

## National legal interventions in overcoming underage marriages in indigenous communities

Winsherly Tan<sup>1\*</sup>, Shenti Agustini<sup>1</sup>, Agustianto<sup>1</sup>

<sup>1</sup>*Department of Law, Universitas Internasional Batam, Indonesia*

\*Corresponding Author: [winsherly@uib.ac.id](mailto:winsherly@uib.ac.id)

### Abstract

**Introduction to the Problem:** Marriage is a globally recognized fundamental human right, yet underage marriage remains prevalent, especially in indigenous communities like the Sea Tribe in Lingga Regency. Here, cultural traditions often sustain early unions, posing a complex legal challenge. Addressing this requires a nuanced approach that harmonizes national legal standards with respect for indigenous customs, ensuring both the protection of minors and the preservation of cultural heritage.

**Purpose/Study Objectives:** This study seeks to critically evaluate the enforcement and effectiveness of national marriage laws in addressing the issue of underage marriages within the Sea Tribe, an indigenous community in Lingga Regency. Through a legal analysis, the research will examine how these laws are applied and their impact on curbing the practice of early marriages in this specific cultural context.

**Design/Methodology/Approach:** The research methodology adopted in this study is empirical juridical. Primary data collection involved comprehensive field observations across various villages in Lingga Regency, specifically Kelumu Village, Lipan Village, and Penuba Village. Additionally, the data was enriched through in-depth interviews with a range of key informants, including local religious authorities, governmental officials, tribal leaders, members of the Sea Tribe community particularly women and representatives from the Kajang Foundation.

**Findings:** The research reveals a critical conflict between national marriage law, which permits underage marriages, and child protection law, which requires parents to prevent them. In the Sea Tribe's Indigenous community, customary law also supports underage marriages, leading to unregistered unions conducted through traditional and religious ceremonies. These unregistered marriages have serious repercussions, such as maternal deaths, child malnutrition, and infant mortality. This situation highlights a clash between national law and the Sea Tribe's customary practices in Lingga Regency. To resolve this, there is a pressing need for institutional harmonization, aligning cross-sectoral programs to prevent and manage underage marriages effectively.

**Paper Type:** Research Article

**Keywords:** Underage Marriage; Customs; National Law; Indigenous Communities



Copyright ©2024 by Author(s); This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License.

All writings published in this journal are the personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

## Introduction

Traditional society is a permanent and orderly community unit where its members are not only tied to the place of residence of a particular area, both in worldly terms as a place of life and in spiritual terms as a place of worship for ancestral spirits (territorial) but are also bound by hereditary relations, in terms of blood ties and/or the same kinship from a common ancestor, either indirectly due to marriage ties or customary (genealogical) ties (Sabri, 2015). Indigenous communities have a different meaning from customary law communities which are groups of people who are bound by their customary legal order as a community with a legal association because of similarity of residence or descendant. Customary law is the original law of the Indonesian nation which is based on unwritten legal rules that grew, developed, and maintained by the locals. Due to the fact that these rules are not written and instead grow and develop, customary law has the ability to self-adapt and to be elastic (Siregar, 2018). The customary law and the positive law have similar standing as mandated in Article 18B paragraph (2) of the 1945 Constitution. The law in substance, namely the marriage law, is not consistent with the law on child protection in overcoming the problem of underage marriage. Moreover, the customs of the Sea People tribe also allow underage marriages, which is actually used as a culture.

The Sea People tribe is a group of indigenous communities. They are spread across various regions in Indonesia, including in the Riau Islands Province. Lingga Regency is one of the regencies in the Riau Islands Province which is also the area with the highest poverty rate in the province. The following is the data related to poverty levels in the Riau Islands Province.

**Table 1.** Data Related to Poverty Rates in Lingga Regency Poverty Rate in the City/Regency of Riau Islands Province

No	City	Percentage
1	Lingga	13,93
2	Tanjung Pinang	9,57
3	Anambas	7,09
4	Karimun	6,85
5	Bintan	6,42
6	Natuna	4,95
7	Batam	5,05

Source: Central Statistics Agency (BPS)



The Central Statistics Agency (BPS) reported that in March 2021, the impoverished population in the district numbered 12.58 thousand individuals, constituting 13.93% of the population. This poverty rate marks an increase compared to March 2020, which stood at 13.85%. Following closely is Tanjung Pinang City, which recorded a poverty rate of 9.57%, trailed by Anambas Islands Regency at 7.09%, Karimun Regency at 6.85%, and Bintan Regency at 6.42%. Batam City also registered a poverty rate of 6.12%. Lastly, Natuna Regency reported the lowest poverty rate in the Riau Islands, at 4.95%.

Child marriage, a complex socio-cultural phenomenon influenced by various factors (Kamilah & Rosa, 2021) also manifests among the Sea Tribe people in the Riau Islands. his indigenous group experiences relatively minimal impact from regional development initiatives within the province. Geographically dispersed across districts and cities in the Riau Islands, their communities vary in size and structure, often residing in close-knit groups. While prevalence rates differ across localities, child marriages persist as a concern among the Sea Tribe people, highlighting the need for targeted legal and socio-cultural interventions to address this issue comprehensively within the province (Arman, 2020).

**Table 2.** Number of Sea Tribe's population in Lingga Regency as of November 2021

No	Subdistrict	Village	Total Population
1	Lingga	Mentuda	560
		Kelumu	178
2	Senayang	Baran	81
		Pena'ah	118
		Laboh	68
3	Temiang Pesisir	Temiang	118
		Tajur Biru	137
4	Bakung Serumpun	Tanjung Kelit	365
		Pasir Panjang	28
		Persiapan Berjung	13
5	Singkep Barat	Sungai Buluh	255
6	Lingga Utara	Limbung	65
7	Katang Bidare	Pulau Medang	46
8	Selayar	Penuba	281

Source: *Roadmap for Empowering the Sea Tribe in Lingga Regency*

Based on the observations over 2 (two) villages, namely Kelumu Village and Liman Village, the practice of child marriage was still found. Subsequently, based on the results of interviews with religious figures and administrators of the Kajang Foundation (Care for the Sea Tribes of Lingga Regency), several phenomena related to underage marriage were found. As a first example, Kelumu Village is still inhabited by the Sea People tribe, numbering around 160 people and 56 heads of families. The



practice of marrying children from the Sea People in Kelumu Village has been going on since ancient times until now. The 56 heads of families were married at an early age. They got married when they were around 14-15 years old (W. Tan, 2022). In recent times, the Sea People tribe has continued the practice of underage marriage due to cultural norms where the bride's family feels obligated to reciprocate the groom's family for their services. This custom persists in Lipan Village, inhabited by 33 household heads and approximately 130 individuals. According to Mail, an elder of the Sea People tribe, and Li, Chief of Tribe 3 on Lipan Island, underage marriages, particularly of girls aged between 13 and 15 years, have been a longstanding tradition. This practice is rooted in cultural beliefs that require the bride's family to express gratitude to the groom's family by offering their daughter in marriage. As a result, generations within the tribe have upheld this tradition as a way to honor and reciprocate acts of kindness and assistance rendered by the groom's family.

Marriage is conceptualized not merely as a union of biological or emotional bonds in isolation, but as the fusion of both aspects into a cohesive whole (Pratiwi, 2021). The purpose of marriage is to establish a happy, everlasting family. For this reason, husband and wife need to help and complement each other that each of them can develop the personality to help and achieve spiritual and material well-being (Latifiani, 2019).

The evolution of Law Number 16 of 2019 amending Law Number 1 of 1974 on Marriage signifies a critical development in Indonesia's legal landscape. Article 7 mandates that marriage is permissible only if both parties have reached the age of 19. Parents may seek court dispensation for marriages below this age threshold under urgent circumstances with sufficient evidence. However, a concerning trend in Indonesia is the prevalence of underage marriages, where data from the Directorate General of Religious Courts shows a significant increase in dispensation requests, totaling 34,000 from January to June 2020. Of these, 97% were approved, with 60% involving individuals under 18 years old—a notable rise from the previous year's 23,700 requests. This surge underscores persistent challenges in ensuring compliance with legal age requirements for marriage. As guaranteed under the Constitution of the Republic of Indonesia, marriage is a constitutional right necessitating governmental responsibility for its protection, promotion, enforcement, and realization, emphasizing the integral link between societal well-being and human rights (Jayani, 2021).

The increasing underage marriage has put Indonesia in the spotlight of the UN Committee on the Rights of the Child (Lubis et al., 2021). Apart from that, underage marriage can trigger various negative impacts such as birth defects, maternal deaths, and children's educational rights not being fulfilled because they are already married. Children are legal subjects that must be protected, and their rights must be fulfilled in accordance with the Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Article 1 number 1 explains that a

child is someone who is not yet 18 years old, including one who is still in the womb. Moreover, Article 26 paragraph (1) states that parents/guardians are obliged to prevent underage marriages (Sekarayu & Nurwati, 2021). Substantially, the law seems unable to solve the problem of underage marriage, especially underage marriage practice which occurs in indigenous communities who practice it for cultural or customary reasons.

In terms of health aspect, underage marriage will cause a range of health problems, such as depression caused by forced sexual intercourse, sexual trauma, high risk of pregnancy at a very young age, high maternal and infant death rates, high risk of HIV transmission, sexually transmitted diseases, and cancer (Rahayu & Wahyuni, 2020). There are several studies related to traditional marriage in Indonesia. However, most of this research on traditional marriages in Indonesia were only studied from the perspective of customary law and Islamic law in responding to the phenomenon of traditional marriage that occurs. One example of the research that studied traditional marriage is research written by Adenisatrawan with the research title "The Existence and Resistance of Tolaki Tribe Customary Marriage Laws in the Digital Era (Case Study: South Konawe Regency)". Based on the results of this research, it was found that the traditional marriage laws of the Tolaki tribe still exist and are implemented by the community of Tolaki tribe in the South Konawes district. The customary marriage laws of the Tolaki tribe to this day remain firmly enforced by every Tolaki tribe community wherever they are, whether the Tolaki tribe is in an area where they are not a Tolaki tribe, they still uphold and implement customary marriage laws (Adenisatrawan, 2021).

Moreover, there is also previous research that examines traditional marriage from the perspective of Islamic law (Yuliana & Zafi, 2020). Based on this research, it can be concluded that the community that holds Javanese traditional marriage intends to preserve ancestral culture but sometimes overrides the viewpoint of Islamic law. Islam itself allows a culture to develop as long as it does not deviate from the existing Islamic law, and if the traditions carried out by the community deviate from the Islamic law it should not be implemented because it is considered idolatrous (Yuliana & Zafi, 2020).

Drawing from these two previous studies, it is evident that research on marriage within indigenous communities typically focuses on customary and Islamic law perspectives. What distinguishes this study is its specific exploration of underage marriages practiced by indigenous groups not classified under customary law. These groups constitute indigenous populations adhering to customary traditions, particularly the practice of underage marriage. Thus, this study aims to investigate how the enforcement of national legislation can address the entrenched phenomenon of underage marriage among these indigenous groups. This research addresses two principal issues: firstly, the efficacy of national law enforcement concerning underage

marriage, and secondly, the appropriate legal remedies to address underage marriage within the indigenous Sea People community of Lingga Regency.

### **Methodology**

The research employed an empirical juridical approach, which examines the practical application of laws and regulations to societal phenomena (D. Tan, 2021). Primary data was gathered through field observations in villages within Lingga Regency and interviews with tribal leaders, religious figures, and non-governmental organizations. Secondary data comprised primary legal sources such as the Marriage Law (Law Number 16 of 2019) and the Child Protection Law (Law Number 35 of 2014), supplemented by secondary legal sources including relevant books and articles on marriage and empirical legal theories. Additionally, theoretical insights were drawn upon to address the research problem, specifically employing Satjipto Rahardjo's Legal Compliance theory.

### **Results and Discussion**

#### ***The Implementation of National Law in Dealing with Underage Marriage***

In a multicultural society, with various ethnicities, cultures, languages, and religion, the legal development in Indonesia is always interesting to study. Various problems, interests, hopes, and aspirations ideals always accompany every inch of the development of the national law (Manan et al., 2021).

Indonesia is a developing and multicultural country, that indeed needs guidance and development of the national legal system in order to encourage and support development in all fields. Borrowing Roscoe Pound's term, "law as a tool of social engineering", which means that the guidance and development of the national law should be able to provide direction and path for the law, society and the state to be interconnected with each other. Indeed, this can be realized if there is enthusiasm for advocacy and the development of the national law must be based on the spirit and values adopted in society without ignoring other values that are in accordance with the culture of the Indonesian society (Adhayanto, 2014).

The national law is very important in regulating society as stated by Roscoe Pound. Marriage is a spiritual and physical bond between a man and a woman or a husband and a wife with the purpose to form a happy family (household). Eternal based on the Almighty Godhead. Therefore, marriage is a formal contract, all of its aspects are contained in the word marriage or *tazwīj* and is a sacred ceremonial statement. Marriage is an important aspect in life. Everyone who wants to marry must obey and submit to the applicable rules based on the national law which is regulated in Law Number 16 of 2019 concerning Marriage, as well as religious teachings or those made by humans themselves (Soumena, 2012). Marriage is also regulated in indigenous communities through customary law. Understanding and comprehending customary law is mandatory in order to preserve it Customary laws that exist among Indonesians



is a culture that should be preserved. One of the elements of custom in culture is marriage (Sirait, 2021).

In general, according to customary law in Indonesia, marriage is not only a civil contract, but also a customary contract, as well as a kinship bond. Customary law in communities is mentioned in the 1945 Constitution only after it was amended. Article 18B paragraph (2) of the 1945 Constitution used the term entities of *adat* law societies. This article states: “the State shall recognize and respect entities of the *adat* law societies along with their traditional rights to the extent they still exist and are in accordance with the development of the society and the principle of the Unitary State of the Republic of Indonesia, which shall be regulated by laws”. Apart from Article 18B of the 1945 Constitution, there is also recognition of *adat* law communities in Article 28I paragraph (3) of the 1945 Constitution. In this article, the used term is traditional societies. It explains that cultural identity and the right of traditional societies must be respected in harmony with the development of the age and civilization (Jemarut et al., 2022).

*Adat* law communities are communities whose existence and laws are respected by the Constitution as long as they still exist. The indicators to determine the existence of *adat* law communities include, (1) that there is a society whose members have collective feelings, (2) there is a traditional governmental institution, (3) there is a set of norms, (4) there are valuables or traditional objects (5) and there is a specific territory or area (Citrawan, 2020).

Based on the results of observations in the villages of Lipan, Kelumu, and Penuba as samples in this research, as well as interviews with the management of the Kajang Foundation as a non-governmental foundation which is involved in taking care the Sea People tribe community and interviews with local religious leaders, it was found that the Sea People tribe community in the Lingga Regency is no longer within the *adat* law community category because it no longer meets one of the indicators of being an *adat* law community as the Sea Tribe is a nomadic tribe which moves from one place to another. This means that there is no specific territory or area occupied by the Sea Tribe.

The Sea Tribe initially lived a nomadic life, moving from one island to another, using a canoe which is also used as a place to live. At the same time, it is used as a residence with a canopy roof. The roof is made from pandan leaves or Rumbi leaves, or other parts called Rumbia (Elseira, 2019). The Sea Tribe is an advanced indigenous nation (Neolithic), and part of the ethnicity group (indigenous people). The Sea Tribe has survived for centuries with traditional values passed down from generation to generation hereditarily and attached to everyday life (Rahmawati, 2014).

Nevertheless, economic advancements and infrastructure development in the Riau Islands Province have significantly impacted the social dynamics of Sea Tribe communities, as noted in Prawirosusanto's study (2014). This transformation,

particularly evident in Lingga Regency, has shifted the Sea Tribe from their traditional sea-nomadic lifestyle to settled living arrangements on land. This transition includes relocation to housing facilities constructed by the local government specifically for the Sea Tribe community in Lingga Regency.

In 2023, the provincial government of Riau Islands, in partnership with the central authorities, initiated the construction of a minimum of 200 dwellings for the Sea Tribe, allocating a total budget of IDR 7 billion. Notably, in Lingga Regency, the local government has completed construction of Sea Tribe residences, achieving 70% of the planned housing development (BPK RI, 2023). Based on these findings, it is evident that the Sea Tribe indigenous people can no longer be classified solely under customary law communities due to their cultural tradition of sea nomadism. However, with economic development in Riau Islands province, local authorities have initiated housing projects that encourage resettlement onto land. While the Sea Tribe does not fit the conventional definition of a customary legal community, their lifestyle in Lingga Regency remains deeply rooted in their cultural beliefs. Through observations and interviews, it was observed that one such belief is the practice of "reciprocity". This cultural norm, as articulated by Pak Ketem, a traditional leader of the Sea Tribe, underscores the rationale behind underage marriages. Reciprocity dictates that a man who performs labor for a woman's family should be reciprocated by the woman's family offering their daughter in marriage to him.

Furthermore, within indigenous communities, the concept of adulthood lacks standardized recognition. In specific locales such as Lingga Regency, customary norms neither universally forbid nor universally permit underage marriages; practices vary based on local customs, with some regions deeming children unfit for marriage. Under customary norms, marriage eligibility hinges on achieving adulthood, defined not by chronological age but by personal circumstances such as independent living, occupational stability, and financial self-sufficiency, rather than dependency on parental support (Yustianugraha, 2022).

Based on the findings derived from observations and interviews conducted within the Sea Tribe community, particularly among Sea Tribe women and traditional leaders, a prevailing trend emerged indicating that a significant majority of individuals within the Sea Tribe enter into marriage before reaching the age of 19. Historically, marriages were exclusively solemnized through traditional rituals, as religious affiliations were not a part of their cultural practices. However, with the advent of religious influence among the indigenous Sea Tribe communities in Lingga Regency, marital ceremonies are now conducted not only in accordance with customary traditions but also in alignment with their respective religious beliefs.

When considering the national legislation governing marriage, it is stipulated under Law Number 16 of 2019 on Marriage. According to Article 7(1) of this law, individuals must be at least 19 years old to marry. Additionally, Article 7(2) provides that in cases



where individuals have not reached the minimum marriage age as defined in Article 7(1), parents or guardians may petition the court for marriage dispensation due to urgent circumstances. However, Law Number 16 of 2019 does not provide explicit criteria defining what constitutes "urgent circumstances" that warrant such dispensation.

Underage marriage is very common in Indonesia because of many factors ([Sudirman et al., 2023](#)), although early marriage is legal, it is widely considered as a violation of human rights and harassment, especially against teenagers ([Rahim & Dilawati, 2022](#)). Most human rights advocates argue that child and early marriages are by definition 'forced marriages', even when the child appears to give his or her consent ([Horii, 2020](#)).

The provisions of Law Number 16 of 2019 on Marriage appear to conflict with the mandate outlined in Article 26 of Law Number 35 of 2014 on Child Protection, which obligates parents or guardians to prevent underage marriages. Law Number 35 of 2014 underscores that underage marriages can lead to adverse consequences for children, including the deprivation of fundamental rights such as education and health care access. Apart from that, the education level of the Sea Tribe community in Lingga Regency is also worrisome. Based on the data from the Roadmap for the Empowerment of the Sea Tribe in Lingga Regency in 2021, the education level of the Sea Tribe is relatively low. There were 1735 people who never went to school, 157 people had finished elementary school, 339 people had not finished elementary school, 41 people had finished junior high school, and 26 people had finished high school.

Based on an interview conducted with Adragon Demello, a midwife who has served at the Community Health Center Penuba in Lingga Regency for approximately five years, several concerning issues have been identified. These include cases such as maternal and infant mortality, instances of malnutrition among newborns, and young mothers lacking essential knowledge in infant care. These findings align with prior research by Shafa and Nunung titled "The Impact of Early Marriage on Reproductive Health," which underscores the detrimental effects of such unions on adolescents. Early marriages significantly heighten the risks of child disabilities, maternal mortality, and other related hazards. Moreover, the immature cervix of young girls renders them susceptible to future complications such as cervical cancer if they are compelled to conceive prematurely. The potential for fatal childbirth complications at a young age further exacerbates these concerns ([Sekarayu & Nurwati, 2021](#)).

According to information provided by the Ministry of State Apparatus Empowerment and Bureaucratic Reform, the Dabo Singkep Religious Court in Lingga Regency received requests for marriage dispensations from 18 couples between January and May 2023. These requests primarily stemmed from couples under the age of 19, who sought dispensation due to legal age requirements for marriage. In 2021, the court

recorded 67 such cases, which decreased to 48 in 2022, and further reduced to 18 cases in the first five months of 2023 ([PANRB, 2023](#)).

Meanwhile, the Sea Tribe community in Lingga Regency has never requested for a marriage dispensation in court. Based on the results of interviews with Christian religious figures, such as Pastor Noch Lumampouw, and the management of the Kajang Foundation which is involved in taking care the Sea Tribe of Lingga Regency, it was found that marriages in the Sea Tribe in the Lingga Regency are currently held only through traditional ceremonies and through their respective religions. Furthermore, they also explained that their marriages were not registered with the state because they had not yet reached the minimum age to marry, which is 19 years old. This situation can be specifically classified as "legal smuggling". However, according to the explanation from local religious figures and management of the Kajang Foundation, the phenomenon of underage marriage in the Sea Tribe community in Lingga Regency cannot be stopped because of the culture of "reciprocity" which is firmly held, thus it is feared that they will only marry according to custom or even live in the same house without being married, this is of course considered sinful as taught in their respective religions. For this reason, local religious leaders and the Kajang Foundation considered that it is better for them to get married but the marriage itself will be registered with the state if they have reached the minimum age to marry.

Following the findings from observations and interviews with local religious leaders, it was acknowledged that they were unaware that underage marriages could be permitted with court dispensation. In contrast, Pastor Noch Lumampouw, who has served the Sea Tribe community for about four decades, indicated that even if they were aware of the option to seek dispensation for underage marriages, the community in Lingga Regency would refrain from doing so due to their apprehension towards the judiciary, which they perceive as intimidating. This reluctance stems from their limited knowledge and education. Moreover, logistical challenges such as economic constraints and transportation difficulties further impede access to the courts for the Sea Tribe in Lingga Regency. For instance, traveling to court requires both sea and land routes, which typically incur costs ranging from 100,000 to 200,000 Rupiah a significant financial burden for the community.

Drawing from the prevalence of underage marriages within the indigenous Sea Tribe community of Lingga Regency, it is evident that the efficacy of implementing national marriage laws has been suboptimal. This assertion aligns with Soerjono Soekanto's Theory of Legal Effectiveness, which identifies multiple factors influencing law enforcement ([Hadi, 2022](#)), which are the following:

1. Indonesia already has a national law that regulates marriage, namely the Law Number 16 of 2019 concerning Marriage. The substance of the Law Number 16 of 2019 provides an opportunity for underage marriages to take place by requesting dispensation to the court as regulated in Article 7 paragraph (2). This is contrary



- to other laws, which is the Law Number 35 of 2014 concerning Child Protection as mandated in Article 26 which requires parents/guardians to prevent child marriages. From this first factor, it can be seen that the legal substance has weaknesses because it conflicts with other statutory regulations.
2. The law enforcers in this research issue are local religious leaders and local village heads who directly handle the marriage process of the indigenous Sea Tribe community. Based on the results of observations and interviews, it was found that there was a lack of understanding from law enforcers regarding submitting marriage dispensations to the court. Therefore, the second factor also has weaknesses.
  3. Based on the results of observations and interviews, it was also found that the indigenous people of the Sea Tribe of Lingga Regency also had difficulties when asked to apply for marriage dispensation to the court due to the lack of proper transportation to go to the court.
  4. The Sea Tribe indigenous people of Lingga Regency have low education, so that awareness of the prevailing law among the Sea Tribe indigenous people is also relatively low. They don't even understand the importance of complying with regulations and the impact of underage marriage. Underage marriage is considered as common practice. Therefore, this fourth factor also has weaknesses.
  5. The culture of "reciprocity" which is firmly held by the indigenous people of the Sea Tribe of Lingga Regency is the underlying reason for practicing underage marriage. This culture is a contributing factor to the disobedience of the indigenous Sea Tribe community of Lingga Regency to the existing national laws.

### ***The Right Solution to Deal with the Phenomenon of Underage Marriage in the Indigenous Community of the Sea People Tribe in Lingga Regency***

The theory of legal effectiveness, put forward by Soerjono Soekanto, has become an analytical tool in measuring the implementation of national laws regarding marriage in the indigenous Sea Tribe community in Lingga Regency. Based on this theory, which is linked to the findings, it was found that the implementation of national law regarding marriage has not been implemented effectively due to the weaknesses of the 5 (five) factors proposed by Soerjono Soekanto. Therefore, it is necessary to find the right solution to improve the five factors that influence the effectiveness of the implementation of national law.

First, legal substance. The Law Number 16 of 2019 on Marriage exhibits a notable deficiency by conflicting with Article 26 of Law Number 35 of 2014 concerning Child Protection. However, upon scholarly examination of Law Number 16 of 2019, the provision allowing underage marriages through dispensation is justified by cases where children born outside legal marriages lack civil rights, including those of the mother. In light of legal, social, and cultural advancements, the Marriage Law necessitates refinement. These revisions should address discrepancies observed in age requirements for marriage between genders, inadequate protection and legal certainty concerning the status and rights of children, particularly those born amid

parental marriage disputes, and the absence of safeguards for the rights of spouses prior to entering into marital agreements. Thus, revisions to the Marriage Law are imperative to ensure alignment with contemporary societal norms and legal standards.

Seeking dispensation for underage marriage as stipulated in Article 7 paragraph (2) of Law Number 16 of 2019 serves to safeguard the civil rights of children born from invalid marriages and the rights of women. This consideration is crucial as the Sea Tribe community in Lingga Regency, unaware of the adverse impacts and risks associated with underage marriage, necessitates legal prohibition. By expressly prohibiting underage marriage, the legal framework prioritizes the welfare of children and women affected by invalid marriages. Moreover, addressing underage marriage is imperative due to its myriad negative consequences. Therefore, clarifying the criteria for "urgent circumstances," which justify underage marriages under Article 7 paragraph (2), is essential. Hence, such marriages should only be permitted in genuinely urgent situations.

Second, law enforcement. Law enforcement efforts to prevent underage marriages in this study involve religious leaders and tribal heads residing within the indigenous Sea Tribe community, directly engaged in the marriage process. However, these enforcers were unaware of any applications for dispensation of underage marriages. Consequently, marriages within the Sea Tribe community were conducted solely through traditional and religious ceremonies. A proposed solution involves local religious leaders, tribal heads, and village leaders facilitating applications for retroactive dispensation of marriages already conducted, ensuring prompt registration of customary and religious marriages. Additionally, village leaders can collaborate with judicial authorities to register numerous unrecorded underage marriages within the Sea Tribe community. To prevent future underage marriages, optimizing the role of local religious leaders through a socio-religious approach is crucial. This approach aims to transform the social fabric of the Sea Tribe community. Empirical evidence indicates that several local religious figures have effectively influenced social changes within the Sea Tribe community. For instance, previously unaware of the significance of immunizations and education, community members now prioritize these aspects. As a result, Sea Tribe children now possess basic literacy skills, contrasting with their previous inability to read or write Indonesian. Hence, this socio-religious strategy also addresses the cultural norms underpinning underage marriages. Religious leaders play a pivotal role in raising awareness among Sea Tribe members about the risks associated with underage marriage, fostering a future devoid of such practices.

Third, facilities and infrastructure. The research infrastructure encompasses all supportive measures aimed at addressing underage marriage within indigenous Sea Tribe communities. Essential to this infrastructure is the necessity for cross-sectoral coordination to effectively address maritime tribal issues. This coordination entails

synergistic cooperation between regional government entities and traditional Sea Tribe authorities. One proposed solution involves establishing a dedicated traditional institution for the Sea Tribe community, serving as an extension of regional governance to implement local programs aimed at empowering the community. For instance, collaborative efforts between the regional education office and traditional institutions could address educational challenges within the Sea Tribe, while healthcare services could collaborate with data organizations to combat child malnutrition and raise awareness among Sea Tribe youth about the risks associated with underage marriage. Additionally, in addressing unregistered underage marriages, cooperation between local courts and traditional institutions is pivotal.

Fourth, community factors. In the fourth aspect, the Sea Tribe community exhibits low levels of education, which presents a significant barrier to the effective implementation of national law. Addressing this challenge requires a coordinated effort across sectors to improve educational opportunities within the Sea Tribe community. Enhanced education will enable individuals to comprehend the adverse consequences of underage marriages and to comply with pertinent national legislation.

Fifth, Culture. Culture serves as the foundational driver behind underage marriages within the Sea Tribe. The community's adherence to the cultural principle of reciprocity reinforces the practice of underage marriages. Transforming this deeply entrenched cultural norm necessitates a socio-religious approach, emphasizing the pivotal role of religious leaders in fostering positive change within Sea Tribe communities.

### **Conclusion**

Marriage, considered a fundamental right for all citizens, is explicitly guaranteed by both the Constitution and Law Number 16 of 2019. However, its application within indigenous communities, such as the Sea Tribe in Lingga Regency, presents significant challenges. Unlike communities governed by customary law, the Sea Tribe adheres to indigenous traditions centered around "reciprocity," which underpins their acceptance of underage marriages. The implementation of national law addressing underage marriage is analyzed through Soerjono Soekanto's theory of legal effectiveness. This framework identifies five critical factors influencing law implementation, revealing shortcomings in the application of Law Number 16 of 2019. Consequently, recommendations are put forth to address these issues: Firstly, the revision of Law Number 16 of 2019 should provide clearer guidelines on the "urgent reasons" justifying marriage dispensations. Secondly, there is a need for enhanced cross-sector coordination to comprehensively address maritime tribal issues. Thirdly, the establishment of traditional institutions empowered to collaborate with local governments could effectively resolve these community concerns. Lastly, employing socio-religious approaches can facilitate cultural transformation and social change within the indigenous Sea Tribe community of

Lingga Regency. These proposals are designed to bolster the efficacy of legal frameworks and navigate the intricate socio-cultural dynamics influencing marriage practices in indigenous contexts.

### Acknowledgement

The authors would like to thank Faculty of Law, Universitas Internasional Batam. Sincere gratitude also goes to reviewers and editors who have provides constructive feedbacks so that this manuscript looks worth reading.

### Declarations

- Author contribution : Author 1: initiated the ideas, draft writing, data collection and analysis. Author 2: literature review, analysis and data collection. Author 3: revised the analysis and the final draft.
- Funding Statement : This research was funded by Universitas Internasional Batam.
- Conflict of Interest : The authors declare no conflict of interest.
- Additional information : No additional information is available for this paper.

### References

- Adenisatrawan. (2021). Eksistensi dan resistensi hukum adat perkawinan suku Tolaki dalam era digital (studi kasus: Kabupaten Konawe Selatan). *Jurnal Esensi Hukum*, 3(2). <https://journal.upnvj.ac.id/index.php/esensihukum/index>
- Adhayanto, O. (2014). Perkembangan sistem hukum nasional. *Jurnal Ilmu Hukum*, 4(2), 207. <https://doi.org/10.30652/jih.v4i2.2790>
- Arman, D. (2020). *Orang suku laut kepulauan riau dalam realita pembangunan dan kebijakan daerah*. <https://kebudayaan.kemdikbud.go.id/bpnbkepri/orang-suku-laut-kepulauan-riau-dalam-realita-pembangunan-dan-kebijakan-daerah/>
- BPK RI. (2023). *Pembangunan rumah suku laut di Lingga sudah 70 persen*. <https://kepri.bpk.go.id/pembangunan-rumah-suku-laut-di-lingga-sudah-70-persen/>
- Citrawan, F. A. (2020). Konsep kepemilikan tanah ulayat masyarakat adat Minangkabau. *Jurnal Hukum & Pembangunan*, 50(3). <https://doi.org/10.21143/jhp.vol50.no3.2583>
- Elsera, M. (2019). Identifikasi permasalahan dan upaya pemberdayaan suku laut di dusun Linau Batu, Desa Tanjungkelit, Kabupaten Lingga, provinsi Kepri. *SosioGlobal: Jurnal Pemikiran Dan Penelitian Sosiologi*, 3(2), 1-19. <http://journal.unpad.ac.id/sosioGlobal/article/view/21054>
- Hadi, N. A. K. (2022). Penegakan hukum di Indonesia dilihat dari perspektif sosiologi hukum. *Jurnal Hukum Dan Pembangunan Ekonomi*, 10(2), 227. <https://doi.org/10.20961/hpe.v10i2.62834>
- Horii, H. (2020). Child marriage as a solution to modern youth in Bali. *Progress in Development Studies*, 20(4), 282-295. <https://doi.org/10.1177/1464993420977793>
- Jayani, D. H. (2021). *Wabah pernikahan dini di tengah pandemi dan dampak buruknya*. <https://katadata.co.id/muhammadridhoi/analisisdata/5ff7cb5cdf279/wabah-pernikahan-dini-di-tengah-pandemi-dan-dampak-buruknya>





- Jemarut, W., Solikatun, & Rizal, P. (2022). Kajian yuridis masyarakat hukum adat. *Widya Yuridika*, 5(1). <https://doi.org/10.31227/osf.io/498dh>
- Kamilah, F., & Rosa, E. M. (2021). Marriage experience from the girl's perspective: A scoping review. *Jurnal Promkes: The Indonesian Journal of Health Promotion and Health Education*, 9(2), 186–194. <https://doi.org/10.20473/jpk.V9.I2.2021>
- Latifiani, D. (2019). The darkest phase for family: Child marriage prevention and its complexity in Indonesia. *JILS*, 4, 241. <https://doi.org/10.15294/jils.v4i2.34708>
- Lubis, A., Baharuddin, A., Maganingratna, A., & Lubis, M. A. (2021). NGOs and child marriage problem in indonesia: Analysis of issues, strategies and networks. *Gorontalo Journal of Government and Political Studies*, 4(1), 85–95. <https://doi.org/10.32662/gjgops.v4i1.1346>
- Manan, B., Abdurahman, A., & Susanto, M. (2021). Pembangunan hukum nasional yang religius: konsepsi dan Tantangan dalam negara berdasarkan pancasila. *Jurnal Bina Mulia Hukum*, 5(2), 176195. <https://doi.org/10.23920/jbmh.v5i2.303>
- PANRB. (2023). 18 Pasangan di bawah umur di Lingga minta dispensasi nikah. <https://sipn.menpan.go.id/berita/62448/pengadilan-agama-dabosingkep/18-pasangan-di-bawah-umur-di-lingga-minta-dispensasi-nikah>
- Pratiwi, M. R. A. P. (2021). Child marriage under Indonesian marriage law: Legal and social analysis. *Law Research Review Quarterly*, 7(3), 285-302. <https://doi.org/10.15294/lrrq.v7i3.48158>
- Prawirosusanto, K. M. (2014). Orang laut, permukiman, dan kekerasan infrastruktur. *Jurnal Masyarakat Indonesia*, 41(2). <https://doi.org/10.14203/jmi.v41i2.252>
- Rahayu, W. D., & Wahyuni, H. (2020). The influence of early marriage on monetary poverty in indonesia. *Journal of Indonesian Economy & Business*, 35(1). <https://doi.org/10.22219/ljih.v31i2.28881>
- Rahim, R. A. A., & Dilawati, R. (2022). Causes and impacts of early marriage: A phenomenological study in the cimarel hamlet community, West Bandung regency. *TEMALI: Jurnal Pembangunan Sosial*, 5(1), 29-44. <https://doi.org/10.15575/jt.v5i1.16085>
- Rahmawati, A. (2014). Kehidupan suku laut di Batam: Sebuah fenomena kebijakan pembangunan di pulau bertam kota batam. *Share: Social Work Journal*, 4(1), 1–12. <https://doi.org/10.24198/share.v4i1.12987>
- Sabri, M. N. (2015). *Masyarakat adat merupakan kesatuan masyarakat yang tetap dan teratur*. Brawijaya University.
- Sekarayu, S. Y., & Nurwati, N. (2021). Dampak pernikahan usia dini terhadap kesehatan reproduksi. *Jurnal Penelitian Dan Pengabdian Kepada Masyarakat (JPPM)*, 2(1), 40. <https://doi.org/10.24198/jppm.v2i1.33436>
- Sirait, R. D. E. (2021). Legalitas perkawinan adat menurut undang – undang no. 16 tahun 2019 tentang perubahan atas undang-undang nomor 1 tahun 1974 tentang perkawinan. *Fiat Iustitia: Jurnal Hukum*, 2(1). <https://doi.org/10.54367/fiat.v2i1.1426>
- Siregar, F. A. (2018). Ciri hukum adat dan karakteristiknya. *Jurnal Al-Maqasid*, 4(2). <https://doi.org/10.24952/almaqasid.v4i2.1473>
- Soumena, M. Y. (2012). Pemberlakuan aturan perkawinan adat dalam masyarakat islam Leihetu-Ambon (analisis antro-sosiologi hukum). *Jurnal Hukum Diktum*, 10(1), 40–51. <https://doi.org/10.35905/diktum.v10i1.252>

- Sudirman, S., Ramadhita, R., Bachri, S., & Duran, B. N. (2023). Examining the complexity of child marriage as sexual violence in digital era. *Legality: Jurnal Ilmiah Hukum*, 31(2), 310-328. <https://doi.org/10.22219/ljih.v31i2.28881>
- Tan, D. (2021). Metode penelitian hukum: Mengupas dan mengulas metodologi dalam menyelenggarakan penelitian hukum. *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial*, 8(8). <https://doi.org/10.31604/jips.v8i8.2021.2463-2478>
- Tan, W. (2022). Child marriage within the sea tribe of Kelumu Island: Issues and problems. *Jurnal Media Hukum*, 29(2), 120-130. <https://doi.org/10.18196jmh.v29i2.14027>
- Yuliana, E., & Zafi, A. A. (2020). Pernikahan adat jawa dalam perspektif hukum islam. *Al-maslahah Jurnal Hukum Islam Dan Pranata Sosial Islam masalah Jurnal Hukum Islam*. <https://doi.org/10.30868/am.v8i02.745>
- Yustianugraha, C. (2022). Perkawinan usia anak di Lombok Utara dalam perspektif hukum pidana dan adat. *Unizar Law Review*, 5(2). <https://doi.org/10.36679/ulr.v5i2.12>