



## **The Practice of Early Marriage in Children's Suku Anak Dalam: Challenges to Constitutional Rights and Legal Pluralism Indonesia**

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### **Abstract**

Young marriage is still a significant problem in Indonesia even though the government has strengthened regulations through Marriage Law Number 16 of 2019 which raises the minimum age limit for marriage. Challenges arise when national policies are confronted with the diversity of cultural practices and local legal systems that live within indigenous communities. In this context, the issue of fulfilling children's constitutional rights intersects with legal pluralism. This study analyzes how the practice of early marriage takes place in the Suku Anak Dalam (SAD) community and its implications for children's constitutional rights as citizens. Using a qualitative approach of case studies, data were collected through observation, interviews, and documentation in Nyogan Village, Mestong District, Jambi. The analysis is carried out through data reduction, thematic categorization, and interpretation. The findings suggest that the practice of early marriage in SAD is not only driven by economic factors and educational limitations, but also by the legitimacy of the customs that place marriage as part of the social structure of the community. This condition has an impact on the fulfillment of children's constitutional rights, including the right to education, health, legal protection, and access to civil registration. In addition, the tension between customary norms and state law reflects the strong legal pluralism that limits the effectiveness of the state in providing protection. This research emphasizes the need for a culture-based collaborative approach to ensure the fulfillment of children's rights in indigenous peoples in Indonesia.

**Keywords:** *Early Marriage; Indigenous Peoples; Constitutional Rights; Legal Pluralism; Suku Anak Dalam.*

### **Introduction**

The tension between customary norms and state law is still one of the fundamental challenges in child protection in Indonesia. In many indigenous communities, the rules that govern social life do not originate from laws, but from local norms that are passed down from generation to generation. These norms have a strong social legitimacy so they are often more obeyed than state rules. It is in this context that the progressive legal pluralism approach becomes relevant. As explained by Mukminto & Marwan (2019), Indonesia is a space where various legal systems coexist; Therefore, the formulation of public policy cannot ignore the fact that state law is not always the main reference in the lives of indigenous

peoples. The government is required to understand these social complexities so that child protection policies can run effectively.

On the other hand, the development of international research shows that the practice of marriage at a very young age brings a multidimensional impact on children. A systematic review conducted by Fan & Koski (2022) confirms that child marriage is associated with an increased risk of pregnancy complications, mental health disorders, intimate partner violence, and low access to reproductive health services. A similar picture emerged in a cross-border study conducted in Vietnam by (Bao & Cho, 2025), which suggests that children who marry early tend to experience barriers in education, economic participation, and social capacity development. The two studies affirm that the issue of marriage age is not only a cultural issue, but also a public health, social welfare, and human development issue.

The Indonesian context presents a more complex problem due to cultural diversity and strong customary authority. In some indigenous communities, the measure of maturity is not solely calculated based on age, but on readiness to carry out social roles in the group. When this concept of customary maturity meets the legal age limit of marriage set by the state, a clash of values arises that are not easy to reconcile. The state requires child protection through formal regulations such as Law No. 1 of 1974 and Law No. 16 of 2019, while indigenous communities have their own social mechanisms in determining when a person is considered ready for marriage. Thus, the implementation of state policies becomes non-linear, especially in areas that are geographically remote and socially strongly tied to customs.

One of the clearest illustrations of this complexity can be seen in the Suku Anak Dalam (SAD) communities in the Jambi and South Sumatra regions. These communities live with a distinctive social structure and have customary authorities that are respected as determinants of important decisions, including marriage. The results of the field research by Fuadi et al., (2023) suggests that in SAD customary marriage practices, maturity is determined based on physical ability, readiness to work, and social acceptance by the community, rather than chronological age as required by state law. Therefore, marriage at a young age is considered natural and is not seen as a violation of norms, but rather part of a social rite that strengthens kinship and the continuity of the community.

One of the most serious consequences of the practice of SAD customary marriage is that the marriage is not registered in the civil registry. Findings Fuadi et al., (2023) shows that the absence of official registration causes children to have difficulty obtaining birth certificates and other legal identities. Without a legal identity, children will face barriers to accessing formal education, health services, and government social assistance. This situation shows that legal pluralism not only creates a diversity of norms, but can also result in structural inequalities in the fulfillment of children's constitutional rights. In other words, even if the state has a constitutional obligation to protect the rights of the child, the effectiveness of such protection depends on the extent to which the state is able to reach out to indigenous communities that have different authority structures.

National reports also show that child marriage rates tend to be higher in areas with indigenous communities or remote areas. Official reports from UNICEF Indonesia (2020) and data from the Ministry of PPPA BPS (2022) confirm that efforts to reduce the child marriage rate cannot rely on a legal approach alone, but must consider the socio-cultural conditions of the community. In the context of SAD, this means that the state needs to understand the relationship between indigenous leaders, cultural values, and social structures before implementing policies.

In addition to the issue of legal implementation, the classical literature on legal pluralism as explained by Benton, Lauren & Ross, (2013) emphasizing that the state is not always in a position to subdue local norms. In many cases, local norms are the main reference for residents to determine their social actions. When this happens in sensitive issues such as marriage, the impact on the fulfillment of children's rights becomes significant.

Within this framework of thought, this research was conducted to understand the complex dynamics between the practice of early marriage in the SAD community, the fulfillment of children's constitutional rights, and the challenges of legal pluralism. The focus of the research is not only on how marriage is implemented, but also how the practice affects children's legal identity, access to education and health, and the capacity of the state to carry out its protection function. With this approach, this research is expected to provide a more comprehensive understanding of child protection in indigenous peoples, as well as offer insights for the development of policies that are more sensitive to the cultural context and diversity of the legal system in Indonesia.

## **Method**

This research uses a qualitative approach to capture meanings, social practices, and cultural dynamics that cannot be explained through a quantitative approach. This approach is in line with the view that (Creswell John, 2019) which affirms that qualitative research aims to understand human experience in its natural context. The case study design was applied to explore in depth the practice of early marriage in the Suku Anak Dalam (SAD) community, as the case study allows the researcher to examine social phenomena in a context-bound manner.

The research was conducted in Nyogan Village, Mestong District, Jambi Province, one of the areas inhabited by the SAD community with a strong social and customary structure. This location was chosen purposively because it is relevant to the phenomenon being studied. The research informants included traditional leaders, community leaders, village officials, parents, and young couples who married at an early age. The selection of informants was carried out using purposive and snowball techniques, to ensure that participants had first-hand experience or in-depth understanding of the practice of marriage in their community.

Data collection was carried out through three main techniques: in-depth interviews, field observations, and documentation. Interviews are conducted in a semi-structured manner so that informants have the space to express their experiences and perspectives freely. Observations were made to understand the social context, interaction patterns, and customary rituals related to young marriage practices. Documentation is used to collect secondary data such as village archives, records of customary institutions, and relevant legal documents. This multimodal approach helps researchers obtain a comprehensive picture of the relationship between customs, state law, and the fulfillment of children's constitutional rights.

Data analysis is carried out through a thematic analysis approach that includes the transcription process, initial coding, theme identification, theme review, and in-depth interpretation. This analysis was chosen because it was able to capture patterns of meaning in narrative data while allowing researchers to link field findings with theoretical frameworks on legal pluralism and child protection.

The validity of the data is maintained through source triangulation techniques, re-checking findings, and discussions with certain informants. The principle of trustworthiness is used to ensure the credibility, transferability, dependability, and confirmability of data. In addition, ethical considerations are an important part of this study. Researchers maintain the confidentiality of the informant's identity, seek approval before the interview, and ensure that the research process does not interfere with the social and customary activities of the SAD community. With this methodology, the research is expected to produce an in-depth understanding of the practice of early marriage in the SAD community, the dynamics of customary-state relations, and its implications for the fulfillment of children's constitutional rights.

## Results and Discussion

### Early Marriage as a Cultural Practice in the Orang Dalam Tribal Community

This finding is in line with ethnographic studies that show that the social life of the Suku Anak Dalam (SAD) is guided by customary values and norms contained in traditional seloko as the main guideline for social behavior and decision-making (Febrianty et al., 2021). In this framework, early marriage is not understood as a social deviation, but rather as part of a customary mechanism that regulates the transition to adulthood, where maturity is not measured based on chronological age, but on the ability of individuals to carry out social roles, work, contribute to group life, and comply with applicable customary norms (Febrianty et al., 2021). Thus, the legitimacy of marriage in the SAD community is determined more by customary recognition and authority than by formal age restrictions set by the state.

In a field interview, an indigenous leader said:

*"If the child can participate in work and understand the customary rules, that is enough. Age is not the main thing for us."*

The statement illustrates that maturity is understood as a social function, not a biological one. The marriage process in indigenous communities is generally carried out through family deliberations and obtaining approval from indigenous leaders, while the presence of the state through a civil registration mechanism is often not seen as the main requirement for the validity of marriage. This is in line with the findings (Elimartati et al., 2024) which shows that in the practice of serial marriage in indigenous peoples, the validity of marriage is more determined by social recognition and settlement based on customary law, including in the arrangement of marriage, divorce, and family issues, while state registration is positioned as a secondary administrative aspect. Thus, the dominance of customary law in the social life of the community reflects the condition of legal pluralism, in which the customary law system and state law exist side by side but do not always have an equal position in social practice (Elimartati et al., 2024).

A female informant who married at a young age explained:

*"We got married because our family had agreed. The important thing is that the custom has been completed, the affairs of the papers will be done later."*

The dominance of marriage practices based on social and religious legitimacy has led to most marriages not being administratively recorded by the state. This condition, as shown by Soraya et al., (2025) has a direct impact on children born from unregistered marriages, especially difficulties in obtaining birth certificates, clear legal status, and recognition of their civil rights. The absence of marriage registration puts children in a vulnerable position because access to education, health services, and social security is highly dependent on the possession of a legal identity. In this context, the practice of nikah sirri shows the weak protection of state law for women and children when formal law is not effectively present in social reality.

Therefore, the perspective of progressive legal pluralism requires the state to understand the power relationship between state law and non-state law, since the imposition of formal records without a dialogical approach and socio-cultural sensitivity tends to be ineffective and has the potential to strengthen the vulnerability of vulnerable groups. In addition to cultural factors, interviews also show that economic conditions also strengthen this practice. In families with economic limitations, marriage is seen as a strategy to reduce the burden on the family. One parent stated:

*"If the child is married, the responsibility moves. We can't afford to go to school for long."*

This economic dimension is in line with empirical findings showing that the practice of early marriage is closely correlated with conditions of poverty and limited access to education, especially in

families with irregular incomes and low levels of education. Economic pressure is the dominant factor that encourages families to marry minors as a strategy to reduce the economic burden, which at the same time reinforces the cycle of poverty through school dropouts and economic dependence of children after marriage (Riska, 2025).

In this context, the practice of early marriage does not stand as a single decision, but is the result of a complex interaction between social and customary norms that legitimize early marriage, limited family economic conditions, and lack of access to education and state services that are supposed to protect children's rights. Overall, the findings on this theme suggest that the practice of early marriage in SAD communities has a strong social rationality within customary frameworks, but at the same time generates structural vulnerability to the fulfillment of children's rights. The tension between customary legitimacy and state obligations is the basis for the analysis of the next theme, namely the factors that drive the sustainability of the practice of early marriage in the SAD community.

### **Factors That Encourage the Occurrence of Early Marriage in the Inner Child Tribal Community**

The findings of the study show that the sustainability of young marriage practices in the Suku Anak Dalam (SAD) tribe community cannot be explained by a single factor. This practice is the result of a complex interaction between customary norms, family economic conditions, limited access to education, and the lack of state presence in the social life of the community. Cultural factors remain the main foundation, but structural factors play a role in strengthening and sustaining these practices.

Customary norms are the most dominant factor in shaping the community's perspective on marriage, because in indigenous societies, marriage is understood as a socio-cultural institution that functions to maintain the continuity of identity and social order. In the Suku Anak Dalam (SAD), marriage is seen as a natural part of the life cycle, where readiness to marry is not determined by chronological age, but by the individual's ability to work, carry out social roles, and comply with customary norms. This condition shows that customary legitimacy has a stronger influence than the age of marriage provisions in state law (Nurlita et al., 2025).

*"If the custom has said that it is allowed, we do not see the need to wait for a certain age. The important thing is that the child is strong and can live."*

In addition to customary norms, family economic conditions are also a significant driving factor. Most SAD families live in economically limited areas with minimal access to formal employment and fixed sources of income. In this situation, marriage is often seen as a family strategy to transfer the child's economic responsibilities to the spouse or the couple's family. One parent said:

*"We can't afford to pay for our children for a long time. If someone already wants to, it's better to get married."*

This pattern is in line with global findings that show that poverty and limited economic resources are the main drivers of early marriage, which interacts with social norms and limited educational opportunities (Psaki et al., 2021). In the context of the Suku Anak Dalam (SAD), the economic pressure is strengthened by the lack of access to education and state social protection and assistance programs, so that young marriage is perceived as a rational choice in these limited conditions.

Another factor that plays an important role is the low access and participation of education. Field findings show that many children do not complete basic education because formal education is not yet seen as a primary need, especially when the child has been deemed capable of working and helping the family economy. According to Andriani & Jailan, (2025) suggests that the low level of education of children and parents forms the perception that schools do not provide immediate benefits, so the decision to marry a child at a young age is seen as a rational choice. This condition confirms the close relationship between low education and the sustainability of early marriage practices.

In addition, the lack of state presence in the daily life of the Suku Anak Dalam (SAD) community has also strengthened the practice of marriage at a young age and unregistered marriages. According to Sonu et al., (2025) It shows that although the state has established a clear legal framework regarding age and marriage registration, weak legal socialization and limited supervision have made it ineffective at the community level. State officials are rarely involved in family law assistance and education, so people rely more on social and religious legitimacy without understanding the implications of unrecorded marriage laws. This condition reflects the practice of legal pluralism, in which state law is normatively present, but does not run practically in the social life of the community.

A village official revealed the dilemma he faced:

*"We know the age of marriage rules, but if the customs have agreed, it is difficult for us to prohibit it."*

This statement shows the limited authority of the state at the local level to strengthen the sustainability of the practice of early marriage, because when the state is not present consistently and sensitive to the cultural context, customary norms become the main reference for the community. In the condition of legal pluralism, state law is often normatively present but depends on negotiations and customary practices in daily life, so a dialogical approach is more relevant than formal law enforcement alone (Manse, 2024).

Overall, the factors that encourage the occurrence of early marriage in the SAD community are interrelated and mutually reinforcing. Customary norms provide social legitimacy, economic conditions create structural pressures, low education reduces alternative life choices, and the lack of state presence weakens legal protection. This combination of factors explains why the practice of early marriage continues despite national regulations prohibiting it.

### **The Impact of Early Marriage on the Fulfillment of Children's Constitutional Rights**

The findings of the study show that the practice of early marriage in the Suku Anak Dalam (SAD) community has a direct impact on the fulfillment of children's constitutional rights as citizens. The impact is not only individual, but also structural as it relates to access to education, health, legal protection, and civic identity. In the context of strong indigenous communities, these impacts are often not perceived as rights violations, but rather as a natural consequence of prevailing social norms.

One of the most obvious impacts is the inhibition of children's right to education. Field findings show that children, especially girls who marry at a young age, almost always stop attending formal education. After marriage, domestic roles and family responsibilities are considered more important than education. A female informant stated:

*"After getting married, I didn't go to school anymore. I have to follow my husband and take care of the house."*

This condition is in line with the findings of UNICEF Indonesia (2020) which confirms that child marriage contributes significantly to the high dropout rate, especially for girls. When education is stopped, children's opportunities to increase social and economic capacity in the future become very limited. In addition to education, the right to health is also seriously affected. The study found that women who were married and pregnant at a very young age faced higher health risks, while access to formal health services was relatively limited. An informant recounted:

*"When I was first pregnant, I was often sick, but rarely went to the health center because it was far away."*

These findings suggest that early marriage significantly increases the risk of pregnancy complications, perinatal mortality, as well as mental health disorders such as anxiety and depression in adolescent girls. Nurhaeni et al., (2025) emphasized that these health risks are increasingly higher in rural

communities and marginalized groups who have limited access to health services and education. In the context of the SAD community, limited access to health services exacerbates this vulnerability, so that girls are in a very vulnerable position physically and psychologically.

Another significant impact is the neglect of children's rights to legal identity. Many traditional marriages in the Suku Anak Dalam (SAD) community are not officially recorded, so children born from these marriages do not have birth certificates that list the identities of both parents. According to Wahyuni & Hufron, (2023) showing that children born of unmarried marriage are legally only recognized as children of the mother, which has an impact on the limitations of administrative recognition and the fulfillment of the child's civil rights. This condition causes children to lose optimal access to public services, such as education, health, and legal protection, and shows the weak legal identity guarantee for children in the context of unregistered marriages.

*"If there is no marriage certificate, it is also difficult for the child to make a birth certificate."*

This lack of legal identity has long-term implications for children's constitutional rights, including the right to formal education, health insurance, and social protection. Without a legal identity, children are outside the state administrative system and are at risk of social exclusion. The impact of early marriage is also seen in the increasing vulnerability of girls to violence and exploitation, due to weak bargaining positions due to economic dependence and inequality in power relations in households. Systematic reviews show that women who marry at a young age have a higher risk of intimate partner violence, and this condition in the Suku Anak Dalam (SAD) community is exacerbated by limited access to protection services (Han et al., 2025).

From a broader perspective, these impacts suggest that the practice of early marriage not only affects children individually, but also has the potential to create cycles of intergenerational vulnerability. Narrative overview Burgess et al., (2022) suggests that child marriage is associated with educational loss, economic limitations, domestic violence, and mental health disorders, which can cumulatively undermine women's well-being and the child-rearing environment in the future. In the context of the Suku Anak Dalam (SAD) community, a combination of limited education, poverty, and lack of access to services risks reproducing similar patterns of vulnerability across generations if not accompanied by adequate interventions (Burgess et al., 2022)

Within the framework of legal pluralism, the impact on the fulfillment of children's constitutional rights shows the state's limitations in ensuring effective protection in indigenous communities. According to Sumaya, (2025) It shows that although state law has formal legitimacy in regulating the age limit for marriage and the protection of children's rights, customary norms remain more dominant because they have strong social legitimacy and are considered more appropriate to the local context. As a result, the application of state law often does not run effectively when it does not take into account the values and customary practices that live in the community. This condition reflects asymmetrical legal pluralism, where state law is normatively present but dependent on local negotiations, thus underscoring the importance of a dialogical, contextual, and culturally sensitive approach to child protection, rather than mere formal law enforcement (Sumaya, 2025).

Overall, this theme shows that the practice of early marriage in the SAD community has a direct and systematic impact on the fulfillment of children's constitutional rights. Without interventions that take into account indigenous dynamics and local social structures, children in these communities will continue to be vulnerable and marginalized from the state's protection system.

### **Tension between Customary Law and State Law in Child Protection**

The results of the study show that the tension between customary law and state law in the Suku Anak Dalam (SAD) community does not only stem from differences in norms, but also from different perspectives on the concept of children, maturity, and social responsibility. The state positions children as

legal subjects who must be protected up to a certain age, while in SAD customary law, the status of children or adults is determined based on their ability to carry out social roles, not chronological age. This fundamental difference is the starting point for normative conflicts in the practice of early marriage.

Normatively, the state has set the minimum age limit for marriage through Law Number 1 of 1974 which was then revised through Law Number 16 of 2019, which raised the minimum age of marriage to 19 years for men and women. This provision is intended as an instrument for child protection and the fulfillment of citizens' constitutional rights. However, field findings show that the regulation has not been effective in reaching indigenous communities such as SAD. This ineffectiveness is not solely due to an open rejection of state laws, but because they are not internalized in local value systems.

The Constitutional Court Decision Number 22/PUU-XV/2017, which is the basis for changing the marriage age limit, emphasizes that child marriage is contrary to the principles of protecting children's rights and gender equality. However, in the context of the SAD community, the decision has not had a practical impact because it is not accompanied by an implementation mechanism that is sensitive to customs. Local government officials tend to be in a dilemma between the obligation to enforce the law and maintain social harmony with indigenous communities.

A village official said in an interview:

*"The state rules are clear, but if they are implemented directly without talking about customs, it can cause conflicts. We have to be careful."*

This statement suggests that the country's law enforcement within indigenous communities is often hampered by local social and political considerations. The state is present as a formal authority, but it does not always have strong social legitimacy at the community level. This tension is also related to Indonesia's obligations as a state party to the Convention on the Rights of the Child (CRC) which has been ratified through Presidential Decree Number 36 of 1990. The CRC affirms the child's right to education, health, protection from harmful practices, and the best interests of the child as the main principles. In the practice of early marriage in the SAD community, the principle of the best interests of the child is often defeated by customary and economic considerations of the family. The UNICEF Indonesia report (2020) explicitly states that indigenous communities and remote areas are the groups most difficult to reach by child marriage prevention policies.

In addition, the study found that the absence of marriage registration worsened the legal position of children in the state system. Without recording, the state loses the entrance to carry out administrative protection of children. This situation creates what can be called *legal invisibility*, which is a condition when the child is socially recognized by the community, but legally invisible to the state. The consequence of this condition is limited access to formal education, health services, and social protection.

The tension between customary law and state law in this context suggests that child protection cannot rely solely on formal legal instruments. The state needs to establish a mechanism for sustained dialogue with indigenous leaders and local communities so that the value of child protection can be translated into the cultural language that the community understands. Approaches that ignore customary contexts risk strengthening resistance and weakening policy effectiveness. Overall, this theme shows that the challenge of child protection in the SAD community does not lie in the absence of regulation, but in the gap between the country's legal norms and customary social realities. Without an inclusive and dialogue-based implementation strategy, state law will continue to be in a symbolic position, while customary law remains the main reference in the practice of young marriage.

## Conclusion

This study shows that the practice of early marriage in the Suku Anak Dalam (SAD) community cannot be understood solely as a violation of the law, but as part of a social and cultural system that has its own internal rationality. In the context of indigenous communities, marriage serves as a mechanism for regulating social life, strengthening kinship, and markers of maturity based on local norms. These findings confirm that the measure of maturity in the SAD community does not depend on chronological age, but on readiness to carry out social roles, so that the age limit of marriage as regulated by state law is often not the main reference.

However, this study also shows that the practice has serious consequences for the fulfillment of children's constitutional rights. Early marriage has a direct impact on the inhibition of children's rights to education, health, legal identity, and protection from violence. The absence of marriage and birth registration causes children to be in a position of administrative and social vulnerability, so access to public services is limited. This condition suggests that although the practice of customary marriage has strong social legitimacy, its implications have the potential to reinforce the structural inequalities experienced by children in indigenous communities.

This study also confirms that the sustainability of young marriage practices in the SAD community is influenced by the complex interaction between customary norms, family economic conditions, low access to education, and lack of state presence. The tension between customary law and state law is not only normative, but also reflects the state's limitations in translating child protection policies into local socio-cultural contexts. National regulations and court rulings have provided a strong legal foundation, but their effectiveness depends on implementation strategies that are able to reach indigenous communities in a dialogical and inclusive manner.

Within the framework of legal pluralism, the findings of this study enrich the understanding of how state law and customary law interact in practice, as well as how these interactions affect the fulfillment of children's constitutional rights. This study confirms that child protection in indigenous peoples cannot be achieved through a legalistic approach alone. Countries need to develop culturally sensitive protection strategies, engage indigenous leaders as partners, and put the best interests of children as the main principle. With this approach, efforts to protect children in indigenous communities can be carried out without negating cultural identity, while ensuring that children's constitutional rights as citizens are guaranteed.

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