

Legal Consequences of Underage Marriage Practices Reviewed Based on Law Number 23 of 2002 on Child Protection as Amended by Law Number 35 of 2014 (A Case Study in Lempuyang Village, Tanara District)

¹Aulia Zahra, ²Dika Ratu marfu'atun, ³Muhamad Yusar

^{1,2,3} Universitas Primagraha, Kota Serang, Banten, Indonesia

¹auliazahra008910@gmail.com, ²ratudikamarfuatun@gmail.com,

³yusarmuhamad124@gmail.com

ABSTRACT

This study aims to analyze the causes and legal consequences of underage marriage practices and to examine their application based on Law Number 23 of 2002 on Child Protection, as amended by Law Number 35 of 2014. The research uses a normative juridical method with a statutory and case approach, supported by empirical data collected in Lempuyang Village, Tanara District, Serang Regency. The findings indicate that underage marriage still occurs due to low legal awareness, economic pressure, and strong cultural influences. Legally, such practice contradicts the principles of child protection as it neglects the child's right to proper growth and development. The lenient granting of marriage dispensation further weakens the enforcement of the law. Based on the Theory of Child Protection and Utilitarian Theory, early marriage provides no legal benefit but instead creates social harm, such as school dropout, poverty, and domestic violence. Therefore, stricter law enforcement and continuous legal education are required to prevent these practices and ensure the protection of children's rights comprehensively.

Keywords: Child Marriage, Child Protection, Marriage Dispensation, Legal Utility.

Introduction

Marriage is a social and legal institution that holds an important position in the life of Indonesian society. Normatively, marriage is not only regarded as a physical and spiritual bond between a man and a woman to form a family, but also as a means to realize social welfare and order. Article 1 of Law Number 1 of 1974 concerning Marriage stipulates that marriage is a physical and spiritual bond between a man and a woman as husband and wife, with the purpose of establishing a happy and eternal family based on the belief in One Almighty God. Thus, the law grants marriage a strong position as the foundation for the formation of a prosperous society and nation (Akhmad Munawar 2015)

However, social reality shows that not all marriages are conducted in accordance with legal provisions and the principle of age maturity. The phenomenon of underage or child marriage remains a serious issue in various regions of Indonesia. Based on data from UNICEF Indonesia (2020), approximately one out of every nine Indonesian girls is married before the age of 18, making Indonesia one of the countries with the highest rate of child marriage in Southeast Asia. This figure indicates that child marriage practices remain difficult to eradicate despite various policies and programs that have been implemented by the government (BPS, UNICEF 2020).

The Indonesian government has actually taken various measures to address this issue. One of the most significant efforts was the enactment of Law Number 16 of 2019, which amended Law Number 1 of 1974 on Marriage, where the minimum legal age for marriage for both men and women was equalized at 19 years. This policy was expected to reduce the rate of early marriages and strengthen the protection of children's rights. However, in practice, applications for marriage dispensation have sharply increased since

the implementation of the amended law (Muhammad Yusuf Hsb 2022). According to data from the Supreme Court of Indonesia (2021), more than 60,000 applications for marriage dispensation were filed in a single year, the majority of which were approved by religious courts. This phenomenon indicates that society continues to normalize underage marriage, driven by economic, social, and cultural factors (Aulia Az-Zahra and Budiono 2025).

In addition to legal concerns, child marriage has wide-ranging impacts on social, psychological, economic, and health aspects. From a social perspective, early marriage often leads to household disharmony due to the couple's lack of mental and emotional readiness. In terms of education, children who marry tend to drop out of school, lose opportunities for self-development, and become trapped in an intergenerational cycle of poverty. From a health perspective, adolescent girls who become pregnant face a high risk of pregnancy complications and maternal mortality. This condition clearly contradicts the spirit of child protection as stipulated in Law Number 23 of 2002 on Child Protection, as amended by Law Number 35 of 2014, which affirms that every child has the right to be protected from violence, exploitation, and any treatment harmful to their physical or mental development (Choirunnisa et al. 2022).

Marriage is essentially a spiritual and physical bond between a man and a woman with the aim of forming a happy and everlasting family based on the belief in the Almighty God, as stipulated in Article 1 of Law Number 16 of 2019 concerning the Amendment to Law Number 1 of 1974 on Marriage. However, in practice, the phenomenon of underage marriage still frequently occurs in various regions of Indonesia, including Lempuyang Village, Tanara District, Serang Regency. This phenomenon poses a serious problem as it concerns children's rights, access to education, reproductive health, and the future of young generations who should still be under protection and guidance.

In the legal context, the practice of underage marriage can be categorized as a violation of children's rights, as it neglects the principle of the best interest of the child. Article 76C of Law Number 35 of 2014 explicitly prohibits any form of violence against children, including forcing them into early marriage. In addition, Article 13 of the same law guarantees the protection of children from all forms of exploitation. Therefore, child marriage not only violates social norms but also contradicts national legal principles as well as international instruments such as the Convention on the Rights of the Child, which was ratified through Presidential Decree Number 36 of 1990 (Chandra, Eka Putri, and Ilosa 2024).

Legally, the amendment to the marriage age limit as stipulated in Law Number 16 of 2019 establishes that the minimum age for marriage is 19 years old for both men and women. However, in reality, many communities still engage in underage marriages for various reasons, including economic factors, cultural traditions, low educational attainment, and social perceptions that regard marriage as a solution to prevent promiscuity. This condition indicates that the implementation of positive law has not been fully effective at the rural community level (Fitriah, Adnan Quthny, and Syafi'i 2023).

Although legal protection has been clearly regulated normatively, its implementation at the community level continues to face numerous obstacles. One such example can be found in Lempuyang Village, Tanara District, Serang Regency, Banten Province, where the rate of child marriage remains high. Based on interviews with village officials and the Office of Religious Affairs (KUA), early marriage practices in this area persist due to several factors, including social pressure, economic limitations, cultural and customary influences, and a lack of legal education within the community. Some parents even believe that marrying off their daughters at a young age is a way to preserve family honor, especially in cases involving premarital pregnancy (Kurniawan 2019).

From a law enforcement perspective, village authorities and religious institutions in rural areas often face a dilemma between upholding positive law and adapting to social pressures within the community. Marriage dispensation frequently becomes a legally valid compromise, yet it inadvertently undermines the spirit of child protection. In principle, however, the purpose of law is not merely to regulate, but also to provide benefits and protection to the vulnerable parties in this case, children.

From a legal theory perspective, this phenomenon can be explained through Jeremy Bentham's Theory of Utility, which emphasizes that law should aim to produce the greatest happiness for the greatest number of people. In the context of child marriage, the law should foster collective well being by ensuring the protection of the younger generation's future. Moreover, the Theory of Child Protection proposed by Wiyono and Hadjon highlights the importance of the state's role in providing physical, psychological, and social security for children against all forms of threats (Arliman S 2024).

Based on these circumstances, this study aims to analyze the factors influencing the occurrence of underage marriages in Lempuyang Village, Tanara District, and to explain the legal consequences arising from such practices under the provisions of Law No. 23 of 2002 on Child Protection, as amended by Law No. 35 of 2014. The findings of this research are expected to contribute to the development of legal scholarship, particularly in the fields of civil law and child protection law, as well as to serve as a reference for local governments and communities in formulating more effective policies to prevent early marriage practices at the village level.

Research Methods

This study employs a normative juridical research method, which focuses on the analysis of prevailing legal norms by examining statutory regulations related to marriage and child protection (Sunggono 2019), such as Law No. 1 of 1974 in conjunction with Law No. 16 of 2019, and Law No. 23 of 2002 in conjunction with Law No. 35 of 2014. The approaches applied include the statutory approach and the case approach, aimed at reviewing the implementation of law in the practice of underage marriage in Lempuyang Village, Tanara District. The data utilized in this research consist of primary, secondary, and tertiary legal materials, collected through literature study and interviews with officials from the local Office of Religious Affairs (KUA). All data were analyzed qualitatively and descriptively to illustrate the application of legal norms and to assess the effectiveness of legal protection for children in the context of early marriage.

Philosophical Foundation of Law (Theoretical Basis).

The philosophical foundation of law in this study is rooted in the view that law functions not only as a set of normative rules but also as a moral and social instrument that must ensure justice, utility, and legal certainty. Legal philosophy perceives law as a means to achieve an orderly, dignified, and just society. According to Gustav Radbruch, ideal law must fulfill three fundamental values: justice (*gerechtigkei*), utility (*zweckmaigkeit*), and legal certainty (*rechtssicherheit*). These three values complement one another and form the basis for understanding the purpose of law (Aditya and Waddington 2021). In the context of this study, marriage law and child protection law must be positioned within a philosophical framework that balances the certainty of legal regulations regarding the minimum age of marriage with social utility and the protection of children's rights as a vulnerable group.

More specifically, this study is grounded in two major theories within the philosophy of law, namely the Theory of Child Protection and the Theory of Utility (Legal Utilitarianism) (Bentham 2018). The Theory of Child Protection, as proposed by Phillipus M. Hadjon (1987),

emphasizes that every individual particularly children is entitled to legal protection both preventively (to prevent violations) and repressively (to enforce the law in cases of violations). This theory is based on the principle of the best interest of the child, meaning that the child's welfare must be the primary consideration in every legal policy and social decision. In the context of underage marriage, this theory asserts that the law must act as a safeguard to protect children from practices that may endanger their rights and future (Hadjon, M 2017). Thus, the legal provisions on the minimum age of marriage and the dispensation for marriage are not merely administrative regulations but represent concrete forms of legal protection for children.

The Theory of Utility (Utilitarianism) was first developed by Jeremy Bentham (1748-1832) and later refined by John Stuart Mill (1806-1873). This theory is founded on the idea that the primary purpose of law is to achieve "the greatest happiness for the greatest number." According to Bentham in *An Introduction to the Principles of Morals and Legislation* (1789), a good law is one that maximizes happiness and minimizes suffering within society. In other words, every legal policy should be evaluated by the extent to which it provides social benefits as a whole, rather than merely enforcing formal justice. This principle of utility has since become one of the foundations of modern legal theory that emphasizes social welfare and the pragmatic function of law (Bentham 2018).

In the context of positive law, the Theory of Utility provides both moral and rational justification for the formulation and implementation of laws that are oriented toward public welfare (public interest). Law is not viewed as an end in itself but rather as an instrument to achieve societal well-being. This perspective aligns with Gustav Radbruch's concept of the functions of law, which asserts that law should not only aim for certainty (*rechtssicherheit*) but also justice (*gerechtigkeit*) and utility (*zweckmäßigkeit*) (Somomoeljono 2025). In the context of underage marriage, the utilitarian perspective emphasizes that the law must protect broader social interests by preventing long-term suffering such as domestic violence, early divorce, and structural poverty resulting from the immaturity of children in fulfilling marital responsibilities. Thus, the age restriction on marriage established by Law No. 16 of 2019 is not merely an administrative norm but rather a reflection of the principle of legal utility, aimed at creating a more prosperous and well-protected society.

The application of utilitarian principles in child protection also reflects the notion that law should side with vulnerable groups. In this regard, children are considered a social group lacking full capacity to determine their own fate, and therefore the state bears both a moral and legal obligation to safeguard their best interests. The restriction on the minimum age of marriage is not a limitation of individual freedom but rather a preventive form of protection designed to shield children from physical, psychological, and social suffering. Consistent with John Stuart Mill's view in *Utilitarianism* (1863), happiness in this context refers not merely to temporary pleasure but to rational, stable, and long term happiness. Accordingly, the prohibition of underage marriage serves to ensure the well being of future generations and to uphold humanitarian values within society (Mill 1863).

Furthermore, the Theory of Utility also plays a significant role in shaping progressive legal policies. In the social context of Lempuyang Village, Tanara District, the implementation of child protection-oriented law must take into account the balance between formal legal norms and the socio-cultural realities of the community. The government and legal institutions must be able to interpret the law functionally, so that the Child Protection Law does not merely remain as a normative text but serves as a practical instrument to improve the quality of life of the people. Thus, the Theory of Utility serves as a philosophical foundation for the formulation of laws that emphasize not only legal certainty but also social benefit and welfare. This principle is particularly relevant to the state's efforts in upholding

substantive justice through the prevention of child marriage, aimed at achieving a society that is happy, prosperous, and legally protected.

The Concept of Marriage Law in Indonesia

Marriage in the Indonesian legal system holds a fundamental position, as it does not only concern civil relations between two individuals, but also encompasses social, religious, and moral dimensions. Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, serves as the main legal foundation governing the requirements, objectives, and legal consequences of a marriage. According to Article 1 of Law Number 1 of 1974, marriage is defined as “a physical and spiritual bond between a man and a woman as husband and wife with the purpose of forming a happy and eternal family (household) based on the Almighty God.” From this definition, it is evident that Indonesian positive law regards marriage not merely as a contractual relationship, but as a social and religious institution founded on divine and moral values. Thus, marriage is understood as an institution aimed not only at fulfilling biological or social needs, but also at creating a harmonious, prosperous, and civilized family order. This concept affirms that marriage law in Indonesia functions as an instrument to build national morality, maintain social order, and ensure legal protection for the rights and obligations of both husband and wife (N. laras Agustina 2019).

In Indonesia's positive legal system, a marriage is considered valid only if it is conducted in accordance with the laws of each religion and belief (Article 2 paragraph 1 of Law No. 1 of 1974) and registered by the competent authority (Article 2 paragraph 2). This means that the validity of marriage is determined by two dimensions: the religious dimension and the administrative dimension of the state. However, beyond the issue of validity, the law also establishes a minimum age requirement for marriage. Following the amendment through Law No. 16 of 2019, the minimum age for marriage for both men and women has been set at 19 years. This provision reflects an effort to promote gender equality and serves as a preventive measure against child marriage, which may have negative impacts on children's physical and mental health.

Although the age requirement is imperative in nature, the law still allows for exceptions through a marriage dispensation mechanism that can be submitted to the court. According to Article 7 paragraph (2) of the amended Marriage Law, parents may file a request for dispensation on behalf of their child who has not reached the age of 19, provided that there are urgent circumstances supported by sufficient evidence. While this dispensation is intended to provide a legal solution for exceptional cases, in practice it is often misused. Many dispensation requests are granted without adequate consideration of the child's psychological readiness, thereby undermining the legal purpose of protecting children from early marriage (Imran et al. 2024). Therefore, the existence of this mechanism should be accompanied by strict supervision and evaluation of its implementation to ensure that it does not contradict the principles of child protection as stipulated in Law No. 35 of 2014.

Philosophically, the concept of marriage law in Indonesia also reflects the values of Pancasila, the foundation of the state particularly the second and fifth principles, “Just and Civilized Humanity” and “Social Justice for All the People of Indonesia.” This means that marriage is not merely a formal legal relationship, but also an expression of the human right to establish a family with dignity. However, this right must be exercised in accordance with the principles of justice and humanity, ensuring that it does not harm the weaker party, including children. In this regard, the regulation of minimum marriage age represents the state's responsibility to guarantee that every citizen enters into marriage only when they are physically, mentally, and socially mature.

Thus, the concept of marriage law in Indonesia does not stand alone but is integrated with the legal system of child protection and human rights. The enactment of laws that raise the minimum age of marriage signifies a paradigm shift in legal policy from a merely administrative regulation toward a protective and humanitarian approach. Marriage law today not only determines the validity of a marital bond, but also assesses to what extent a marriage fulfills the principles of welfare and justice for both parties, particularly for underage children. Therefore, within the context of this study, the regulation of marriage age is understood as a concrete manifestation of the law's role in protecting the younger generation from social practices that may endanger their future.

The Concept of Child Protection in the National Legal System

Child protection within Indonesia's national legal system represents the state's responsibility to ensure the rights of children as an integral part of human rights. The legal foundation for this lies in Law Number 23 of 2002 on Child Protection, as amended by Law Number 35 of 2014, and is further supported by the ratification of the Convention on the Rights of the Child (CRC) through Presidential Decree Number 36 of 1990. These laws affirm that every child has the right to live, grow, and develop optimally, and to be protected from all forms of violence, exploitation, and discrimination (MacPherson 1989).

Child protection is generally divided into two forms: preventive and repressive protection. Preventive protection is carried out through legal and policy measures aimed at preventing violations of children's rights, such as the establishment of a minimum marriage age and restrictions on marriage dispensation. Meanwhile, repressive protection is implemented through legal sanctions against those who violate children's rights, such as parents or other parties who force minors into marriage. The fundamental principle underlying this concept is the "best interest of the child," which means that every legal policy must prioritize the well-being of children, rather than serving the interests of adults or local cultural traditions (Wang 2024).

In addition, Indonesia has also ratified various international instruments related to the rights of the child, such as the Convention on the Rights of the Child (CRC) through Presidential Decree Number 36 of 1990. This ratification signifies the state's commitment to ensuring the fulfillment of the four fundamental principles of children's rights: (1) non-discrimination, (2) the best interests of the child, (3) the right to life, survival, and development, and (4) respect for the views of the child. These principles serve as the philosophical and normative foundation for formulating child protection policies in Indonesia.

In the context of child marriage, the concept of child protection plays a crucial role, as such practices often result in violations of children's fundamental rights, particularly the rights to education, reproductive health, and freedom to determine one's own future. Child marriage can also be categorized as a form of structural violence perpetuated through social and cultural norms. Therefore, law enforcement in cases of underage marriage must be based on the principle of child protection, rather than merely on customary considerations or family interests.

In addition to the Child Protection Law, there are several other legal instruments that strengthen the child protection system in Indonesia, including:

1. Law Number 35 of 2014 concerning Child Protection (amendment to Law Number 23 of 2002);
2. Law Number 16 of 2019 concerning the Amendment to Law Number 1 of 1974 on Marriage;
3. Law Number 39 of 1999 concerning Human Rights;

4. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System; and
5. Government Regulation Number 78 of 2021 concerning Special Protection for Children.

All of these regulations complement one another in establishing a comprehensive legal system to ensure child protection in Indonesia. In practice, the implementation of child protection requires cross-sectoral coordination among the government, child protection institutions, educational bodies, law enforcement agencies, and active participation from the community. Thus, the concept of child protection within the national legal system should not merely be understood as a written legal norm, but as a concrete manifestation of the state's responsibility to guarantee children's rights. Efforts to protect children must be carried out holistically, through the synergy of legal, social, and moral approaches, so that the ultimate goal of child protection to create a healthy, intelligent, and virtuous generation can be achieved in a sustainable.

Factors Causing and Legal Consequences of Underage Marriage

Underage marriage is a social phenomenon that remains prevalent in Indonesia, particularly in rural areas, and reflects a gap between legal norms and social practices. One of its main causes is the low level of education and public understanding regarding marriage law and child protection. Many parents are still unaware that the minimum legal age for marriage has been stipulated in Law Number 16 of 2019, which sets the age at 19 years for both men and women. This lack of awareness often leads communities to marry off underage children because such marriages are considered religiously valid, without realizing the resulting legal and social consequences (Lewoleba et al. 2022).

In addition, economic factors also serve as a major driving force. In families with weak economic conditions, young girls are often married off early to ease the family's financial burden. The belief that marriage can be a solution to poverty remains deeply rooted in certain communities, even though, in reality, it often creates new cycles of poverty due to the low level of education and limited skills of young couples. Cultural and social factors further reinforce this practice, particularly in societies that still uphold conservative values. In several regions, marrying off children at a young age is seen as a way to preserve family honor, especially when a girl is involved in a romantic relationship or becomes pregnant out of wedlock. Such social pressures cause the practice of child marriage to persist despite its contradiction with positive law (Khairina and Tridharma Putra 2023)

From a policy perspective, the marriage dispensation mechanism also serves as one of the factors reinforcing the persistence of underage marriage practices. Based on Article 7 paragraph (2) of Law Number 16 of 2019, parents may apply for a marriage dispensation to the court on the grounds of urgent circumstances and with sufficient supporting evidence. However, in practice, many courts grant such applications without conducting an in-depth examination of the child's psychological, medical, and social aspects. This indicates that legal protection for children has not been implemented effectively. The overly lenient granting of dispensations instead weakens the spirit of child protection as stipulated in Law Number 35 of 2014 concerning Child Protection, wherein the state should act as the primary protector of children's rights from all forms of exploitation and social pressure.

The legal consequences of underage marriage are extensive and have long-term impacts. Juridically, child marriage can create civil law issues such as the unclear legal status of the child, guardianship, and inheritance rights. Children who marry underage are often not ready, either legally or mentally, to bear the responsibilities of household life, which may lead to conflict and early divorce. From the perspective of legal protection, child marriage also contradicts the principle of the best interest of the child, as it neglects

children's rights to education, health, and proper growth and development. This condition can be categorized as a violation of children's rights as guaranteed by the Child Protection Law (Tomayouw, Suwarti, and Rumkel 2024).

In addition to its legal consequences, underage marriage also brings serious social and psychological impacts. Young couples generally lack emotional and economic maturity, making them more vulnerable to domestic violence and divorce. Young girls who marry early are at high risk of experiencing reproductive health problems and pregnancy complications. From a social perspective, this practice perpetuates the cycle of poverty and gender inequality, as young girls lose the opportunity to continue their education and develop their potential. Therefore, underage marriage is not merely a moral or traditional issue, but also a legal and humanitarian concern that requires serious attention through legal education, law enforcement, and cultural transformation within society (Ayu et al. 2024).

Results and Discussion

Lempuyang Village is one of the villages located in Tanara District, Serang Regency, Banten Province. The majority of its residents work as farmers, laborers, and small traders, with a relatively low level of education. The community's limited socio-economic conditions influence their mindset and legal behavior, including in matters of marriage. In the social life of Lempuyang Village, underage marriage is still frequently practiced and considered normal, especially when driven by economic, cultural, or moral factors such as the intention to "avoid adultery."

Based on field research conducted in Lempuyang Village, Tanara District, Serang Regency, it was found that underage marriage practices still frequently occur despite being legally prohibited. Interview data with village officials and officers from the Office of Religious Affairs (Kantor Urusan Agama or KUA) indicate that each year, several young couples marry below the age of 19. The main causes of this practice are economic factors, cultural traditions, and low legal awareness among the community. Many parents believe that marrying off their children at a young age can prevent them from engaging in behavior considered socially or religiously inappropriate, especially in cases of premarital pregnancy. Furthermore, some members of the community still view marriage as a way to improve the family's economic condition, without considering the child's psychological readiness and legal responsibilities ("Pencegahan Perkawinan Anak Di Indonesia" 2022).

From the perspective of law enforcement, the marriage dispensation mechanism is one of the factors that allows child marriage to continue occurring. Based on interviews with officials from the Office of Religious Affairs (KUA), applications for marriage dispensation in the area are frequently submitted and most are granted by the religious court without sufficient psychological consideration. In fact, Article 7 paragraph (2) of Law Number 16 of 2019 explicitly states that a marriage dispensation may only be granted for urgent reasons and must be supported by sufficient evidence. The practice of granting dispensations loosely contradicts the spirit of child protection as stipulated in Law Number 35 of 2014, which guarantees the rights of children to education, health, and proper development. Therefore, it can be concluded that law enforcement in practice remains weak, as there is a lack of harmony between legal norms and policy implementation (Rizal Arif Fitria, Ahmadi Hasan, and Masyithah Umar 2023).

Based on the analysis using the Theory of Child Protection, the ongoing practice of early marriage in Lempuyang Village clearly contradicts the principle of the best interest of the child. This principle serves as the fundamental basis for all policies and regulations concerning children, both in national and international law. In the context of Indonesian law, this principle emphasizes that every decision or action involving children must take into

account what is best for their growth, welfare, and future. However, in reality, the practice of early marriage neglects this principle and has the potential to cause various negative impacts physically, psychologically, and socially (A. Agustina and Clarista 2018).

Children who marry at a young age lose the opportunity to enjoy their fundamental rights as guaranteed under Law Number 35 of 2014 concerning Child Protection, such as the right to education, the right to optimal growth and development, and the right to determine their own life path without pressure from any party. When children are forced to marry at an early age, they not only lose their childhood but are also compelled to bear adult responsibilities for which they are not yet prepared. Psychologically, young girls who marry early are highly vulnerable to stress, depression, and domestic violence due to emotional immaturity and a lack of ability to manage social relationships.

Based on Articles 13 and 76C of Law Number 35 of 2014, the state is obliged to protect children from all forms of violence, exploitation, and mistreatment, including coercion to marry. Such coercion whether in the form of social, cultural, or parental pressure constitutes a violation of the child's right to legal protection. From the perspective of child protection law, any act that hinders a child from obtaining their rights can be categorized as a form of structural violence that must be prevented and addressed by the state (Sukardi and Q. Zaman MSI 2024). Therefore, the government's responsibility does not end with the establishment of regulations; it also includes concrete implementation through supervision, community education, and consistent law enforcement.

However, in practice, the implementation of child protection in Lempuyang Village has not been carried out optimally. Weak legal control and oversight from village authorities, religious institutions, and poor inter-agency coordination have allowed the practice of early marriage to persist. In some cases, religious leaders even legitimize child marriages without considering the age limits established by law. This situation reveals a significant gap between the ideal legal norms that prioritize the best interests of the child and the social realities still shaped by tradition, economic pressure, and conservative mindsets. As a result, the law fails to function fully as an instrument of protection and instead becomes a mere formality that is often disregarded in social life.

This condition affirms that the application of the child protection theory has not yet been fully internalized within the legal consciousness of rural communities. Concrete efforts from local governments, law enforcement officers, and social institutions are necessary to strengthen education and supervision so that legal norms do not merely remain at the level of ideals but truly function as an effective protection mechanism for children against the practice of early marriage. Thus, the implementation of the best interest of the child principle can be realized tangibly in the social life of the community and not merely serve as a normative concept within legal texts and regulations.

Meanwhile, according to the Theory of Utility (Legal Utility) introduced by Jeremy Bentham, the purpose of law is to achieve the greatest happiness for the greatest number that is, the greatest possible happiness for the greatest number of people. In this context, law should generate real social benefits for society and minimize suffering. However, the practice of underage marriage in Lempuyang Village demonstrates the opposite condition. Child marriage does not bring about social benefits as envisioned by the ideal objectives of law but instead creates various forms of loss and suffering, both for the individuals involved and for society at large (Bentham 2013).

Marriage at a young age often results in negative consequences such as increasing divorce rates, a higher risk of domestic violence (DV), and low economic stability among young households. Children who marry before achieving emotional and financial maturity tend to be unprepared to handle household responsibilities, which can lead to prolonged

conflict. In addition, young women who marry early are often forced to leave school, ultimately limiting their opportunities to obtain decent employment in the future. This situation contributes to the rise of structural poverty, as young families lacking education and skills generally find it difficult to achieve economic well being (Rofi'ah et al. 2025).

From a social perspective, child marriage also affects the declining quality of the nation's next generation. Children born from early marriages are vulnerable to malnutrition, lack of parental attention, and limited educational support. This indirectly leads to a decrease in the overall quality of human resources in the future. Therefore, from the standpoint of legal utility, the practice of underage marriage contradicts the very purpose of law itself, as it fails to create welfare and instead perpetuates suffering and social Injustice. From a social perspective, child marriage also contributes to the declining quality of the nation's future generations. Children born from early marriages are vulnerable to malnutrition, lack of parental attention, and limited educational support. This indirectly impacts the overall quality of human resources in the future. Therefore, from the standpoint of legal utility, the practice of underage marriage contradicts the very purpose of law itself, as it fails to create welfare and instead increases suffering and social injustice.

Furthermore, legal policies that allow leniency in granting marriage dispensations actually weaken the effectiveness of the law in providing protection for children. The practice of granting dispensations loosely without adequate psychological and social considerations renders the law devoid of utility and justice, which are supposed to be the very essence of every legal norm. In other words, when the law fails to prevent the practice of early marriage, it no longer functions as a tool to achieve social benefit, but instead becomes a means of legitimizing violations of children's rights (Hulu and Harahap 2025). Therefore, when viewed through Bentham's Theory of Utility, the practice of underage marriage clearly contradicts the principle of legal utility, as its outcome does not create happiness and social welfare but instead worsens societal conditions. An ideal legal system should provide protection, balance, and benefit for all members of society particularly for vulnerable groups such as children. By strengthening the enforcement of the law and eliminating disproportionate dispensation practices, the law can once again fulfill its function as an instrument of social welfare that promotes justice and collective happiness.

Based on the above discussion, it can be concluded that underage marriage in Lempuyang Village remains a violation of children's rights and a deviation from the objectives of national law. The law has provided a clear framework through the raising of the minimum marriage age and the reinforcement of child protection; however, its implementation has not yet been optimal. Concrete efforts are needed, including increasing public legal awareness, strictly limiting the granting of marriage dispensations, and fostering synergy among the government, religious leaders, and educational institutions in preventing early marriage practices. Through these measures, the law will not merely exist as a normative text but will truly function as a means of protection and social welfare for the children of Indonesia.

Conclusion

Village, Tanara District, continues to occur due to low public legal awareness, economic factors, and strong cultural influences, while law enforcement through the marriage dispensation mechanism has not been effectively implemented. This condition contradicts the provisions of Law Number 16 of 2019 and the principles of child protection under Law Number 35 of 2014, as it neglects children's rights to grow, develop, and live a decent life. From the perspective of the Child Protection Theory and the Theory of Utility, the practice of early marriage not only violates children's fundamental rights but also fails to provide social

benefits, instead resulting in long-term suffering such as school dropouts, poverty, and domestic violence. Therefore, firm law enforcement and continuous legal education for the community are necessary to ensure that the objectives of the law to protect and promote the welfare of children can be truly realized.

The author suggests that the government should tighten the granting of marriage dispensations by taking into account the psychological and social aspects of children to prevent misuse. Legal dissemination concerning the minimum age for marriage and the impacts of early marriage should be strengthened through the active involvement of local governments, schools, and religious leaders. Furthermore, the community needs to be empowered to understand that child marriage is not a solution but a violation of children's rights that can have negative consequences for the future of the younger generation.

Bibliography

- Aditya, Rizky Irfano, and Lisa Waddington. 2021. "Bestuur" 9 (2): 126–34.
- Agustina, Arlene, and Livia Clarista. 2018. "The Application of Utility in Indonesia Based on the Principles of Utilitarianism." *FIAT JUSTISIA: Jurnal Ilmu Hukum* 12 (4): 346. <https://doi.org/10.25041/fiatjustisia.v12no4.1381>.
- Agustina, Niken Iaras. 2019. *No Titik*. *ペインクリニック学会治療指針 2*.
- Akhmad Munawar. 2015. "Sahnya Perkawinan Menurut Hukum Positif Yang Berlaku Di Indonesia." *Al-Adl : Jurnal Hukum* 7 (13): 21.
- Arliman S, Laurensius. 2024. "Teori Dan Konsep Perlindungan Anak Di Indonesia." *Ensiklopedia Of Journal* Vol. 6 No. (3): 325–31. <https://jurnal.ensiklopediaku.org/ojs-2.4.8-3/index.php/ensiklopedia/article/download/2681/pdf&ved=2ahUKEwjbr8qB-4eOAxXfTWwGHVhtHFgQFnoECBYQAQ&usq=AOvVaw2mFR3ooniP8VnLZuLoiD8Q>.
- Aulia Az-Zahra, Nazira, and Pitojo Budiono. 2025. "Efektivitas Implementasi Kebijakan Dalam Penanganan Perkawinan Anak Di Pandeglang Studi Pada Kebijakan Perlindungan Anak." *Jiip: Jurnal Ilmiah Ilmu Pemerintahan* 10 (1): 35–46. <https://doi.org/10.14710/jiip.v10i1.24668>.
- Ayu, Dewa, Agung Ika, I Gusti Agung, and Mas Rwa. 2024. "Underage Marriage in the Context of Local Culture and Tradition : Protection through Customary Law" 4 (1): 139–44.
- Bentham, Jeremy. 2013. "An Introduction to the Principles of Morals and Legislation (Excerpt)." *Problemos* 83:188–90. <https://doi.org/10.15388/problemos.2013.0.822>.
- — —. 2018. "An Introduction to the Principles of Morals and Legislation." *Princeton Readings in Political Thought: Essential Texts from Plato to Populism, Second Edition*, 365–68. <https://doi.org/10.2307/j.ctv19fvzzk.34>.
- BPS, UNICEF, PUSKAPA. 2020. "Prevention Of Child Marriage : Acceleration That Cannot Wait." *Unicef*, 01. <https://www.unicef.org/indonesia/sites/unicef.org.indonesia/files/2020-06/Prevention-of-Child-Marriage-Report-2020.pdf>.
- Chandra, Pivit Septiary, Sonia Sischa Eka Putri, and Abdiana Ilosa. 2024. "Problematics of Child Marriage and Its Contribution To Increasing Stunting Rates." *Jurnal EL-RIYASAH* 15 (1): 34. <https://doi.org/10.24014/jel.v15i1.30322>.
- Choirunnisa, Wardah Salsabilla, Erlina, Khusna, and Nailal. 2022. "Analisis Perkkawinan Di Bawah Umur Menurut Hukum Adat Dan Hukum Perkawinan Indonesia." *Al-Hakam: Islamic Law & Contemporary Issues* 3 (1): 1–8.
- Fitriah, Nur Izah, Abu Yazid Adnan Quthny, and Imam Syafi'i. 2023. "Dispensasi Nikah Pasca

- Terbit Uu No. 16 Tahun 2019 Di Pengadilan Agama Probolinggo." *Jurnal Asy-Syukriyyah* 24 (1): 15–30. <https://doi.org/10.36769/asy.v24i1.306>.
- Hadjon, M, Philipus. 2017. *Perlindungan Hukum Bagi Rakyat Indonesia: Sebuah Studi Tentang Prinsip-Prinsipnya, Penanganannya Oleh Pengadilan Dalam Lingkungan Peradilan Umum Dan Pembentukan Peradilan Administrasi Negara*. Bina Ilmu.
- Hulu, Insafkan Lestari, and Syaiful Khoiri Harahap. 2025. "Legal Protection for Minors Age of Applicant Marriage Dispensation Reviewed from Law Number 16 of 2019 Concerning Changes to the Law Number 1 of 1974 Concerning Marriage" 17 (1): 50–57. <https://doi.org/10.59651/relae>.
- Imran, Amran Suadi, Muh. Risnain, and Erlis Septiana Nurbani. 2024. "Aspect Of Justice Of Marriage Dispensation." *Jurnal Hukum Dan Peradilan* 13 (1): 63–88.
- Khairina, Najwa, and Muhammad Azhar Tridharma Putra. 2023. "The Association between Early Marriage Decisions and Poverty Incidents in Indonesia." *Ekilibrium : Jurnal Ilmiah Bidang Ilmu Ekonomi* 18 (2): 227–36. <https://doi.org/10.24269/ekuilibrium.v18i2.2023.pp227-236>.
- Kurniawan, Ade Fakih. 2019. *Cultural Negotiation, Authority, and Discursive Tradition: The Wawacan Seh Ritual In Banten*. State Islamic University Sunan Kalijaga.
- Lewoleba, Kayus Kayowuan, Beni Harmoni Harefa, Jl R S Fatmawati No, Pondok Labu, Jakarta Selatan, and D K I Jakarta. 2022. "4.+Pernikahan+dini+indramayu,+Yuli,+Jurnal+sint+4+(1)-Sudah+bayar-Yuli+kurniawan" 17 (1978): 823–36.
- MacPherson, Stewart. 1989. "The Convention on the Rights of the Child." *Social Policy & Administration* 23 (1): 99–101. <https://doi.org/10.1111/j.1467-9515.1989.tb00500.x>.
- Mill, John Stuart. 1863. "John Stuart Mill, Utilitarianism, 1863 1," 1–7.
- Muhammad Yusuf Hsb, Iqbal Katrino. 2022. "Journal of Islamic Law." *Journal of Islamic Law* 6 (1): 12–16. <https://www.jurnalfai-uikabogor.org/index.php/mizan/index>.
- "Pencegahan Perkawinan Anak Di Indonesia." 2022. <https://www.bps.go.id/publication/2021/12/21/e9e3c5c945d59dcdd410a7b5/pencegahan-perkawinan-anak-di-indonesia.html>.
- Rizal Arif Fitria, Ahmadi Hasan, and Masyithah Umar. 2023. "Dispensasi Kawin Dan Pemenuhan Hak Anak: Studi Pengaruh Terhadap Hak-Hak Anak Dalam Konteks Hukum Dan Sosial." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1 (4): 749–67. <https://doi.org/10.62976/ijjel.v1i4.201>.
- Rofi'ah, S, H Haryono, I Zainafree, and E Farida. 2025. "The Impact of Child Marriage: Literature Review." *Proceedings of International Conference ...*, 61–69.
- Somomoeljono, Suhardi. 2025. "Legal Theory as the Foundation of Certainty , Justice , and Utility in the Indonesian Judicial System" 3 (5): 123–32.
- Sukardi, and Q. Zaman MSI. 2024. "Nilai Hak Asasi Manusia Dalam Penegakan Hukum Terhadap Anak Pelaku Tindak Pidana." *Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia* 2 (4): 167–84. <https://journal.uui.ac.id/psha/article/view/34998>.
- Sunggono, Bambang. 2019. *Metodologi Penelitian Hukum*. Revisi. RajaGrafindo Persada.
- Tomayouw, Eko Budianto, Suwarti Suwarti, and Nam Rumkel. 2024. "Legal Analysis of Inconsistencies in Child Marriage Regulations." *Jurnal Indonesia Sosial Sains* 5 (09): 2173–84. <https://doi.org/10.59141/jiss.v5i09.1226>.
- Wang, Shuai. 2024. "Safeguarding the Future: Child Protection and the Prevention of Child Marriages in Indonesia." *Global Journal of Human-Social Science* 24 (6): 1–8. <https://doi.org/10.34257/gjhsscvol24is6pg1>.