. This approach was chosen based on the research objective of understanding how state law, particularly the Marriage Law, interacts and often conflicts with Dayak customary law as practised by the community. This approach is in line with the framework of legal pluralism, which recognises the existence of diverse normative systems within the same social space. This study utilises two types of data sources, namely primary and secondary data, to obtain a holistic understanding. Primary data is data collected directly from primary sources in the field. These data sources include key informants such as Dayak customary leaders, a sample of couples who married underage, and their parents. On the other hand, secondary data is used as supporting and analytical frameworks, which include national legislation (Marriage Law, Child Protection Law), customary law documents, court decisions, previous research reports, and scientific literature. Data analysis was conducted by applying an interpretative legal pluralism framework. The patterns and themes identified in the previous stage were not only described but also analysed to understand the interaction between the Dayak customary law system and state law. This analysis focused on how customary norms legitimise underage marriage practices and how these norms conflict or negotiate with the Marriage Law. As a final stage of analysis, a human rights framework was used as an evaluative standard. Findings regarding customary legal practices and logic that had been mapped out were then assessed for their impact on the fulfilment of children's fundamental rights, such as the right to education, health, and protection from exploitation.

3. Result and Discussion

3.1. Practices and Rationales of Underage Marriage within Dayak Customary Law

The results of field research conducted in several regions of Central Kalimantan Province indicate that the practice of underage marriage within the Dayak indigenous community is legitimized through customary legal mechanisms that operate independently of state law. A marriage is considered valid by the community when it has been conducted according to customary rituals led by a *Damang* or customary leader, even when the couple's age falls below the standards stipulated in the Marriage Law. These findings confirm that customary law not only exists but also functions effectively as a normative order governing the social life of local communities.

One of the primary rationales driving this practice is the effort to avoid disgrace or customary sanctions resulting from pregnancy outside of marriage. In-depth interviews with customary leaders and parents reveal that marriage is perceived as a restorative solution to restore family honor and maintain communal harmony. Within the logic of customary law, allowing a pregnancy to occur without a marital bond is regarded as a more serious violation; therefore, early marriage is viewed as the most responsible means of resolving such social problems. This perspective is reinforced by the assumption that remaining unmarried signifies a lack of desirability, leading early marriage to be imposed in order to protect family reputation, without sufficient consideration of its long-term consequences for the child or for national development (Ibrahim Hoseen, 1979).

In addition, economic factors play a crucial role in driving underage marriage (H. P. Sihombing and C. Cutmetia, 2024). For families facing economic hardship, marrying off a daughter is often regarded as a strategy to reduce the family's financial burden. Interviews indicate a perception that economic responsibility will shift to the husband, thereby providing subsistence security for the child. This pragmatic rationality illustrates how difficult socio-economic conditions can compel families to prioritize immediate survival over children's rights to education and personal development.

Furthermore, underage marriage also functions as an instrument to strengthen kinship ties and social alliances between families within a community (S. Irianto, 2003). According to customary leaders, marriage is not merely the union of two individuals but the union of two extended families or clans. This practice is believed to preserve social cohesion, resolve potential conflicts, and ensure community regeneration in accordance with prevailing customary norms. This communal logic places collective interests above the individual rights of the children involved.

Overall, the practice of underage marriage within the Dayak indigenous community is not an arbitrary act, but rather a practice deeply rooted in a normative system with its own internal logic. From a legal pluralism perspective, this practice represents a manifestation of living customary law, which possesses its own mechanisms, values, and sanctions to regulate social order. Understanding this customary rationality is therefore crucial to avoid viewing the practice solely as a violation of positive law, without acknowledging its broader social and normative context.

3.2. Dynamics of Legal Pluralism: Interaction between State Law and Dayak Customary Law

The interaction between state law and customary law, such as Dayak customary law, demonstrates a sharp clash of legitimacy. The Marriage Law explicitly stipulates a minimum marriage age of 19 years, while customary law prioritizes the resolution of social problems such as pregnancy outside of marriage without being bound by rigid age limits. As a result, a marriage may be considered valid under customary law but illegal under state law. This dual legal status creates uncertainty for couples, who are recognized by the community but not by the formal legal system.

From the perspective of customary law, marriage may be conducted once an individual is considered mature. However, customary law does not establish a fixed minimum age to define such maturity. Instead, the criteria for maturity are qualitative and contextual, assessed based on physical condition, mental readiness, and the individual's preparedness to undertake married life. Consequently, in some regions of Indonesia, underage marriage is still permitted and regarded as valid when conducted in accordance with local customary provisions. Conversely, there are also regions that explicitly prohibit underage marriage because it is deemed inconsistent with local social values and norms (Wardah Salsabilla Choirunnisa and Erlina Nailal Khusna, 2022).

The most tangible consequence of this legal conflict is the difficulty in registering marriages. Couples who marry underage through customary ceremonies are unable to register their marriage with the Office of Religious Affairs or the Population and Civil Registration Office. The absence of a marriage certificate places them in a position of legal vulnerability, particularly with regard to administrative rights. Children born from such marriages face difficulties in obtaining birth certificates, which in turn affects their access to state-provided education and health services in the future.

The response of state authorities, such as Child Protection Agencies, is often formalistic and ineffective in addressing the root of the problem. Efforts to disseminate information about the Marriage Law frequently collide with deeply

entrenched customary norms. Field findings indicate that communities tend to prioritize compliance with customary sanctions and communal harmony over adherence to positive law, which is often perceived as alien. This phenomenon underscores the limitations of legal centralism in societies that uphold their own normative orders, consistent with the legal pluralism framework.

In practice, the interaction between these two legal systems does not always take the form of direct confrontation but often involves negotiation. Some families choose to conduct customary marriages first and postpone official registration until the couple reaches the legal age. This strategy represents a form of “legal circumvention” to accommodate both normative systems. Although the option of obtaining a marriage dispensation through the courts exists, this pathway is rarely utilized due to limited information, financial constraints, and geographical distance. As a result, communities tend to favor pragmatic solutions available within their customary sphere.

Customary leaders, such as *Damang*, occupy a complex and dilemmatic position. On the one hand, they have an obligation to enforce customary law in order to maintain social order, including facilitating marriages to avoid customary sanctions. On the other hand, they are increasingly aware of state laws that prohibit such practices. The choices they make often reflect personal and communal negotiations between customary demands and state pressures, positioning them as key actors in the dynamics of legal pluralism at the local level.

3.3. Challenges to Child Rights Protection in the Context of Underage Marriage

The clash of fundamental values constitutes the primary challenge in child protection efforts. Dayak customary law views marriage as a restorative mechanism to preserve honor and communal order, a perspective oriented toward collective interests. In contrast, the human rights framework unequivocally prioritizes the protection of children’s individual rights, including the right to optimal growth and development and freedom from exploitation. This paradigmatic conflict often causes child protection efforts to be perceived as interventions that threaten noble customary values, thereby generating resistance from within the community itself.

The 1945 Constitution of the Republic of Indonesia contains several key provisions regarding child protection. Article 34 paragraph (1) stipulates that “the poor and abandoned children shall be cared for by the state,” indicating the state’s responsibility to ensure the welfare of vulnerable groups, including children who lack adequate care. Furthermore, Article 28B paragraph (2) affirms that “every child has the right to survival, growth, and development, and has the right to protection from violence and discrimination.” These provisions emphasize the

state's constitutional obligation to protect children's rights as an integral part of human rights (M. Nasir Djamil, 2013).

The laws and regulations governing marriage are designed to support the creation of a lasting and harmonious family life in an atmosphere of *sakinah*, *mawaddah*, and *warahmah*. One important aspect regulated in these provisions is the minimum age for marriage. (Kurniawan, H. 2024).

Concern for children has been an integral part of human civilization since ancient times and has continued to evolve alongside societal progress. Awareness of the importance of child protection has prompted governments to enact various regulations guaranteeing children's rights. These efforts have been undertaken both before and after Indonesia ratified the United Nations Convention on the Rights of the Child. Through this ratification, Indonesia has further strengthened its commitment to protecting, fulfilling, and respecting children's rights as part of human rights (Prints, 2003).

One of the most threatened fundamental rights is the right to education. Interviews with young couples at the research sites indicate that marriage automatically terminates their educational trajectories, particularly for girls. They are compelled to assume domestic and economic roles as adults, eliminating opportunities for self-development. The loss of access to education not only violates the Convention on the Rights of the Child but also perpetuates intergenerational cycles of poverty, as limited education restricts future economic opportunities a reality often overlooked within customary rationality.

A marriage can be considered ideal if it is conducted in accordance with the provisions of the Marriage Law and fulfils three aspects of readiness, namely biological, economic and psychological. Parents who marry off their underage children still have a legal responsibility to provide protection and ensure that the child's basic rights are optimally fulfilled, while also ensuring that the child is protected from discriminatory treatment that could threaten their human dignity. (Beta, Hilmawati Usman Tenri, and Muhammad Habibi Miftakhul Marwa. 2023).

From a human rights perspective, underage marriage is considered a violation of human rights, particularly children's rights, as it deprives children of the opportunity to develop, play and enjoy their childhood. In addition, early marriage can cause psychological distress and limit children's opportunities to obtain a proper education and employment. (Andi Al Izty Azha Pratiwi dkk. 2025)

From a health perspective, underage marriage presents serious risks that are frequently not a primary consideration in customary decision-making. Girls who become pregnant at an early age face significant health threats, including pregnancy complications, higher maternal mortality rates, and an increased risk of

giving birth to children affected by stunting. Findings from observations and interviews with local health workers confirm that awareness of these long-term health impacts remains very low at the community level, as customary priorities focus on the rapid resolution of social problems (Shafa Yuandina Sekarayu and Nunung Nurwati, 2021).

Based on the results of research conducted by Jusuf A. Lakoro and Zulkarnain Suleman in Boalemo Regency regarding underage marriage, a number of factors were found to influence the level of marital harmony after marriage. These factors include health factors, which are related to physical condition and affect physical well-being, Psychological well-being, where domestic disharmony is reflected in the high frequency of arguments and disputes, the presence of domestic violence, and frequent differences of opinion; and Household economic factors, namely the lack of balance between income and expenditure. (Lakoro, Jusuf A, and Zulkarnain Suleman. 2019).

Based on findings from the National Socio-Economic Survey (Susenas) and various literature studies, the children most vulnerable to underage marriage are girls, children with low levels of education, and children from poor families and/or those living in rural areas. These groups face higher risks due to limited access to education, information, and legal protection. Regardless of whether one or both prospective spouses are still classified as children, such marriages constitute violations of children's rights and directly contravene human rights principles as stipulated in national legislation and international legal instruments (Choirunnisa and Khusna).

Legal vulnerability, particularly among girls, constitutes another critical challenge. Because customary marriages are not registered by the state, girls who become wives lack formal legal protection with regard to inheritance rights, marital property rights, and protection from domestic violence. This ambiguous legal status places them in an extremely weak position, rendering them entirely dependent on the goodwill of their husbands and extended families, without access to the protection mechanisms provided by the state legal system.

The final challenge lies in institutional weaknesses and the lack of culturally sensitive interventions. State authorities, such as Child Protection Agencies, often employ rigid and formalistic approaches without understanding the internal logic of customary law. Top-down dissemination of positive law has proven ineffective because it fails to engage in dialogue with customary leaders who hold legitimacy within the community. As a result, child protection programs fail to address root causes and are unable to build bridges between state norms and customary norms to create sustainable solutions.

Moreover, some of the most immediate impacts of underage marriage include the deprivation of children's right to education. Interview findings with young couples consistently show that marriage marks the end of their schooling, especially for girls. They are forced to leave school to assume domestic and economic roles as wives. The loss of educational opportunities not only violates the mandate of the Convention on the Rights of the Child but also effectively perpetuates poverty cycles, as limited qualifications hinder access to decent employment in the future.

From the perspective of the right to health, this practice poses life-threatening risks. Girls who marry and become pregnant at an early age are physically unprepared, making them highly vulnerable to complications during pregnancy and childbirth. Data from local health workers confirm high maternal mortality rates among adolescents and a significant prevalence of infants born with stunting. This situation constitutes a clear violation of children's right to enjoy the highest attainable standard of health, a fundamental principle often neglected in customary rationality.

The high rate of child marriage has the potential to hinder various programmes designed by the government. This not only affects the Human Development Index (HDI) and sustainable development targets, but can also have a negative impact on the optimisation of the demographic bonus. (N. A. Afrilia, E. F. Nur Afifah, A. Lainatusyifa, and T. Kurniawati. 2023).

Underage marriage also results in violations of children's right to protection from all forms of exploitation. Children, particularly girls, are forced into adult roles before reaching physical and psychological maturity, including bearing heavy domestic workloads. This condition places them in situations of economic exploitation and disguised child labor. Their right to play, create, and enjoy a healthy childhood is stripped away by responsibilities inappropriate for their age, violating the principle of protecting children from hazardous labor.

A study by Cindy Amalia et al. states that underage marriage is a serious violation of human rights because it has the potential to hinder the fulfilment of children's rights to education and health, while also disrupting their growth and development. Children often have to stop their education in order to take on household responsibilities. This situation has an impact on the decline in the quality of education due to limited opportunities to develop skills and knowledge. From a health perspective, children face risks related to reproductive health and possible complications during pregnancy. In addition, their mental health can also be affected by the burden of domestic roles, which can potentially cause stress, anxiety and even depression. (Cindy, et,al. 2025)

The legal consequences arising from underage marriage relate to the application of legal provisions when the child faces problems as a consequence of early

marriage. In addition to the legal aspects, from a moral perspective, underage marriage can also have social impacts in the form of stigma or condemnation from the community towards the parties involved in the marriage. (Lusia Indrastuti, Agatha Jumiati &. 2024)

A study by I Wayan Eka Artajaya and Ni Made Dhea Nanda Emalia on the legality of underage marriage in Bali found that there have been violations of statutory provisions, resulting in biological, psychological and social impacts, as well as the potential for deviant sexual behaviour. These impacts include risks of reproductive health disorders, emotional immaturity, obstacles to education and career development, increased likelihood of divorce, and heavy financial responsibilities (I Wayan Eka Artajaya, And Ni Made Dhea Nanda Emalia. 2024).

Underage marriage tends to have more negative consequences, particularly in the context of protecting children's rights. Setting a minimum age for marriage not only aims to protect children's rights, but also provides protection for women's health. This regulation is not only based on national law, but is also in line with international law provisions that support restrictions on underage marriage (Dewi, C. K. (2019).

The legal consequences of unregistered customary marriages include the loss of children's right to legal identity. Children born from such marriages often lack birth certificates, which are fundamental documents for state recognition. The absence of legal identity directly obstructs access to essential public services such as formal education programs, government health insurance, and social assistance. This constitutes a violation of children's basic right to be registered immediately after birth and to have a name and nationality.

Psychologically and socially, underage marriage causes isolation and hinders children's development. They are removed from peer environments and lose opportunities to develop crucial social skills. The pressure to fulfill roles as husbands or wives at a very young age creates a heavy mental burden, increasing the risk of depression and anxiety. These impacts neglect children's right to participate in age-appropriate recreational and cultural activities, which are essential for balanced growth and development.

3.4. Accommodative Strategies for the Protection of Children's Human Rights Based on Dialogue between Customary and State Institutions

The enactment of Law No. 16 of 2019, which sets a minimum age for marriage, is a progressive step. However, further efforts are needed to reduce the rate of early marriage through improved education, socialisation and outreach, cultural change, and legal reform. (S. F. M. Rahma, 2023).

Repressive enforcement of state law has proven ineffective in addressing underage marriage due to its conflict with the legitimacy of customary law. Therefore, the most promising strategy is to establish inclusive spaces for dialogue between state and customary stakeholders. Such forums should involve *Damang* (customary leaders), officials from Child Protection Agencies, and community figures to identify common ground. The objective is not to abolish customary law, but rather to foster a shared understanding of the harmful impacts of child marriage and to align customary norms with principles of child rights protection.

An accommodative strategy must position customary leaders, such as *Damang*, not as objects of intervention but as subjects of change. Through sustained dialogue, their capacity should be strengthened by providing information on the health and educational impacts of child marriage. This empowerment enables them to undertake reinterpretation and internal reform of customary law. For instance, alternative customary sanctions may be developed instead of compelling marriage for children who become pregnant outside of wedlock, thereby preserving family honor without sacrificing the child's future.

Child protection interventions must be designed with cultural sensitivity, integrating human rights principles into local narratives. Socialization efforts should avoid rigid legal language and instead link child protection issues to Dayak communal values, such as the importance of raising a healthy and intelligent future generation. Framing the prevention of child marriage as an effort to strengthen the community's future will be more readily accepted than narratives perceived as threatening customary order. This approach respects legal pluralism while simultaneously advocating universal standards.

To address legal uncertainty, mechanisms for procedural harmonization between customary and state institutions need to be developed. One possible model is the temporary recognition of customary marriages on the condition that couples commit to officially registering their marriage once they reach the legal age. Collaboration between *Damang* and the Office of Religious Affairs can facilitate this process, ensuring that young couples do not lose their administrative rights. This pragmatic solution bridges the gap between customary legitimacy and formal state legality without negating either system.

Long term solutions cannot be separated from addressing structural factors such as poverty and limited access to education. Child protection programs must be integrated with economic empowerment policies for vulnerable families and the provision of scholarships for girls. When education is perceived as a pathway to a better future and families have viable economic alternatives, the pressure to marry children at an early age will be significantly reduced. This strategy transforms child marriage from a pragmatic solution into an irrational choice.

4. Conclusion

This study concludes that underage marriage in Dayak indigenous communities is a tangible manifestation of legal pluralism, in which customary law functions effectively alongside state law. This practice has strong internal legitimacy, primarily as a restorative mechanism to avoid customary sanctions for premarital pregnancy, as well as a strategy for maintaining economic sustainability. The conflict between customary legitimacy and the validity of state law gives rise to a dualism in the status of marriage: socially recognised by the community, but formally deemed invalid by the state. This situation triggers significant legal uncertainty. The direct impact of the clash between these two legal systems is a serious violation of children's rights. This practice systematically reduces children's rights, especially those of girls, to obtain an education and jeopardises their right to health due to the risks of early pregnancy. The findings of this study have the advantage of encouraging a dialogical approach that recognises the existence of customary law while promoting internal reform and empowering customary leaders as agents of change, supported by culturally sensitive interventions and addressing structural root causes such as poverty, which is very important. This study also has limitations in that it is not yet in-depth and does not include many variables, as studies in many locations are limited by time and cost constraints. Therefore, this study also encourages further in-depth studies on this topic.

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