

The Discourse on Forced Marriage as a Form of Child Exploitation from a Criminal Law Perspective

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ABSTRACT: Forced marriage involving children is a form of structural violence that deprives children of their dignity, autonomy, and fundamental rights, exposing them to sexual exploitation, domestic violence, and economic dependence. Such practices violate the mandate of the 1945 Constitution of the Republic of Indonesia, which guarantees children protection from all forms of violence and discrimination. This study employs a normative legal research method using statutory, conceptual, and comparative approaches to examine the legal and social factors sustaining child forced marriage, including patriarchal norms, structural poverty, misuse of marriage dispensation, and informal family-based dispute resolution. Philosophical and victimological perspectives confirm that children lack the legal and psychological capacity to provide free and informed consent, rendering child marriage inherently coercive. Comparative analysis of countries implementing preventive measures, such as Forced Marriage Protection Orders, reveals Indonesia's limited protective framework. Therefore, stronger child-rights-based law enforcement, legal reform, public education, and comprehensive victim recovery mechanisms are essential to effectively prevent and eradicate child forced marriage.

KEYWORDS: child forced marriage, exploitation, legal protection.

INTRODUCTION

The protection of children within the Indonesian legal system is not merely a moral imperative but also a constitutional obligation explicitly mandated by the 1945 Constitution of the Republic of Indonesia. Article 28B paragraph (2) stipulates that every child has the right to survival, growth, and development, and the right to obtain protection from all forms of violence and discrimination. This mandate is reinforced by Article 28I paragraph (4), which affirms that the promotion, protection, and fulfillment of human rights are the responsibility of the state. This constitutional spirit is subsequently systematized through various legislative instruments, such as the Child Protection Law, which explicitly prohibits all forms of exploitation and psychological or sexual violence against children as regulated in Article 13 paragraph (1) and Article 76F. At the same time, the Marriage Law, through Article 7 paragraph (1), establishes the minimum age of marriage at 19 years as a means of protecting children from entering marital unions before achieving adequate physical and psychological maturity. This provision aligns with Article 6 paragraph (1), which asserts that marriage is valid only when based on the

consent of both parties, thereby positioning any form of coercion as an act contrary to the law (Rakhmatulloh, 2022).

Furthermore, the Sexual Violence Crime Law reinforces this position by classifying forced marriage as a criminal act of sexual violence under Article 10 letter (f), affirming that such practices constitute manipulation, abuse of power, and exploitation of victims, particularly when the victims are children. Forced marriage involving children is not merely a moral deviation or a misguided cultural tradition, but a serious legal violation that strips children of their fundamental rights and necessitates strong law enforcement grounded in a child protection perspective. (Marzuki & Siroj, 2022)

Although the law has provided strong protection, forced marriage involving children remains a deeply rooted phenomenon in various regions of Indonesia. In Central Lombok Regency, the strong influence of religious factors is clearly reflected in the prevalence of child marriage. Studies highlight the social background underlying the high rate of child marriage as a consequence of the dominant approval of marriage dispensation requests at the Praya Religious Court (PA Praya), Mataram City. In the past three years, PA Praya has granted more than 90% of marriage dispensation applications, with the majority of these applications submitted on the grounds of avoiding zina (90%). This indicates that moral-religious narratives serve as a powerful driving force. Additionally, parental personal intentions also constitute a dominant factor influencing the decision to marry off underage children (Hidayatullah & Praya, 2024).

These findings are consistent with data from various institutions indicating that the practice of child marriage is not only driven by poverty, tradition, or cultural pressure, but also by the belief that early marriage is a quick solution to a range of social problems within the family. For example, concerns about promiscuity, adolescent relationships perceived as too intimate, or unwanted pregnancies are often cited as reasons believed to be “resolved” through marriage. Consequently, the practice of child marriage becomes a combination of moral-religious factors, social pressure, and misguided perceptions of marriage as an instant escape route. (Susiana, 2025)

In this context, children are often marginalized due to their economic dependence and the dominant authority of their parents. This situation illustrates a significant gap between the normative expectations constructed by law and the realities practiced within society. Although the law clearly establishes prohibitions, social awareness has not yet progressed in alignment with existing legal norms. (Rostiawati & Khadijah, 2013)

In the discourse of criminal law, forced child marriage can be classified as a crime that contains elements of exploitation. The Sexual Violence Crime Law (UU TPKS) explicitly regulates forced marriage as a criminal offense, including when it is committed by parents, guardians, or other parties who hold power or influence over the child (Mongkaren et al., 2023). Meanwhile, the Law on the Eradication of Human Trafficking Crimes (UU TPPO) contains elements of exploitation that include sexual exploitation, forced labor, and modern slavery, and it explicitly recognizes forced marriage as a regulated form of forced marriage exploitation (Maharany & Rosando, 2025).

In many cases, children are forced into marriage not merely to meet family needs, but to serve the economic or social interests of other parties. From this perspective, criminal law functions to protect the *rechtsgüter* in the form of dignity, freedom, and bodily integrity of the child. As stated by Moeljatno, the essence of a criminal act is conduct that is reprehensible and harms legally protected interests, therefore the practice of forced marriage of children should be classified as a crime with multidimensional impacts. (Angraeni et al., 2024)

Philosophically, forced marriage contradicts the fundamental principle of human dignity. Immanuel Kant asserts that human beings are ends in themselves, and must never be treated merely as instruments to achieve the goals of others (Abbas, 2024). When a child is forced into marriage to conceal shame, avoid cultural pressure, or fulfill the economic interests of the

family, they are reduced to an object controlled by the will of others. Moreover, John Rawls's theory of justice positions the protection of the most vulnerable groups as a fundamental requirement for the realization of a just society (Wright, 1999). Children, as individuals who do not yet possess full autonomy, occupy the weakest position within the social structure; therefore, coercion against them constitutes a serious violation of the moral principles of justice. This perspective affirms that the issue of forced marriage is not merely a breach of positive legal norms, but also a violation of ethical values that serve as the foundation of collective life.

The contribution of modern legal theory enriches the analysis of forced marriage. Nonet and Selznick, through the concept of responsive law, emphasize the importance of a legal system that is capable of adapting to societal needs and protecting vulnerable groups (Nonet et al., 2017). If law is understood merely as a set of formal rules, it fails to capture the complexity of problems that arise when a child is placed under familial or communal pressure. From the perspective of Mendelsohn's victimology, children who are subjected to forced marriage fall into the category of completely innocent victims individuals who bear no contribution whatsoever to the crime they experience. Therefore, the state must provide comprehensive protection, ranging from legal safeguards and psychological rehabilitation to guarantees of access to education. Accordingly, the approach to handling cases of forced marriage must prioritize victim recovery rather than focusing solely on punishing the perpetrator.

The discourse on forced marriage as a form of child exploitation demonstrates a wide gap between regulation and the actual implementation of law enforcement in Indonesia. Although legal instruments such as the Child Protection Law, the Law on Sexual Violence Crimes (TPKS), and the Law on the Eradication of Human Trafficking (TPPO) have established a strong normative foundation, the existence of these laws does not automatically translate into effective protection at the practical level (Saraswati, 2015)

Law enforcement officials, particularly at the regional level, often fail to recognize that forced marriage constitutes a form of child exploitation, resulting in cases not being processed through formal criminal procedures but instead being "resolved" through customary mechanisms, familial negotiations, or informal mediation. This phenomenon reflects Satjipto Rahardjo's (2009) classical concept of "law in books" failing to transform into "law in action," which ultimately causes legal norms to lose their social force and effectiveness. The inability of the law to operate substantively results in child victims losing access to justice, recovery, and protection that should be guaranteed by the state. Thus, the core problem does not lie solely in the quality of regulation, but in the weak institutional capacity to ensure that legal norms function effectively in reality.

The weakness of legal implementation cannot be separated from the limited capacity of law enforcement officers to understand forced marriage as a gender-based crime and a form of child exploitation (Mongkaren et al., 2023). In many regions, law enforcement officers remain trapped in cultural understandings that position child marriage as a hereditary tradition or a pragmatic solution to family conflict. Without training grounded in gender-sensitive and child-centered perspectives, law enforcement authorities often position themselves as "mediators" rather than legal actors who are obligated to ensure the victim's recovery. From a victimological perspective, this pattern reflects a tendency to view victims not as legal subjects with rights, but as passive entities within family conflict, leading to compromise-based resolutions. This lack of sensitivity produces revictimization, in which victims suffer additional harm due to the legal system's inability to provide adequate protection. Limited institutional capacity reinforces that the issue of forced marriage is not merely a matter of substantive law, but also a matter of human resource quality and the normative awareness of law enforcement officials.

Low levels of public awareness constitute a crucial factor that perpetuates forced marriage as a socially legitimate even honorable practice in certain communities. The culture of shame and the patriarchal structure that dominates many communities drive families to pressure children into marriage in order to preserve family honor or avoid social stigma. Within this

socio-cultural framework, collective interests are often placed above the individual rights of the child, causing society to fail to recognize that forced marriage is inherently a form of exploitation that violates dignity, autonomy, and the right to protection and development. Low legal literacy and deeply ingrained cultural biases also generate resistance to law enforcement efforts when authorities attempt to process cases through criminal justice mechanisms. As a result, law enforcement officials often choose to avoid social conflict by refraining from pursuing legal proceedings. Consequently, formal law loses its legitimacy because local cultural values become more dominant in shaping community responses to cases of forced marriage. (Belladonna et al., 2023)

The economic dimension plays a significant role in the practice of forced marriage, particularly among families in vulnerable conditions. Economic pressures drive families to view marriage as a strategy to reduce financial burden or gain material benefits, such as through dowry payments, financial assistance from the in-laws, or the reduction of household support obligations. From the perspective of the Law on the Eradication of Human Trafficking (UU TPPO), this practice can be categorized as economic exploitation that uses the institution of marriage as a mechanism of concealment. However, because economic issues are often regarded as private domestic affairs, such forms of exploitation become invisible and are rarely recognized as criminal acts. This phenomenon creates hidden exploitation that operates within the private sphere and is not easily detected by legal instruments. Without an interdisciplinary approach that includes family economic analysis, social psychology, and gender dynamics, criminal law is at risk of failing to identify the root of the problem. Therefore, the handling of forced marriage cannot rely solely on a penal approach, but must be integrated with poverty alleviation policies, the economic empowerment of vulnerable families, and the strengthening of social protection mechanisms.

Within the structure of family relationships, children are positioned as highly vulnerable due to their economic, social, and emotional dependence on their parents. This imbalance of power creates coercive conditions that are not always physical or verbal, but are manifested through forms of coercive control, such as emotional manipulation, threats of withdrawing affection, or doctrinal expectations of obedience to parents. Such non-physical coercion is often not recognized as violence and is difficult to prove in the criminal justice process, which still requires an explicit element of coercion. Consequently, many cases of forced marriage that substantively meet the criteria of child exploitation fail to proceed to trial due to limitations in legal constructs that are not sensitive to the dynamics of power relations within the family (Dewi et al., 2024). This demonstrates that legal protection for children requires a broader understanding of psychological violence and patterns of control in interpersonal relationships, as well as a paradigm shift among authorities in recognizing forms of coercion that are not immediately visible.

Although regulations prohibit forced marriage and provide criminal sanctions, the implementation of these policies remains hindered by inconsistencies between state law and local cultural practices. In many communities, legal reform has produced a phenomenon of superficial administrative compliance, in which communities appear to obey the law when interacting with state institutions, yet continue to carry out child marriages through informal mechanisms such as unregistered religious officiants or customary ceremonies. This indicates that positive law has not yet transformed into living law, and therefore lacks the normative force necessary to change social behavior. When social and cultural structures remain dominant, law enforcement becomes reactive, sporadic, and non-substantive. Therefore, resolving the issue of forced marriage requires not only a penal legal approach, but also social and cultural transformation through public education, community empowerment, the development of new social norms, and synergy between state law and customary law that prioritizes victim

protection. Without such comprehensive efforts, forced marriage will continue to operate as a hidden practice beyond the reach of the legal system.

The legal novelty of this research lies in its effort to reconceptualize forced child marriage as a criminal act of exploitation with multidimensional characteristics, rather than merely an administrative, civil, or socio-cultural issue. This study adopts a multidisciplinary approach, integrating criminal law, legal philosophy, victimology, and power relation theory. It also emphasizes a progressive victimological perspective by positioning children as completely innocent victims who lack the legal and psychological capacity to give valid consent.

Furthermore, this research critically addresses the gap between law in books and law in action, particularly the tendency to resolve forced marriage cases through informal or familial mechanisms that undermine child protection. In terms of legal reform, this study proposes a preventive (pre-emptive) legal approach, including the adoption of mechanisms such as Forced Marriage Protection Orders and the strengthening of the best interest of the child principle. Ultimately, this research contributes a new legal perspective by classifying forced child marriage as a serious crime against human dignity, and potentially as a crime against humanity, thereby requiring a firm, comprehensive, and transformative legal response.

RESEARCH METHOD

This study employs a normative juridical method, which emphasizes the analysis of positive legal provisions, legal principles, and doctrines found in legal literature related to forced child marriage as a form of exploitation. The research relies primarily on the review of written legal materials. The approaches employed in this study include the statutory approach, which examines relevant regulations such as the 1945 Constitution of the Republic of Indonesia, the Child Protection Law, the Marriage Law, the Law on Sexual Violence Crimes (TPKS), and the Law on the Eradication of Human Trafficking (TPPO). In addition, the conceptual approach is used to explore concepts such as coercion, invalid consent, exploitation, power relations, and human dignity. The research is further enriched by reviewing the philosophical ideas of Immanuel Kant, John Rawls, and the concept of the best interest of the child as recognized in international human rights instruments. Moreover, the comparative approach is employed to study how developed countries such as the United Kingdom, Australia, and Canada regulate forced marriage as a criminal offense and form of exploitation, while also providing specialized protective instruments for victims. This approach enables the identification of best practices that may serve as references for the Indonesian legal system. The legal materials used in this study include primary legal materials, such as statutory regulations; secondary legal materials, including books, scholarly journals, and expert opinions; and tertiary legal materials, such as legal dictionaries and encyclopedias.

RESULT & DISCUSSION

Criminal Instruments for Child Protection in the Context of Forced Marriage, Viewed from a Legal Perspective

Forced marriage of children constitutes a form of structural violence that threatens children's human rights, undermines bodily autonomy, and increases their vulnerability to sexual exploitation, domestic violence, and economic control. Within the context of the Indonesian legal system, this issue is not only situated within civil or administrative law but is also closely related to criminal law, as forced marriage often involves elements of violence, threats, manipulative persuasion, or transactions leading to exploitation. Child protection in cases of forced marriage embodies the principle of the best interest of the child, which has become a universal norm. Therefore, the study of Indonesian positive law cannot be separated from the concepts of distributive and protective justice, which position the state as the guarantor of comprehensive protection for children. (Sabbe et al., 2013)

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) establishes child protection as a constitutional mandate that is not only declarative but also normative. Article 28B paragraph (2) affirms that “every child has the right to survival, growth, and development, as well as the right to protection from violence and discrimination.” Additionally, Articles 28D and 28G provide a legal umbrella safeguarding children’s fundamental rights as legal subjects. From a legal theory perspective, this constitutional regulation reflects Kelsen’s concept of the hierarchy of norms, in which the 1945 Constitution serves as the foundational norm, providing the validity reference for all subordinate legislation. Thus, any form of forced marriage involving children is not merely a violation of social or customary norms but constitutes a direct infringement of constitutional rights guaranteed at the highest level of national law. (Atqiya et al., 2025)

Furthermore, Law Number 23 of 2002 concerning Child Protection (as amended by Law number. 35 of 2014) explicitly prohibits all forms of violence, discrimination, and exploitation against children. Article 76F prohibits inhumane treatment of children, while Article 76D stipulates that no one may commit acts of violence or threats of violence against children. Forced marriage encompasses elements of both psychological and physical violence and can therefore be categorized as a criminal act. From a victimology perspective, children occupy the position of vulnerable victims due to economic, social, and emotional dependence on their parents, meaning that marriage decisions rarely arise from full freedom. The Child Protection Law thus provides a juridical basis recognizing forced marriage as a form of maltreatment that structurally disadvantages children.

Marriage Law Number 16 of 2019 (amending Law Number. 1 of 1974) offers protection by setting the minimum marriage age at 19 years for both males and females. This increase in the minimum age represents an effort to harmonize with the Convention on the Rights of the Child (CRC), which requires states to protect children from early marriage. However, problems arise with the marriage dispensation mechanism regulated in Article 7 paragraph (2). Although the dispensation aims to provide flexibility in emergency situations, in practice it often becomes a loophole for forced marriage, citing pregnancy or customary reasons. From the perspective of Satjipto Rahardjo’s progressive legal theory, the misuse of dispensation demonstrates that law does not always function as intended because it is influenced by culture, morality, and social practices. This dispensation loophole often leads judges to insufficiently consider the child’s psychological and mental well-being, so that, normatively, the minimum age requirement frequently loses its protective strength. (Judiasih et al., 2020)

The Law on Sexual Violence Crimes (Law Number. 12 of 2022) introduces a new dimension in addressing forced marriage as a criminal act, particularly through provisions related to sexual exploitation, coercion of sexual relations, and forced marriage. Under Law No.

12 of 2022, forced marriage is categorized as sexual violence if carried out through threats, violence, manipulation, or abuse of power. This law emphasizes victim protection through a victim-centered approach, placing the victim's experience as a key element in evidence assessment. From the perspective of modern criminal law, this approach aligns with restorative justice theory, which prioritizes the recovery of victims rather than solely the punishment of perpetrators. Law Number 12 of 2022 thus provides a theoretical understanding that forced marriage is not merely an administrative act but constitutes a crime involving elements of domination and sexual exploitation. (Bunga et al., 2023)

Within the context of the Law on Human Trafficking (Law Number. 21 of 2007), forced marriage can be categorized as a form of human trafficking when it involves the recruitment, transportation, harboring, or receipt of children for the purpose of exploitation (Articles 2 and 13 of Law Number. 21 of 2007). Exploitation in this context includes sexual exploitation, forced labor, or practices analogous to slavery. (Maharany & Rosando, 2025)

Based on data from the Ministry of Women's Empowerment and Child Protection (Kemen-PPPA), it cannot be claimed that violence cases in Indonesia are low. Between January 1 and September 27, 2023, no fewer than 19,593 cases of violence were recorded nationwide. It is also incorrect to state that violence predominantly affects males, as out of all reported cases, 17,347 victims were female, while only 3,987 were male. Violence is not most prevalent among adults; by age group, the majority of victims were aged 13–17, totaling 7,451 individuals or approximately 38% of all victims during this period. The 25–44 age group does not represent the highest number of victims either, as they rank next, followed by the 6–12 age group, then 18–24, and finally 0–5 years. Moreover, it is inaccurate to claim that physical violence is the most dominant type of violence. The type most experienced by victims was sexual violence, with 8,585 cases, followed by physical violence with 6,621 cases, and psychological violence with 6,068 cases. (Muhamad, 2023)

Although Indonesia's legal framework is relatively comprehensive, the greatest challenges arise in its implementation. Patriarchal culture, structural poverty, and social pressure often make law enforcement officials reluctant to criminalize family members considered as perpetrators of forced marriage. In the law in action approach, there is a gap between written law (law in the books) and the practice of law enforcement (law in action). Authorities frequently prioritize family-based resolutions over criminal proceedings, thereby reducing the effectiveness of child protection. Furthermore, proving cases of forced marriage is often difficult because children are considered to lack strong legal standing to challenge their parents or customary authorities. These implementation challenges highlight the importance of building law enforcement sensitivity, public education, and social transformation as integral components of effective legal enforcement.

From a comparative law perspective, developed countries such as the United Kingdom, Canada, and Australia have criminalized forced marriage more explicitly and rigorously. The UK, for instance, through the Forced Marriage Act 2007 and the Anti-Social Behaviour, Crime and Policing Act 2014, establishes forced marriage as a distinct criminal offense with severe penalties, including imprisonment of up to seven years. The UK also implements Forced Marriage Protection Orders (FMPOs), which allow the state to prevent a person from being forced into marriage before the crime occurs a preventive mechanism not yet available in Indonesia. Canada criminalizes forced marriage as a form of domestic violence through the Civil Marriage Act 2015 and provides special protections for immigrant victims who are often targeted. Australia regulates forced marriage in the international context and penalizes individuals who take children abroad to be married. This comparison shows that developed countries emphasize prevention through pre-emptive legal instruments, whereas Indonesia still relies on repressive and civil mechanisms that often fail to protect victims in a timely manner.

Based on the overall analysis, it can be concluded that Indonesia's legal regulation is normatively strong but not yet effective in practice. Forced marriage of children has been

recognized as a form of violence, exploitation, and a violation of constitutional rights. However, regulatory gaps, such as marriage dispensation, limited incorporation of the child's perspective in law enforcement, and the dominance of patriarchal culture, continue to hinder the effectiveness of protection. To strengthen child protection, Indonesia needs to expand its criminal law approach, adopt preventive mechanisms as practiced by developed countries, and internalize the principle of the best interest of the child in all policies and legal actions. Ultimately, child protection requires not only strong legal texts but also a transformation of legal culture that prioritizes the dignity and future of children as a national priority.

Qualification of Child Forced Marriage as Exploitation from a Criminal Law Perspective

Forced marriage of children is, in essence, a form of violation of the fundamental principle of human dignity. Morally, a child's dignity is understood as an intrinsic value that must not be reduced to a means for external purposes. Immanuel Kant explicitly asserted that human beings are an end in themselves, not a means to an end. When children are forced to marry for reasons of family honor, customary pressure, or economic gain, they are reduced to objects that can be manipulated according to the interests of adults. From this perspective, the practice of forced marriage is not only a moral violation but also a breach of the ontological principle regarding human nature as rational beings with free will. Such actions deprive children of their agency, that is, their ability to make conscious and independent life choices. (Dahlan, 2009)

Within the framework of modern legal theory, forced marriage of children can be classified as a criminal act that infringes upon children's freedom, sexual security, dignity, and development. In this context, children are regarded as legal subjects with interests in bodily autonomy, consent, and protection from exploitation. Since children do not have full capacity to give informed consent, a forced marriage even if it appears "legally valid" under administrative or customary law still constitutes a violation of the child's personal integrity. Children are among the most vulnerable to exploitation due to their inability to resist pressure and their dependence on adults. Therefore, forced marriage must be considered a criminal offense regardless of any social legitimacy that surrounds it.

Forced marriage becomes even clearer as a form of exploitation when examined through the lens of power relation theory. Children occupy a highly unequal power relationship with their parents, extended family, or customary authorities, meaning that any actions leading to marriage cannot be regarded as independent decisions. In many cases, coercion manifests in the form of coercive persuasion enticing, threatening the withdrawal of affection, social threats, or manipulation of religious beliefs. (Fauza & Aksa, 2023)

This theory demonstrates that coercion in marriage does not have to take the form of physical violence but can also manifest as systematic structural pressure. The modern criminal law perspective has recognized that psychological pressure and imbalanced power relations can fulfill the elements of coercion, meaning that child marriage coercion should be regarded as a criminal act of exploitation encompassing physical, mental, and structural dimensions. (Praiseda, 2022)

From a victimological perspective, it reinforces the view that children, within the social structure, do not possess full agency to give consent on an equal footing with adults. Biological, psychological, social, and economic vulnerabilities make children a vulnerable group, easily subjected to exploitation especially when pressure comes from authoritative figures such as parents or family (Susanti, 2024). The theory of power relations, as explained by Michel Foucault and applied in critical legal studies, posits that power does not always manifest as physical violence but can appear through norms, customs, and social structures that silence an individual's ability to resist. In cases of child marriage, these power relations are evident in the

child's inability to oppose parental decisions, economic pressures, or social stigma that compels them to accept choices detrimental to their lives. (Wijaya et al., 2024)

In line with the above, children are moral subjects who possess inherent rights to develop optimally and free from coercion. The doctrine of human dignity, adopted in various international human rights instruments such as the CRC (Convention on the Rights of the Child), holds that any act that manipulates, coerces, or exploits a child's vulnerabilities constitutes a denial of their intrinsic human value. From this perspective, coercion in marriage not only robs children of their freedom but also disrupts the continuity of moral, intellectual, and emotional development that they are entitled to enjoy. (Antara & Saravistha, 2023)

In comparative international law, several countries have recognized forced marriage as a form of exploitation equivalent to human trafficking. In the United Kingdom, the Forced Marriage (Civil Protection) Act 2007 and the Anti-Social Behaviour, Crime and Policing Act 2014 criminalize forced marriage as an offense combining elements of exploitation, violence, and abuse of parental authority. Canada, through the Criminal Code Amendment (2015), categorizes forced marriage under family violence-based exploitation, focusing particularly on protecting girls from sexual exploitation within marital institutions. Australia even includes forced marriage within the framework of trafficking in persons, considering the act of taking children abroad for marriage as transnational exploitation. These comparisons indicate that developed countries recognize forced marriage not as a civil or customary issue but as a criminal form of exploitation that demands strict criminalization and targeted preventive mechanisms.

Forced marriage of children constitutes multidimensional exploitation sexual, emotional, domestic, social, and economic. The complexity of this exploitation requires the state to intervene not only repressively through criminal sanctions but also preventively via public education, family economic empowerment, and capacity-building of law enforcement. Since children are never in a position to provide genuine free consent, forced marriage is, in principle, a crime against human dignity that threatens the quality of future generations.

The state bears full responsibility to prevent, punish, and rehabilitate victims of forced marriage through a comprehensive approach that is child-rights oriented and aligned with the principles of substantive justice. This obligation arises from the constitutional mandate, particularly Article 28B paragraph (2) and Article 28I paragraph (4) of the 1945 Constitution, which affirm that the state is not only responsible for ensuring the survival and development of children but also obligated to protect them from all forms of violence and exploitation. Consequently, the state cannot remain passive or leave forced marriage to customary mechanisms or private family matters, as such practices constitute serious violations of children's dignity and freedom.

In terms of prevention, the state must address structural factors that enable forced marriage such as poverty, limited access to education, weak civil registration systems, and cultural or patriarchal pressures through public education, family economic strengthening, and supervision of village authorities and religious institutions. On the enforcement side, the state must rigorously apply criminal law using instruments such as the Law on the Elimination of Sexual Violence (UU TPKS) and the Law on the Eradication of Human Trafficking (UU TPPO) to prosecute perpetrators, without allowing cultural compromises that could perpetuate impunity. Law enforcement processes must ensure that children do not experience revictimization, treating them as rights-bearing subjects whose entitlements must be restored, rather than merely objects of legal proceedings.

Victim rehabilitation is a crucial obligation that the state must carry out in an integrated manner through psychological services, legal aid, social recovery, educational guarantees, and reintegration into safe environments. This approach aligns with the principles of child protection in the Convention on the Rights of the Child and the Child Protection Law, which require the state to prioritize the best interests of the child. This perspective also necessitates the

participation of children in determining recovery measures to prevent them from reentering cycles of violence and exploitation. Throughout these efforts, the principle of substantive justice serves as an essential moral and legal foundation: the law must not stop at procedural compliance but must address structural vulnerabilities experienced by children, unequal power relations within families, and the economic or cultural motives that drive forced marriage¹.

Thus, the state is called upon to deliver justice that genuinely protects children as individuals with dignity and autonomous rights, ensuring that every form of forced marriage is treated as a crime against humanity requiring a strong, humane, and transformative legal response.

CONCLUSION

Forced marriage of children constitutes a form of structural violence that not only violates human rights but also places children in situations of extreme vulnerability to sexual exploitation, domestic violence, and economic domination. Within the Indonesian legal framework, this practice clearly contradicts the constitutional mandate of the 1945 Constitution of the Republic of Indonesia, which obliges the state to protect children from all forms of violence and discrimination. Various regulations, including the Child Protection Law, the Marriage Law, the Law on the Elimination of Sexual Violence (UU TPKS), and the Law on the Eradication of Human Trafficking (UU TPPO), provide a strong normative basis for categorizing forced marriage as a criminal act encompassing physical, psychological, and exploitative elements. However, despite this seemingly comprehensive legal framework, implementation still faces significant obstacles, including patriarchal cultural norms, structural poverty, and the tendency of authorities to resolve cases through family mediation. The marriage dispensation loophole is also frequently abused, weakening child protection. Compared to other countries that have adopted pre-emptive preventive measures, such as Forced Marriage Protection Orders, Indonesia still lags in early protection mechanisms. Therefore, there is a pressing need to strengthen child-sensitive law enforcement, reform legal culture, and implement policies genuinely grounded in the principle of the best interest of the child to ensure effective child protection.

Forced marriage of children constitutes a serious violation of human dignity, stripping children of agency and reducing them to objects of economic, social, or cultural interests. Philosophically, this act violates the principle that humans are ends in themselves; legally, it infringes on fundamental interests, including freedom, bodily integrity, sexual security, and child development. Children's inability to provide genuine consent renders all underage marriages inherently coercive, aligning with victimology perspectives and power-relations theory, which highlight the imbalance of children's position within family and societal structures. The UU TPKS and UU TPPO affirm that forced marriage constitutes sexual and economic exploitation and is even categorized as human trafficking through the commodification of children's bodies. Other countries have also criminalized forced marriage as

¹ Nashrullah, Y., & Hartati, E. (2023). Pengaruh Prinsip Best Interest of Child Dalam Penentuan Hak Asuh Anak Pada Kasus Perceraian Menurut Hukum Perdata (Analisis Terhadap Putusan-Putusan Pengadilan). *Lex Patrimonium*, 2(2), 10

an exploitation crime, reinforcing the urgency for Indonesia to implement similar measures effectively. Consequently, the state has a constitutional obligation to prevent, prosecute, and rehabilitate victims through a comprehensive approach—including public education, family economic empowerment, supervision by authorities, and children’s psychological and social recovery. Ultimately, forced marriage of children must be treated as a crime against humanity, requiring a firm, humane, and child-rights-oriented legal response to guarantee the fulfillment of children’s best interests.

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