



Improving Girls' Rights in Early Marriage in the Indonesian Legal System

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ARTICLE INFO

Keywords:

The marriage of the girl;
The legal factor;
The inconsistency;
Marriage law

ABSTRACT

Indonesia ranks 10th in the world of child marriage and second in Southeast Asia. The Indonesian government anticipated this by requiring the age of marriage to be 19 for girls, but in the reality, this regulation has not been effective in preventing it, as marriage of girls under 19 in Indonesia is a social problem, despite the detriment of girls. This is the reality, so it is necessary to conduct comprehensive research aimed at finding solutions to the problem of girl-child marriage. The rights of girls must be protected, especially the rights in marriage. This research is a type of legal sociology with an empirical approach. Looking for data on the fact that girls are getting married. The conceptual approach is based on the doctrine of the issue of girl-child marriage, and the normative approach is the study of norms for the protection of girls. Technical analysis is qualitative descriptive. The results showed that poverty, promiscuity, and cultural factors were the causes, as well as legal factors that were unable to prevent it due to the incompatibility of Article 7 paragraph (1) with paragraph (2) of the Indonesian Marriage Law, thus building a new concept of "Peace in the Protection of Women's Rights" as a new concept of thinking to overcome girl child marriage. The government should set up a multisectoral Independent Institute for the Prevention and Protection of Women's Rights, as an alternative to address the problem of underage girl marriage in Indonesia, to create a quality generation of the nation.

1. Introduction

According to a recent study by Maidian¹ approximately 37 to 39 thousand children under the age of 18 are involved in early child marriage worldwide. Furthermore, a more recent

¹ "Indonesia Juara Perkawinan Anak Setelah Kamboja: Tiap Hari, 39 Ribu Anak Perempuan Di Dunia Dikawinkan," Akurat.co, 2019, <https://www.akurat.co/nasional/1302114818/Indonesia-Juara-Perkawinan-Anak-Setelah-Kamboja-Tiap-Hari-39-Ribu-Anak-Perempuan-di-Dunia-Dikawinkan>.

study by Verdiana² said that early child marriage occurs in developing and developed countries. In 2020, UNICEF in collaboration with the Center for Study and Advocacy for the Protection and Quality of Life of Children, University of Indonesia (PUSKAPA UI), the Central Statistics Agency (BPS), and the National Development Planning Agency (BAPPENAS) stated that Indonesia is the country with the 10th highest population of child marriage.³ Furthermore, a survey by The Central Bureau of Statistics of the National Socio-Economic of Indonesia in 2020 stated that the rate of marriage for girls in Indonesia is 11.21% of children's total number. This means that 1 out of 9 girls marry under the age of 18. However, this number is different from boys, where 1 out of 100 is married before 18. The Indonesian Minister for National Development and Planning said that girl marriage is an urgent issue that needs to be addressed immediately. Therefore, a strategic policy is needed to reduce it, with 8.74% in 2024 and 6.94% in 2030. Leny Rosalin, the head of the Deputy for Child Development at the Ministry of Women Empowerment and Child Protection in Indonesia, said that child marriage in the country is the second highest in Southeast Asia.⁴

Early marriages to children, are forms of violation of their rights and a threat to their childhood.⁵ According to research titled “The Many Faces of Exclusion of Childhood Report” carried out by a non-profit international organization named Save the Children, in June 2018, there are 7 (seven) indicators of the threat of childhood marriage in Indonesia. These are (1) 26% under the age of five dies, (2) 14.2% do not go to school; (3) 12.8% are involved in child marriages, (4) 6.9% participate in various types of menial jobs, (5) 1.8% under 19 months were victims of violence, (6) 5 out of 10 already have children and (7) 3.6 out of 10 children are stunted.

Every child needs to be guaranteed the respect and protection of their rights by law.⁶ Furthermore, the United Nations as a world body is concerned with the enforcement of children's rights and has proclaimed the United Nations Convention on the Rights of the Child (UN-CRC), to implement a law that guarantees children's basic rights in the civil, and political, economic, social fields, health, and culture in 1989. Indonesia ratified the UN-CRC and followed up on the principles of child protection in Law Number 23 of 2002, which was later revised by Law Number 35 of 2014, including (a) Non-discrimination, (b) The

² Benedikta Miranti Tri Verdiana, “Sudah Modern, 10 Negara Ini Masih Legalkan Pernikahan Anak,” *Liputan6.com*, 2020, <https://www.liputan6.com/global/read/4149388/sudah-modern-10-negara-ini-masih-legalkan-pernikahan-anak>.

³ Ramadhana Afida Rachman, “Ancaman Naiknya Angka Perkawinan Anak Selama Pandemi,” *Tirto.id*, 2020, <https://tirto.id/ancaman-naiknya-angka-perkawinan-anak-selama-pandemi-fSZv>.

⁴ Dwi Rahmawati, “Pernikahan Anak Di Indonesia Peringkat Dua ASEAN,” *Lokadata.id*, 2020, <https://web.archive.org/web/20221128150134/https://lokadata.id/artikel/pernikahan-anak-di-indonesia-peringkat-dua-asean>.

⁵ Shamnaz Arifin Mim, “Effects of Child Marriage on Girls’ Education and Empowerment,” *Journal of Education and Learning (EduLearn)* 11, no. 1 (February 1, 2017): 9–16, <https://doi.org/10.11591/edulearn.v11i1.5130>; Tahera Ahmed, “Child Marriage: A Discussion Paper,” *Bangladesh Journal of Bioethics* 6, no. 2 (November 19, 2015): 8–14, <https://doi.org/10.3329/bioethics.v6i2.25740>.

⁶ Kazutaka Sekine and Marian Ellen Hodgkin, “Effect of Child Marriage on Girls’ School Dropout in Nepal: Analysis of Data from the Multiple Indicator Cluster Survey 2014,” ed. Sarah Gammage, *PLOS ONE* 12, no. 7 (July 20, 2017): 1–13, <https://doi.org/10.1371/journal.pone.0180176>.

best interests of the child, (3) Right to life, survival, and development and (d) Respect for children's opinion. The protection of children's rights is the responsibility of the State, local government, communities, families, and parents or guardians. Therefore, Indonesian law needs to protect children's rights and enable them to live, grow, and optimally take part in other social events, according to their dignity without violence and discrimination.

The legal provision that specifically regulates marriage in Indonesia is the Law of 1 of 1974, which says that the woman is allowed to marry at the age of 16 years. The definition of the child according to other provisions based on Article 1 point 1 of Law 35 of 2014 on the Law for Child Protection, is that the child is anyone who is not yet 18 years old. This opens opportunities for child marriage, giving rise to the perception of the legalization of girl marriage in Indonesia.⁷

Recognizing the weakness of the provisions on the age of marriage in Law Number 1 of 1974, in 2019 the Indonesian Government changed the age limit for girls to marry from 16 to 19 years, so that currently, the marriage age for men and women in Indonesia is at least 19 years. This provision is recommended in Article 7 paragraph (1) of the Marriage Law Number 16 of 2019 concerning Marriage, ratified on October 15, 2019. Thus, Indonesian women are not legally allowed to marry if they are not yet 19 years old.

In fact, based on existing data, marriages under the age of 19 are still found, even though a law has been enacted to change the minimum age of marriage for girls in Indonesia, to 19 years. Data until January 2020, at least data is still found in several cities in Indonesia, cases of underage married girls. 19 years old. As in Table 1.

Table 1. The cases of Married Girls Not Yet 19 Years Old in Indonesia

No	Girls Age	Place of Marriage	The Cases
1.	14-18 years old	Bantaeng Regency, South Sulawesi Province	11 cases
2.	17-18 years old	Kendal Regency, Central Java Province	6 cases
3.	16-18 years old	Makassar City, South Sulawesi Province	13 cases
4.	16-18 years old	Semarang City, Central Java Province	11 cases
5.	18 years old	Samarinda City, East Kalimantan Province	6 cases
6	14-18 years old	Bandung City, West Java Province	17 cases
7	14-18 years old	Padang City, West Sumatera	8 cases

Source: Observations, 2022.

The data from Table 1 shows that there are still rampant marriages of girls under the age of 18 in several cities in Indonesia. This is a very crucial problem and has a negative impact on girls. This is a fact, it is difficult to prevent child marriage, even though the Indonesian government has issued a regulation about the limit of girls' permissibility, they must be 19 years old. On that basis, comprehensive research needs to be conducted to find a model as the right solution to analyze the causes of marriage for girls under the age of 19. The

⁷ Deity Yuningsih et al., "Same Sex Marriage in Legal and Human Rights Perspectives," *Journal of Legal, Ethical and Regulatory Issues* 21, no. 3 (2018): 4.

research is also to find a model of legal protection for the rights of girls under the age of 19 and to guarantee their individual rights in marriage.

2. Method

This research uses the sociology of law with empirical, conceptual, and normative approaches.⁸ The empirical approach is conducted by exploring data related to the behavior and impact of married girls. The conceptual approach is based on the doctrine of child marriage issues, while the normative approach is carried out by examining the prevailing laws and regulations related to the norms of protecting the rights of married girls.⁹ The technical analysis was carried out in a descriptive qualitative manner based on the concepts of marriage and prevailing norms. This was descriptively analyzed to explain the essence of the problem of marriage for girls under 18 years of age, what form of legal protection should be, and to guarantee individual rights in marriage, as well as to find a solution model for the problem of girl marriage in Indonesia.

3. The Concept of Marriage

Marriage is an essential institution in people's life. It is the inner and outer bond of a man and woman to live together to form a family based on certain procedures. Asser, Scholten, Pitlo, Melis, and Wiarda defined marriage as an alliance of a man and woman to live together for eternity, recognized by the State.¹⁰

Sayuti Talib stated that marriage is a sacred agreement between a man and a woman to live together with mutual support, love, and peace to form an eternal family.¹¹ This view sees marriage as the aspect of a free agreement between the two parties to carry out the bond without coercion from any party.

Marriage in the Islamic concept is known as a *nikah*, which views marriage as something sacred by the worship of Allah and following the Sunnah of the Prophet Muhammad with sincerity based on Islamic law. The jurisprudence scholars following the four schools of thought, namely Shafi'i, Hanafi, Maliki, and Hambali, generally defined marriage as a contract that brings a man's permissibility to have intercourse with a woman. The beginning of the contract is known as *lafazh nikah* or *kawin*, or a similar meaning of the two words.¹²

⁸ Victor Imanuel W. Nalle, "The Relevance of Socio-Legal Studies in Legal Science," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 1 (February 15, 2015): 179, <https://doi.org/10.22146/jmh.15905>.

⁹ Álvaro Núñez Vaquero, "Five Models of Legal Science," *Revus*, no. 19 (June 10, 2013): 53-81, <https://doi.org/10.4000/revus.2449>.

¹⁰ Deity Yuningsih, "Perlindungan Hukum Bagi Hak-Hak Keperdataan Anak Luar Kawin" (Universitas Hasanuddin, 2013).

¹¹ Sayuti Thalib, *Hukum Keluarga Indonesia* (Jakarta: Universitas Indonesia, 1986), 47.

¹² Wahyu Wibisana, "Pernikahan Dalam Islam," *Taklim* 14, no. 2 (2016): 185, <http://jurnal.upi.edu/taklim/view/4607/pernikahan-dalam-islam.html>; Mehrdad Hajjhasani and Timothy Sim, "Marital Satisfaction among Girls with Early Marriage in Iran: Emotional Intelligence and Religious Orientation," *International*

Normatively, marriage in Indonesia is a physical and spiritual bond between a man and a woman as spouses to foster a happy and eternal family according to the rule of God. Furthermore, to enter a marriage, the minimum age is 19 years for both males and females.

4. The Concept of Rights Protection in Indonesia Legal System

According to Philipus M. Hadjon¹³, legal protection in Indonesian doctrine recognizes citizens' rights based on applicable rules and values that develop in society. Satjipto Rahardjo¹⁴, an Indonesian legal expert, and adherent of a sociological law school said that legal protection is an effort to give recognition and respect for human rights. This effort needs to be enforced by law enforcement officials to ensure that citizens are not subject to unfair or discriminatory treatment by anyone.

In Indonesia, women's rights in marriage institutions are normatively regulated in the Indonesian Marriage Law Number 16 of 2019, amended from Law Number 1 of 1974. According to Habib Shulton A¹⁵, Indonesian women's rights after marriage are contained in Article 31 of the Marriage Law, namely (1). The right to receive the same treatment as their husband, (2). right to conduct the exact legal actions as their husbands, and (3). right to get a decent living from their husbands. In Article 6 of the Indonesian marriage law, the rights of women before marriage said that women as prospective brides have the right to declare their willingness to marry a man of their own choice without coercion from anyone.

5. The Causes and The Impact Factors for Girl Marriage

The Bureau for Indonesia Central of Statistics has compiled data on the marriage of girls under the age of 17, which is above the national average, occurring in several provinces, as shown in the following table:

Table 2. Child marriage under 17 years in several provinces of Indonesia based on population.

No.	Province	Percentage
1.	Kalimantan Selatan	27,82%
2.	Sulawesi Barat	27,26%
3.	Sulawesi Tengah	27,21%,
4.	Kalimantan Tengah	26,61%
5.	Nusa Tenggara Barat	25,36%
6.	Jawa Barat	24,35%
7.	Jawa Tengah	24,05%
8.	Jambi	22,71%,

Journal of Adolescence and Youth 24, no. 3 (July 3, 2019): 297–306, <https://doi.org/10.1080/02673843.2018.1528167>.

¹³ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia: Sebuah Studi Tentang Prinsip-Prinsipnya, Penanganannya Oleh Pengadilan Dalam Lingkungan Peradilan Umum Dan Pembentukan Peradilan Administrasi Negara* (Surabaya: Bina Ilmu, 1987).

¹⁴ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2000).

¹⁵ Habib Shulton Asnawi, "Tinjauan Kritis Terhadap Hak-Hak Perempuan Dalam UU. No. 1 Tahun 1974 Tentang Perkawinan: Upaya Menegakkan Keadilan Dan Perlindungan HAM Perspektif Filsafat Hukum Islam," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam* 1, no. 1 (2016): 39.

9.	Sulawesi Selatan	22,67%
10.	Gorontalo	22,66%
11.	Sulawesi Tenggara	22,66%
12.	Bengkulu	22,46%
13.	Jawa Timur	23,31%
14.	Kalimantan Barat	21,22%
15.	Kalimantan Utara	21,22%
16.	Sumatera Selatan	19,91%
17.	Kepulauan Bangka Belitung	19,21%
18.	Lampung	18,29%
19.	Banten	18,27%

Source: *The Bureau for Indonesia Central of Statistics, 2018*

Based on the data in Table 2, the highest child marriage in Indonesia is in the South Kalimantan Province, followed by West Sulawesi. However, the highest perpetrators are the West and East Java Provinces, which have a much larger population. The age of marriage in Table 2 was based on Law Number 1 of 1974, which decides the minimum marriage limit for women and men to be 16 and 19 years, respectively, with their parents' consent.

According to Irma Suryani Chaniago¹⁶ also Yvette Efevbera and Gunther Fink¹⁷, the minimum age of 16 years for girl marriage is inhuman and unfair, due to the dangers of girls' reproductive system between the ages of 16 to 18 years. The sexual activity of the girl at an early age is vulnerable to cervical cancer.¹⁸

According to Tri Apriyani¹⁹, Indonesian girls married between the ages of 16 and 18 stand the risk of health challenges during childbirth. Their babies are at risk of low body weight and congenital abnormalities (congenital disabilities), to fetal death. Another problem faced by this category of women is psychological, social, and economic challenges.

Tri Apriyani²⁰ further said that other challenges include vulnerability to violence by their husbands. For instance, a young wife was abused to death by her husband in Indramayu in 2018. In addition, women married under the age of 19, are emotionally unstable, which often triggers quarrels with their husbands, thereby leading to domestic violence. Marriage before the age of 18 has the risk of endangering life in childbirth and having psychological impacts when caring for the child. The following are some of the causes of underage marriage in girls.

¹⁶ Fathiyah Wardah, "Koalisi Perempuan Desak Perubahan UU Perkawinan Sebelum DPR Periode Sekarang Berakhir," VOA Indonesia, 2019, <https://www.voaindonesia.com/a/koalisi-perempuan-desak-perubahan-uu-perkawinan-sebelum-dpr-periode-sekarang-berakhir/4736734.html>.

¹⁷ Yvette Efevbera et al., "Girl Child Marriage as a Risk Factor for Early Childhood Development and Stunting," *Social Science & Medicine* 185 (July 2017): 91–101, <https://doi.org/10.1016/j.socscimed.2017.05.027>.

¹⁸ Djamilah and Reni Kartikawati, "Dampak Perkawinan Anak Di Indonesia," *Jurnal Studi Pemuda* 3, no. 1 (June 22, 2016): 1–16, <https://doi.org/10.22146/STUDIPEMUDAUGM.32033>.

¹⁹ Tri Apriyani, "Bahaya Pernikahan Usia Dini, Mulai Dari Gangguan Fisik Hingga Mental," Suara, 2019, <https://yoursay.suara.com/lifestyle/2019/12/16/141627/bahaya-pernikahan-usia-dini-mulai-dari-gangguan-fisik-hingga-mental>.

²⁰ Apriyani.

a. Poverty

Poverty is one of the main factors leading to early marriages in Indonesia. Mubasyaroh²¹ said that poor parents tend to quickly marry off their daughters to reduce their economic burden. According to research conducted by Ika Syarifatunnisa²², parents marry off their daughters below 19 years, to relinquish their custody responsibility, especially living expenses. Poor parents in Indonesia believe that marrying off their young daughters aids them to be independent and get a better economic life. However, in the reality, these children often embrace poverty on an ongoing basis due to limited capital, no job opportunities, and a lack of skills. In addition, based on data from The Agency for Indonesia Development Planning in 2021²³ marrying underage girls will cause Indonesia an economic loss of 1.7% of the Gross National Product.

b. Free Sex

One of the factors causing children to marry is the background of free-sex behavior due to the lack of parental, and community supervision, and individualism. Besides that, the inception of online media has made it easy for them to interact with one another. This ease in communication between boys and girls often leads to continuous free sex and unwanted pregnancies. When a girl gets pregnant outside of marriage in Indonesian culture, it is a disgrace to the entire family. Therefore, the only way to cover up this disgrace is by forcibly getting the parties involved married, and in some cases, the girl is married to another man.²⁴

c. Culture and Customs

Marriage of girls under the age of 19 is also caused by cultural factors or customs of some Indonesian people, especially in rural areas. The perception of rural people in Indonesia is that women who get married early are the pride of the family, on the other hand, women who marry late are considered a family disgrace. Ana Latifatul et al.²⁵ research that some Indonesian parents marry off their children under the age of 19, for reasons of customs, namely, to strengthen kinship relations with the male family, as well as to maintain the inheritance of family assets. The rise of marriages of girls

²¹ Mubasyaroh, "Analisis Faktor Penyebab Pernikahan Dini Dan Dampaknya Bagi Pelakunya," *YUDISIA : Jurnal Pemikiran Hukum Dan Hukum Islam* 7, no. 2 (2016): 400, <https://doi.org/10.21043/YUDISIA.V7I2.2161>.

²² Ika Syarifatunnisa, "Faktor-Faktor Penyebab Pernikahan Dini Di Kelurahan Tunon Kecamatan Tegal Selatan Kota Tegal" (Universitas Negeri Semarang, 2017).

²³ Ellyvon Pranita, "Peringkat Ke-2 Di ASEAN, Begini Situasi Perkawinan Anak Di Indonesia," ed. Bestari Kumala Dewi, Kompas.com, 2021, <https://www.kompas.com/sains/read/2021/05/20/190300123/peringkat-ke-2-di-asean-begini-situasi-perkawinan-anak-di-indonesia?page=all>.

²⁴ Deity Yuningsih, "Evasion of Law on Child Legal Status in Close-Shame Marriage's Institution," *Journal of Law, Policy and Globalization* 44, no. 0 (2015): 103-4, <https://www.iiste.org/Journals/index.php/JLPG/article/view/27745>.

²⁵ Ana Latifatul Muntamah, Dian Latifiani, and Ridwan Arifin, "Pernikahan Dini Di Indonesia: Faktor Dan Peran Pemerintah (Perspektif Penegakan Dan Perlindungan Hukum Bagi Anak)," *Widya Yuridika* 2, no. 1 (April 21, 2019): 7, <https://doi.org/10.31328/wy.v2i1.823>.

under the age of 19 is difficult to prevent due to community customs.²⁶ The perception of indigenous peoples in Indonesia is still preserving the culture of marriage for girls under the age of 19, from generation to generation. Even though Indonesian feminists have conducted a campaign to prevent the marriage of children under the age of 19 because it has a negative impact on social, psychological, health, and economic life.

d. Minimum Age of Marriage in Law

In Indonesia, prior to 2019, the minimum legal age of marriage was 16 years for women and 19 years for men as regulated by the Marriage Law No. 1 of 1974. The lawmakers' reason for stipulating a minimum difference in age at marriage assumes of differences in biological maturity between women and men. It is believed that women tend to mature faster than men. In line with the dynamics of life's values and the increasingly incessant feminism movement, which demands equal rights between women and men in Indonesia, the minimum marriage limit for Indonesian women was equated with men.

Xavier Nugraha et al.²⁷ reported that several Indonesian society groups filed a Judicial Review lawsuit to the Constitutional Court to revise Article 7 Paragraph 1 of the 1974 Marriage Law concerning the minimum age limit for women to be 19 years. The reason is that the provisions of the article are discriminatory and contrary to the Indonesian Constitution, as said in Article 27 of the 1945 Constitution, that all Indonesian citizens have an equal position before the law.

The Indonesian Constitutional Court granted these demands, by two legal arguments. Firstly, Article 7 Paragraph 1 of the 1974 Indonesian Marriage Law, on the minimum age limit of marriage for Indonesian women, violated Indonesian constitutional law's principle that all people are equal before the law. Secondly, the Constitutional Court, Article 7, is irrelevant to today's era, which prioritizes equality of rights between men and women, including the minimum age for marriage. Based on this, the Constitutional Court urged the government and the House of Representatives, to abolish Article 7 of the Indonesian Marriage Law, replacing it with an article in line with the minimum age of 19 for both men and women.²⁸

The Government and the House of Representatives complied with the Constitutional Court's demands, through the enactment of Law 16 of 2019 on Amendments to the 1974 Indonesian Marriage Law. Therefore, Article 7 states that marriage for Indonesian women is only allowed, assuming females and males are 19 years old. However, other provisions

²⁶ Ayako Kohno et al., "Investigation of the Key Factors That Influence the Girls to Enter into Child Marriage: A Meta-Synthesis of Qualitative Evidence," ed. Jonathan Jong, *PLOS ONE* 15, no. 7 (July 17, 2020): 1–20, <https://doi.org/10.1371/journal.pone.0235959>.

²⁷ Xavier Nugraha, Risdiana Izzaty, and Annida Aqiila Putri, "Reconstruction of Minimum Age for Marriage as a Form of Legal Protection for Women (Analysis of Constitutional Court Decision No. 22/PUU-XV/2017)," *Lex Scientia Law Review* 3, no. 1 (June 10, 2019): 40–54, <https://doi.org/10.15294/LESREV.V3I1.30727>.

²⁸ Sonny Dewi Judiasih et al., "Efforts to Eradicate Child Marriage Practices in Indonesia: Towards Sustainable Development Goals," *Journal of International Women's Studies* 21, no. 6 (2020): 135–49.

still open the opportunity for a girl under 19 years of age to get married but must go through court permission, provided that the reason is urgent.

The age of marriage for women needs to be 19 years old to prevent child marriage, avoid negative impacts on children's growth, and fulfill their basic rights, such as the right to protection from violence and discrimination, civil health, and social rights. At age 19, adults are held accountable for their actions by law. In fact, the minimum age of marriage for girls is 19 years, not been effectively implemented.

The United Nations Population Fund (UNFPA) and United Nations Children's Fund (UNICEF) report said that Indonesia was in an economic recession in the third quarter of 2020. The poor population increased by 26.4 million or 9.8% of the total population.²⁹ The fact of marriage has also contributed very significantly to the increase in marriage cases for girls under the age of 19. Susilowati Suparto stated that the rate of child marriage increased due to economic factors. For example, West Java Province has the largest number of child marriages under 19, with parents marrying off their daughters as a solution to their economic burden and to address unwanted pregnancies.³⁰

Data from the Indonesian Ministry of Women's Empowerment and Child Protection states that child marriage under 19 years old is increasing. There were 34,413 applications for marriage permits for girls under the age of 19, according to data from the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia, and 33,664 applications were granted.³¹ Furthermore, data from Komnas Perempuan Indonesia shows that the marriage of girls under the age of 19, until September 2021, increased by 300%, mostly by girls at the junior and senior high school education levels.³²

Various economic impacts, such as reduced purchasing power due to layoffs, limited industrial production, and difficulty obtaining capital. All of this causes a considerable economic burden for families, especially the poor, so it is quite a burden on low-income families. In addition, the rise of promiscuity leads to unwanted pregnancies and forced marriages. Bintang Puspayoga³³, Minister of Women's Empowerment and Child Protection, said that marriage of girls under the age of 19 can lead to the risk of dropping out of school, economic hardship, weak physical health due to pregnancy unpreparedness,

²⁹ Dwi Hadya Jayani, "Wabah Pernikahan Dini Di Tengah Pandemi Dan Dampak Buruknya," ed. Muhammad Ahsan Ridhoi, Katadata.co.id, 2021, <https://katadata.co.id/muhammadrighoi/analisisdata/5ff7cb5cdf279/wabah-pernikahan-dini-di-tengah-pandemi-dan-dampak-buruknya>.

³⁰ Ayunda Pininta Kasih, "Pakar Unpad: Angka Pernikahan Dini Melonjak Selama Pandemi," Kompas.com, 2020, <https://edukasi.kompas.com/read/2020/07/08/131828971/pakar-unpad-angka-pernikahan-dini-melonjak-selama-pandemi?page=all>.

³¹ Kadek Luxiana, "Kementerian PPPA Sebut Angka Perkawinan Anak Meningkat Di Masa Pandemi Corona," Detikcom, 2020, <https://news.detik.com/berita/d-5049836/kementerian-pppa-sebut-angka-perkawinan-anak-meningkat-di-masa-pandemi-corona>.

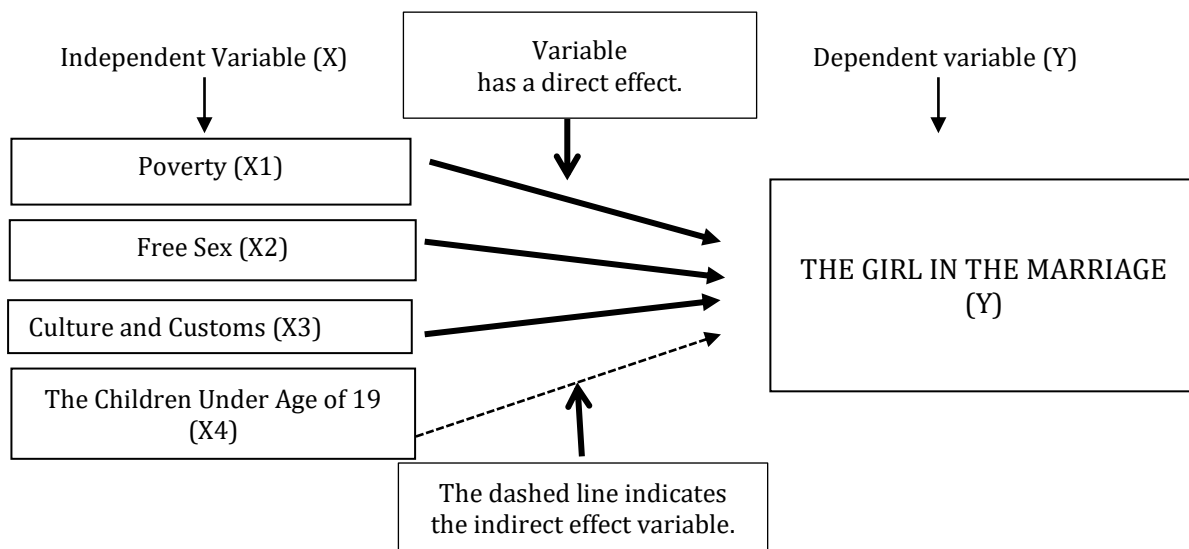
³² Deti Mega Purnamasari, "Perkawinan Anak Jadi Kasus Paling Banyak Yang Ditemukan Di Level SMP-SMA Selama Pandemi," ed. Dani Prabowo, Kompas.com, 2021.

³³ "Stop Perkawinan Anak, Kita Mulai Sekarang (Siaran Pers Nomor: B-018/Set/Rokum/MP 01/02/2020)," Kementerian Pemberdayaan Perempuan Dan Perlindungan Anak, 2020, <https://kemenpppa.go.id/index.php/page/read/29/2569/stop-perkawinan-anak-kita-mulai-sekarang>.

wrong parenting patterns, violence, and divorce. Data collected from various provinces on the number of children under 19 in Indonesia is an iceberg phenomenon as there are many marriages of girls under the age of 19, which have not been officially registered. In addition, not all parents want to legally register their child's marriage in a religious court.³⁴

The factors that trigger girls' marriage under the age of 19 include poverty, free sex, and culture. This means that the Marriage Law of 16 of 2019 has not provided the solution to the problem of girl marriage in Indonesia. The variable relationship illustrates the factors that cause child marriage in Indonesia:

Chart 1. The Causes for Relationship of Variable of Marriage for the Girl Under the Age of 19



6. Protection for the Individual Rights of Girls in Marriage

The enactment Article 7 paragraph (2) of Law Number 16 of 2019 on the amendment of the 1974 Indonesian Marriage Law states that women below 19 are prohibited from getting married. However, other factors allow such girls to get married, such as through court dispensation.

For Indonesian women, living among the Muslim majority, marriage is sacred. The Muslims believe that marriage is a worship of God Almighty, therefore a woman needs to enter adulthood, known as *aqil baligh* in Islam, and must keep chastity. However, she is also allowed to get married irrespective of being below 19 years old. The Married girls below 19 years old have the individual right, as part of a religious right protected by law. Therefore, Law Number 16 Year 2019 basically provides Indonesian girls an opportunity to get married, despite being below 19 years old, while protecting their rights.

Article 7 of Law Number 16 Year 2019 states that for women below the age of 19 years old, to get married, their parents need to get permission from the court. This means that according to Law No. 16 of 2019, girls below the age of 19 are allowed to marry, though

³⁴ Yuningsih, "Perlindungan Hukum Bagi Hak-Hak Keperdataan Anak Luar Kawin."

there needs to be an official recommendation, such as a doctor's certificate that allows the marriage.

Article 7 paragraph (2) of Law Number 16 of 2019 on marriage dispensation essentially protects women's individual rights to marry, at free will without coercion by anyone, under certain circumstances despite being below 19 years old. This applies to protecting women's individual rights in marriage if this provision is not revoked.

The provisions of Article 7 paragraph (2) are exceptions and need to be carefully implemented due to child marriage's multidimensional negative impact. These negative impacts need to be prevented and even eliminated, with various humanitarian services conducted to protect girls' rights. However, not getting married can create complicated problems for a pregnant girl, such as shame with the baby tagged illegitimate after birth. In the Indonesian legal system and culture, a baby born outside marriage loses the biological father's civil rights, for example, the right to earn a living, care, guardianship, and inheritance. For pregnant girls who are not married, in Indonesia, the law will not supply protection for their rights, such as the right to support, the right to love, and the right to inherit from the husband's property. On that basis, some parents marry their daughters even though they are not yet 19 years old.

7. The Model for Solution to the Problem of the Girl's Marriage

The data reveal that the marriage of the girl is part of the social life, which is difficult to prevent, so government policies and efforts of parties must continue to be conducted for the protection of children's rights, especially the girl.

According to the author, it is necessary to develop a new concept as a new thing, namely the concept of "Peace in the Protection of Women's Rights". This concept builds on the phenomenon of girl-child marriage in Indonesia. This is beneficial, rather than just preventing girls from marriage, which is difficult to prevent. The concept of reconciliation is an attitude of acceptance by all parties that the marriage of a girl is a fact, in social life. Making peace means not antipathy, not isolating, or even not discriminating. Underage married girls generally experience a multidimensional decline. He must be hugged and find a solution. Furthermore, the concept of peace must be accompanied by guarantees of protection of basic rights by families, communities, and governments, so that their lives can be properly empowered.

The concept of "Peace in the Protection of Women's Rights" is basically an integral part of the educational process to minimize the marriage of girls and at the same time provide protection for the rights of married girls. The UN predicts that more than 66 million children around the world, including Indonesia, are at risk of poverty, so parents will marry off their daughters as a solution to poverty. Data from the United Nations Funds for Population Activities (UNFPA), states that there will be an added 13 million cases of

marriage for girls under 19 years globally in the next 10 years due to the Covid-19 pandemic.³⁵

Girl marriage is a system formed by involving other sub-systems, namely legal, economic, social, and cultural sub-systems so an active role is needed from the government, community, and family to find solutions to the problems of girl marriage in Indonesia. The government has indeed tried to prevent the marriage of girls by requiring the age of marriage above 19 years, in fact, it has not been effective.

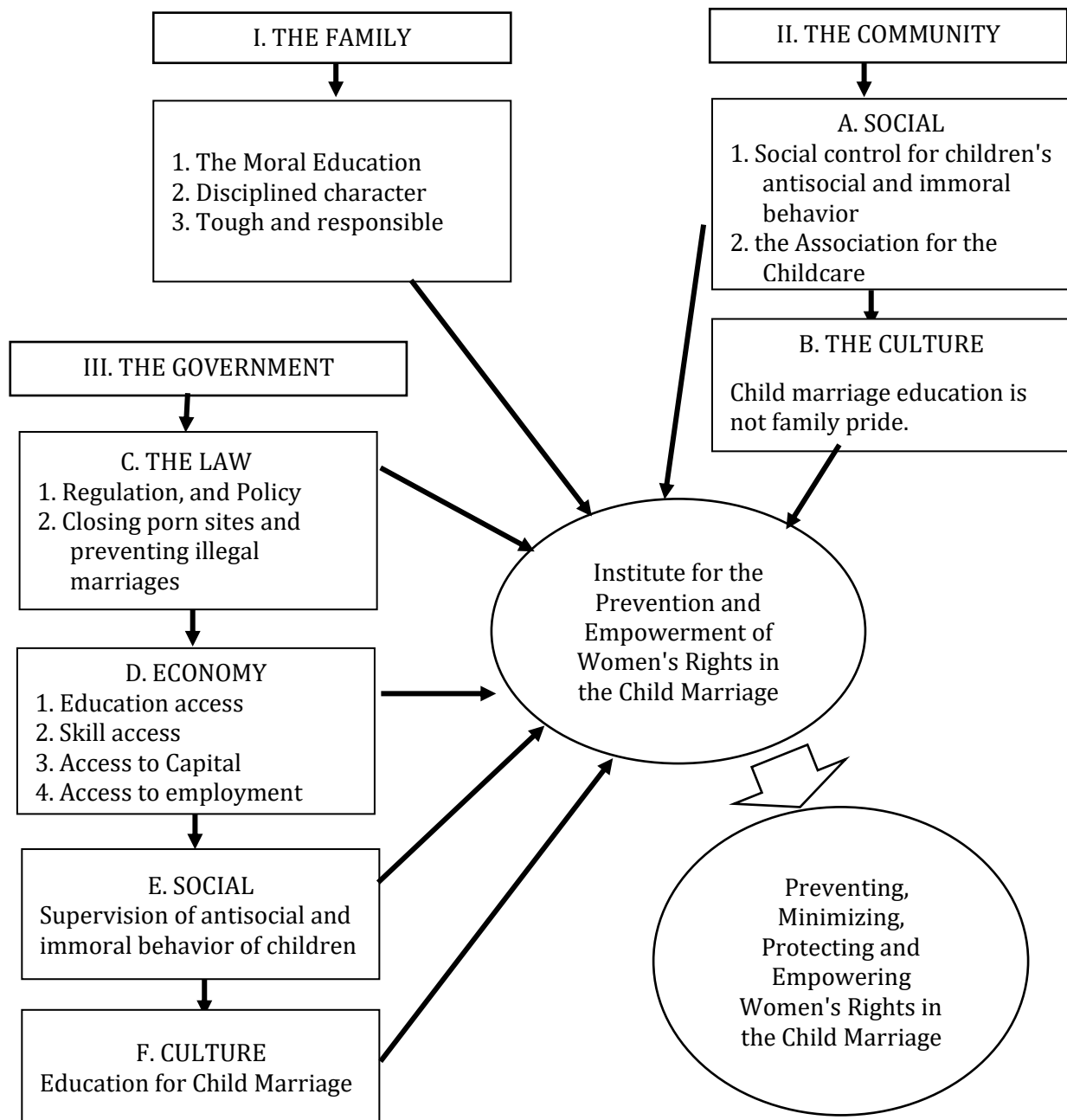
The poverty factor causes a person to not get an education, work skills, working capital, and employment opportunities, to meet the basic needs. This is the cause of systemic and structured poverty in a country. The role of the Indonesian government can be preventive and empowering. In the aspect of empowerment, the government must provide formal or non-formal education opportunities, with certain methods, so that married girls who have dropped out of school have strong and knowledgeable characters. The government also helps various entrepreneurship skills training. Providing business capital loans without collateral through professional assistance. The government should be more proactive in controlling social deviant behavior by closing pornographic sites, closing illegal marriage service sites. The government provides education about the negative impact of free sex and the negative impact of child marriage, as well as an understanding that child marriage is not the only solution. Changing the perception that the marriage of underage girls is not a matter of pride. In the legal aspect, the government makes regulations and assistance policies that defend the interests of girls as "victims of underage marriage", to local governments.

Marriage for underage girls can be prevented by supervision and family moral education so that the girl is morally good, disciplined, tough, and responsible. The role of the community is also to conduct social control of girls' behavior, to make clubs that care about the rights of girls, and to provide character education, for example, the installation of posters and banners about the negative impact of underage marriage, in public places.

To implement the concept of "Peace in the Protection of Women's Rights", the government needs to ease an Independent Agency for the Prevention and Protection of Women's Rights in Marriage. A multi-sectoral institution that is managed by professionals as a Model for Solutions to the Problems of Child Marriage in Indonesia must exist in every district and city so that it can play a role in preventing, protecting, and empowering the rights of girls in marriage. The Model for Solutions to the Problems of Marriage for underage girls is illustrated in the following chart:

³⁵ Jayani, "Wabah Pernikahan Dini Di Tengah Pandemi Dan Dampak Buruknya."

Chart 2. Variable Relationships in a Model for Solutions to Problems in Marriage for Girls in Indonesia Based on the Concept of "Peace in the Protection of Women's Rights":



8. Conclusion

There are factors that cause the marriage of underage girls in Indonesia, namely: economic poverty factor, social factors, promiscuity factor, and customs factor. The age factor does not significantly influence the prevention of marriage for underage girls, even though the government has set the minimum age for marriage to 19 years for girls. The Indonesian government issued the Law of 16 of 2019. This regulation should be a powerful legal instrument to prevent marriage of the girls under 19 years old, but Article 7 paragraph (2) of this law, still provides opportunities for girls under 19 years old years to marry, the condition is that the parent must seek permission from the court. This permit is essentially

in the context of protecting women's rights guaranteed by the Constitution. Child marriage does have a negative impact, but it closes the opportunity for the girl to marry, it also violates women's rights. Because in certain conditions it affects the rights of the girl who will get discrimination both socially, culturally, and legally. The fact of that girl marriage is difficult to eliminate and is still a social problem. The role of the government, community leader, and religious leader should be proactive in socializing, and educating the community, family, and the younger generation about the importance of not having girl marriage. The government must make regulations, proper policies, educational curricula, and facilities for the prevention, protection, and empowerment of girls, including children who are already married. The most important is to build the concept of "Peace in the Protection of Women's Rights" as the new concept of thinking to overcome the girl marriage. The government should form the Independent Institution for the Prevention and Protection of Women's Rights which is multisectoral, as the alternative to overcome the problem of marriage of underage girls in Indonesia, for the sake of creating the quality generation of the nation.

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