

# Is Early Marriage a Problem in Indonesia? *Maqāsid Al-Sharī'ah*, Economic and Quadruple Helix Analysis

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### **ABSTRACT**

Early marriage is a contributing factor to low levels of health, education, and family welfare. Early marriage is a worldwide occurrence that warrants the attention of all stakeholders, including UNICEF. The objective of this study is to address the issue of early marriage in Indonesia by employing the quadruple helix approach and doing legal and economic analysis to effectively reduce the prevalence of early marriages. The author employed a type of normative juridical study that incorporated both national law and the Islamic legal method approach known as *maqāsid al-sharī'ah*. This was done by utilizing the quadruple helix and economic analysis of law (EAL) theory. Ultimately, early marriage is influenced by ineffective regulations as well as cultural, economic, and educational factors. To address this issue, it is crucial to establish a strong collaboration between academics, businesses, government, and society. Additionally, raising awareness among the public about the benefits of delaying marriage until the appropriate age can contribute to the well-being of couples, families, and society as a whole. This approach can also incentivize the community by facilitating access to education, the economy, and healthcare and addressing issues such as stunting.

Keywords: early marriage, EAL, family, *maqāsid al-sharī'ah*, welfare

## INTRODUCTION

Early marriage is a worldwide issue, and eliminating it serves as a measure of sustainable development success (SDGs), including the achievement of gender equality and the protection of women's and children's rights in each country. In Indonesia, the elevated prevalence of early marriage, ranking fourth globally, will significantly affect poverty levels.

The topic of early marriage is intriguing due to its prevalence in 117 countries worldwide, including affluent nations like the United States. Nevertheless, the prevalence of unregistered weddings is primarily observed in developing nations. This is not due to the absence of regulations but rather a result of other influencing variables perpetuating this recurring cycle. According to statistical data, early marriage is prevalent in Asia and Africa. In these regions, as many as fourteen million girls under the age of eighteen are married.<sup>1</sup>

Hence, the significance of this research lies in the fact that failure to address the issue of early marriage might result in the creation of a generation that is deprived<sup>2</sup> of its potential human resources due to hunger and inadequate education and skills. Early marriage is a harmful cycle that intertwines health, education, and family well-being, ultimately undermining national welfare. It adversely affects women's health, increasing the likelihood of infant mortality and cervical cancer. It also leads to social isolation, disrupts access to education, limits employment prospects, and increases the risk of becoming a victim of domestic violence due to the psychological and emotional immaturity of the partner in child-rearing.<sup>3</sup>

The scarcity of education significantly hampers work prospects, leading to a commensurately lower income level compared to individuals with higher levels of education. This detrimental cycle of poverty necessitates intervention and disruption. Specifically, early marriage can result in the lack of formal registration of the marriage, which may have negative consequences on the legal rights of children and spouses, such as inheritance rights, citizenship, and social recognition. Institutions worldwide have promoted discourse on early marriage in global forums and conventions, recognizing its potential to disrupt the national economy of each country. They advocate for the adoption of measures that restrict the minimum age for marriage in line with the provisions outlined in the Universal Declaration of Human Rights.<sup>4</sup> Additional global agreements pertaining to early marriage include the Convention on the Consent of Marriage, the Minimum Age for Marriage, and the Registration of Marriage.<sup>5</sup>

In Islam, Sharia provisions do not always result in sanctions because they are governed by three key elements: Muslim moral ethics, which means that violations may not have legal consequences, such as not responding to greetings or not being able to afford a pilgrimage. However, other aspects of Sharia, such as inheritance law, can lead to sanctions if violated, allowing heirs to seek legal recourse. Sharia refers to a system of laws and principles that encompass legal, moral, and ethical aspects. These aspects are shaped by the community's requirements and are represented in the construction of Islamic law through cognitive processes. Additionally, Sharia encompasses matters of faith and worship, which are considered unchangeable and absolute as they are of divine origin.

The paradigm of Islamic law encompasses sources, procedures, and principles. Similarly, with regard to the boundaries of puberty in matrimony, it is imperative to prohibit early marriage for the purpose of safeguarding the well-being of individuals. This prohibition is necessary due to its violation of legal, moral, and ethical principles, as well as its potential legal ramifications since it contradicts the protection of children's rights.<sup>6</sup>

Based on the background above, the purpose of this study is to answer the problem of early marriage through the effectiveness of the quality of the quadruple helix law and economic analysis of the law in suppressing the rate of early marriage in Indonesia.

The author used normative juridical studies based on positive legal sources and norms from regulators, court decisions, and the opinions of other experts to produce arguments, theories, or new concepts as prescriptions for solving the problems faced.<sup>7</sup> Similarly, the author employed the Islamic legal method approach (*maqāsid al-sharī'ah*), Abd al-Rahmān Ibrāhīm al-Kaylānī, Yūsuf hāmid al-Ālim defines this method of Islamic law as a means of solving the problem of early marriage through *maslahah* and *mafsadah* through determinations that provide good solutions to achieve benefit or kindness to humans both in this world and in the hereafter.<sup>8</sup>

In Indonesia, the legal criterion for an ideal marriage is that both individuals must be at least twenty-one years old. This age requirement is based on the consideration of their psychological and biological maturity, as well as their ability to meet all other necessary criteria for a valid marriage. The age limit is stated in Act No. 1 of 1974 and the Civil Code.<sup>9</sup>

Amir Nuruddin and Azhari Akmal Tarigan asserted that the Compilation of Islamic Law is governed by Presidential Instruction, serving as a guide for Religious Court judges in adjudicating diverse situations pertaining to marriage law, inheritance law, and waqf law that arise within society.<sup>10</sup>

In solving the problem of early marriage, the author examines the quadruple helix innovation system in the legal product implementation system, which is mutualistic between the four pillars, namely academics, business, government, and users/society). The synergy of the four pillars can provide guarantees for achieving legal goals and realizing efficiency and legal effectiveness.<sup>11</sup>

The reliability of legal products is determined by implementation in accordance with the legal quality audit indicators as follows:<sup>12</sup>

- a. Product quality, where a quality legal product has strong (effective) binding power, is complied with and is prescriptive
- b. Efficient cost, where the production and implementation are efficient
- c. Accessibility, where the public can be easily served and easily obtain information and legal services
- d. Safety is when the substance of the legal product ensures the well-being of individuals by preventing suffering. This is achieved by the inclusion of sociological considerations in the regulatory process, which enables the legal product to safeguard all components of the state, including its citizens.
- e. Even more, in legal culture, there is a bond between law enforcers and the community.
- f. Systemic, in which the law is made following the rules for making regulations.
- g. Continues improvement, where legal renewal will continue to follow developments in the community environment, both nationally and globally

Also, the author utilized economic analysis of law theory with considerations of cost and benefit as well as efficiency and rationality. The regulatory state model places more emphasis on the underlying strength of existing legal institutions in guaranteeing the integrity of the litigation process to create strong, efficient, and effective legal institutions.<sup>13</sup>

Harvey Averch and Leland Johnson stated that in an economic analysis of law, regulators are considered servants of the public interest as a form of their responsibility. Besides that, compliance with the laws and regulations that the regulator has made exists. For that, collaboration is required between the members of the four pillars of the quadruple helix - government, society, scientists, and society together - to create effective and efficient laws that improve welfare and the economy of society.<sup>14</sup>

The analytical descriptive method was also applied to collect, describe, and present data on the ideal conditions and the actual conditions in the field (*das sollen, das sein*). The findings were compiled, outlined in written form (narrative), and subsequently interpreted and analyzed. The objective of this

study is to provide a comprehensive and full description of a given circumstance.

### Early Marriage

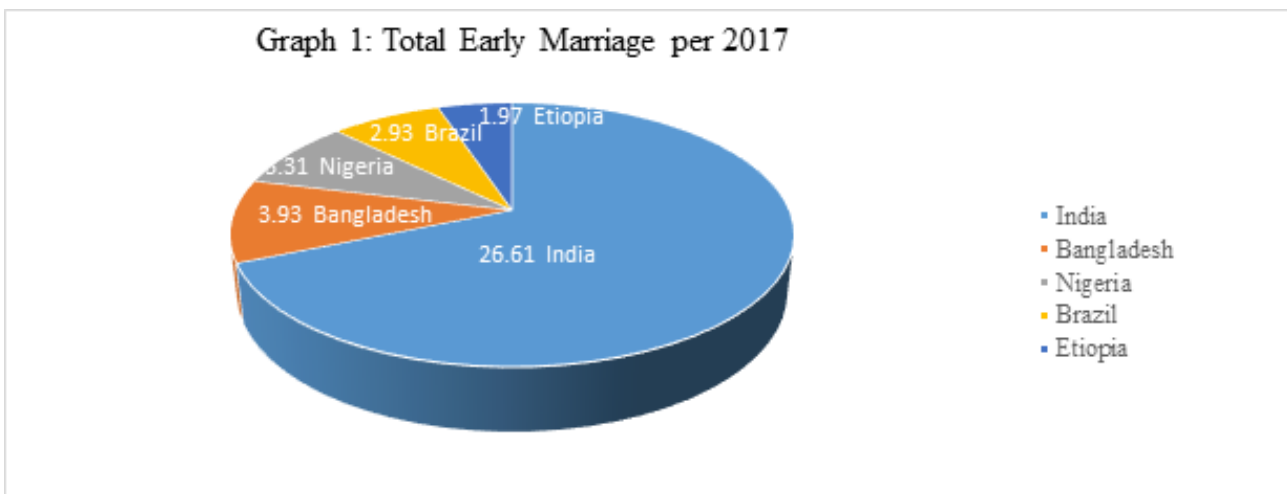
Early marriage predominantly happens in Asia, where around 14 million girls below the age of 18 are compelled to alter the trajectory of their future by discontinuing their education and forfeiting the potentially lucrative careers they aspired to. In Indonesia, there has been a significant increase in the number of young women who are forced to drop out of high school and marry at a young age due to the perception that women are a financial burden on their families. Specifically, during the pandemic in 2020, the number of girls who were compelled to marry increased by two and a half times, reaching a total of 33,000 individuals compared to 2012. On a global scale, the number of girls who dropped out of school and were forced into early marriages amounted to 250,000 individuals.<sup>16</sup>

The top five contributors to early marriage in the world are shown in Table 1 and Graph 1 below:<sup>17</sup>

**Table 1: The Big Five Early Marriage in the World per 2022 (in Millions)**

| No. | Country    | Total Early Marriage | Early Marriage Percentage | Legal Age (year) of Female | Legal Age (year) of Male |
|-----|------------|----------------------|---------------------------|----------------------------|--------------------------|
| 1   | India      | 26.61                | 47%                       | 18                         | 21                       |
| 2   | Bangladesh | 3.93                 | 52%                       | 18                         | 21                       |
| 3   | Nigeria    | 3.31                 | 43%                       | 18                         | 18                       |
| 4   | Brazil     | 2.93                 | 36%                       | 16                         | 18                       |
| 5   | Ethiopia   | 1.97                 | 41%                       | 18                         | 18                       |

Source: Madison Feser (2017)



Source: Madison Feser (2017)

Strochlic stated that India made changes to the 1926 Regulation in 2006 to decrease the occurrence of early marriage. The update involved raising the minimum age for marriage, with the requirement that the woman must be at least 19 years old and the man must be at least 22 years old. Those who violate this law, including parents or third parties who encourage early marriage, can face up to two years in prison as punishment. This change aims to address the issues of poverty, limited education, and unstable lives that are associated with early marriage.<sup>18</sup>

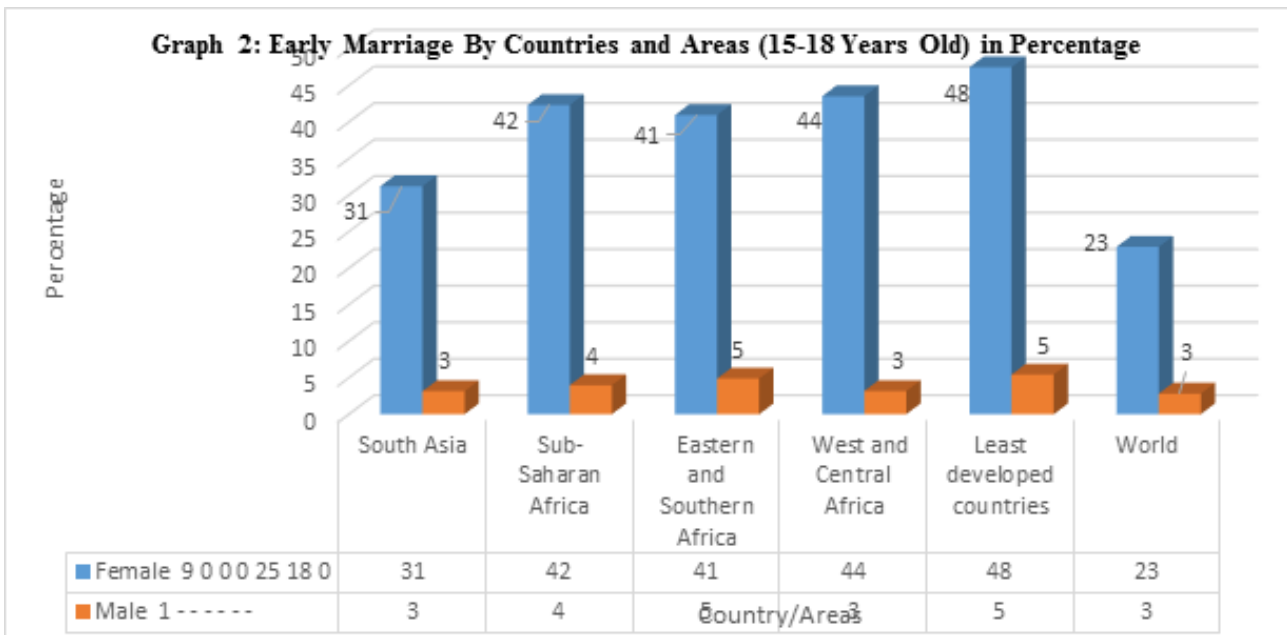
In 2017, India achieved the distinction of having the highest prevalence of early marriage among all countries. However, in 2022, Nigeria, a country in Africa, significantly altered India's position in terms of early marriage rates. In 2017, Nigeria had a rate of 3.31%, but by 2022, it had increased dramatically to nearly 30%. This increase was observed even for marriages performed at the age of 15. The Central African Republic, Chad, and Mali also had high rates of early marriage, ranging from 61% to 54%.<sup>19</sup>

According to UNICEF data, early marriage is prevalent in African countries and economically disadvantaged nations in 2022. These regions had a higher rate of early marriage, surpassing the global average of 23%, as detailed in Table 2 and Graph 2 below:<sup>20</sup>

**Table 2: Child Marriage by Countries and Areas (15-18 Years Old)  
in Percentage per 2015-2022**

| Countries and Areas             | Female | Male |
|---------------------------------|--------|------|
| East Asia and the Pacific       | 9%     | 1%   |
| Europe and Central Asia         | -      | -    |
| Eastern Europe and Central Asia | -      | -    |
| Western Europe                  | -      | -    |
| Latin America and the Caribbean | 25%    | -    |
| Middle East and North Africa    | 18%    | -    |
| North America                   | -      | -    |
| South Asia                      | 31%    | 3%   |
| Sub-Saharan Africa              | 42%    | 4%   |
| Eastern and Southern Africa     | 41%    | 5%   |
| West and Central Africa         | 44%    | 3%   |
| Least developed countries       | 48%    | 5%   |
| World                           | 23%    | 3%   |

Source: DHS, MICS, and other national surveys, UNICEF (2023)



Source: DHS, MICS, and other national surveys, UNICEF (2023)

In Indonesia, the 2020 National Medium-Term Development Plan (RPJMN) targets a reduction in the child marriage rate from 11.2% to 8.74%. The government has the responsibility of safeguarding its citizens from the many risks associated with early marriage. Early marriage has detrimental effects on children, causing stunted growth, instability, and psychological burdens on spouses due to their immature psychological development. This can lead to malnutrition (stunting), increased health risks during early pregnancy, and a higher likelihood of cervical cancer.<sup>21</sup>

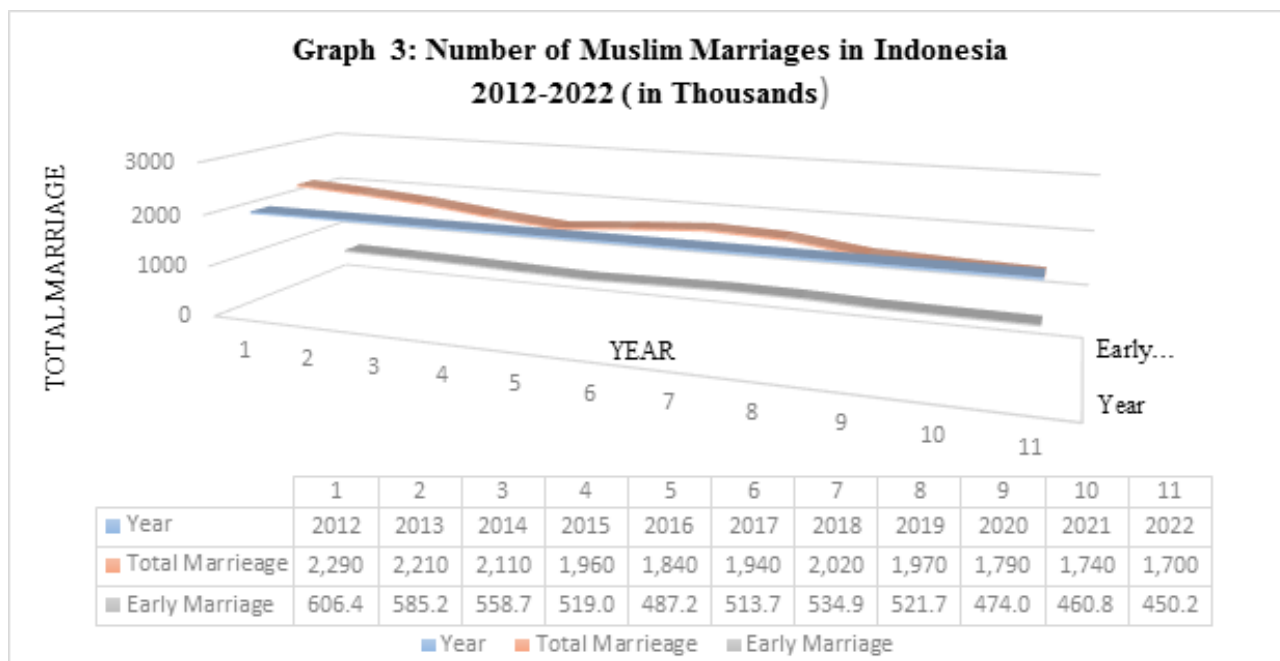
According to data on the number of marriages among young Muslim women in Indonesia from 2012 to 2021, the average number of married couples was 1,961. However, in 2022, there was a fall to 1,700 couples. This number represents the minimum number of married couples in the past decade. Out of the total number of married couples, 37.27% complied with the stipulated regulations (as stated in Act No. 1 of 1974 on marriage, in conjunction with Act No. 16 of 2019). However, as of 2022, 26.48% of couples were engaging in early marriages.<sup>22</sup>

Table 3: Number of Muslim Marriages in Indonesia at 2012-2021 (in Thousands)

| Year | Total Marriage | Early Marriage |
|------|----------------|----------------|
| 2012 | 2,290          | 606.4          |
| 2013 | 2,210          | 585.2          |
| 2014 | 2,110          | 558.7          |
| 2015 | 1,960          | 519.0          |
| 2016 | 1,840          | 487.2          |
| 2017 | 1,940          | 513.7          |
| 2018 | 2,020          | 534.9          |
| 2019 | 1,970          | 521.7          |

|      |       |       |
|------|-------|-------|
| 2020 | 1,790 | 474.0 |
| 2021 | 1,740 | 460.8 |
| 2022 | 1,700 | 460.8 |

Source:<sup>23</sup> and<sup>24</sup> Based on 2022 Early Marriage Data, 26.48% (BPS)



Source:<sup>25</sup> and<sup>26</sup> Based on 2022 Early Marriage Data, 26.48% (BPS)

Based on a 1996 survey, the majority of women in developing nations still got married during their teenage years, as indicated by research that analyzed data from 40 Demographic and Health Surveys. Early marriage is prevalent in Asian and African countries. However, this study reveals a correlation between the level of education and the prevalence of marriage in society. There is a direct correlation between lower levels of education and higher rates of early marriage. Hence, it is imperative to implement remedial measures to rectify this. One approach is through the quadruple helix concept, which involves the collaborative participation of the four pillars in the quadruple helix system. This can be an effective solution for improving welfare and shifting the community's perspective on early marriage, highlighting the negative consequences it has on the development of both mothers and their children.<sup>27</sup>

The sustainable development goals (SDGs) aim to improve humanity's quality of life by addressing various issues such as poverty, hunger, disease, and violence. By 2030, these goals seek to ensure freedom from these challenges and provide access to quality education and healthcare. Achieving this added value requires transforming state actions to guarantee these freedoms.<sup>28</sup>

One of the programs within the MDGs is focused on achieving gender equality. In the context of Islam, it is stated that gender equality is regulated, as expressed by Faqihuddin Abdul Kodir. According to the texts of the Qur'an and Hadith, the relationship between men and women is considered equal. However, societal perspectives and paradigms, along with a deeply ingrained patriarchal system, have resulted in the dichotomization of men and women. This has led to the perception of men as superior

and women as inferior, resulting in gender injustice. Examples of this injustice include marginalization, subordination, violence, and the imposition of a double burden on women. One specific manifestation of this is the practice of forcing early marriage for girls and depriving them of education, as women are seen as an economic burden on the family. Although the position of men and women can be relatively equal in terms of mutual benefits, this applies to several aspects such as marriage, polygamy, inheritance, sex, and other topics related to the interaction between men and women.<sup>29</sup>

Early marriage necessitates significant attention from all nations due to its implications for human rights protection, capacity development, and ensuring children's freedom to secure a prosperous future. It also plays a role in reducing maternal mortality and safeguarding children from violence, discrimination, and harassment. Furthermore, it promotes their active involvement in economic, political, and social spheres.<sup>30</sup>

For those reasons, the involvement of policymakers in each country is crucial to guarantee the realization of children's rights and their protection from many forms of harm, such as physical exploitation like slavery and sexual abuse, as well as psychological harm, including the risk of HIV infection and limited access to education. In addition, each country is responsible for the availability of valid and reliable data that can be used for priority scales for the effective handling and protection of children, as well as strong and sustainable regulatory support.<sup>31</sup>

To effectively combat early marriage, the global strategy relies on enhancing and maximizing the educational attainment of girls and their offspring. This approach aims to promote higher income levels among women, improve overall household well-being, and significantly reduce child mortality rates and instances of malnutrition (specifically stunting) in the population. The World Bank forecasts that the consequences of early marriage will result in significant economic losses in developing nations, amounting to trillions of dollars by 2030. Conversely, the promotion of optimal marriages will help to break the cycle of poverty in these countries, also resulting in trillions of dollars in economic gains by 2030. Furthermore, this will lead to a reduction in the government's annual education expenditure in developing nations.<sup>32</sup>

In Brunei Darussalam, no term for early marriage exists as the state does not set a minimum age for marriage. Instead, marriage decisions are primarily based on the cultural values and traditions of the local population. Being a Muslim nation, the local culture prioritizes Islamic law. The marriage regulations of Brunei solely govern the marriages conducted by locals. If they fail to execute it, they will be liable to criminal sanctions and monetary penalties - a half-year imprisonment or a sum of two thousand dollars. This marriage provision pertains to the reformation of Islamic law, guided by the principles of *maqashid al-sharī'ah*, with the aim of fostering peace and calm (*ammah*) in the lives of Muslims and society as a whole.<sup>33</sup> Similarly, UNICEF has called upon Brunei in Malaysia to raise the minimum age for marriage to 18 years to safeguard the rights of children in ASEAN, as neither country currently has such regulations in place.<sup>34</sup>

**Table 4: Child Marriage in ASEAN Countries (15-18 Years Old) per 2015-2022**

| Countries and Areas | Female | Male |
|---------------------|--------|------|
| Brunei Darussalam   | -      | -    |
| Cambodia            | 20%    | 4%   |
| Indonesia           | 18%    | 5%   |
| Lao (PDR)           | 40%    | 11%  |



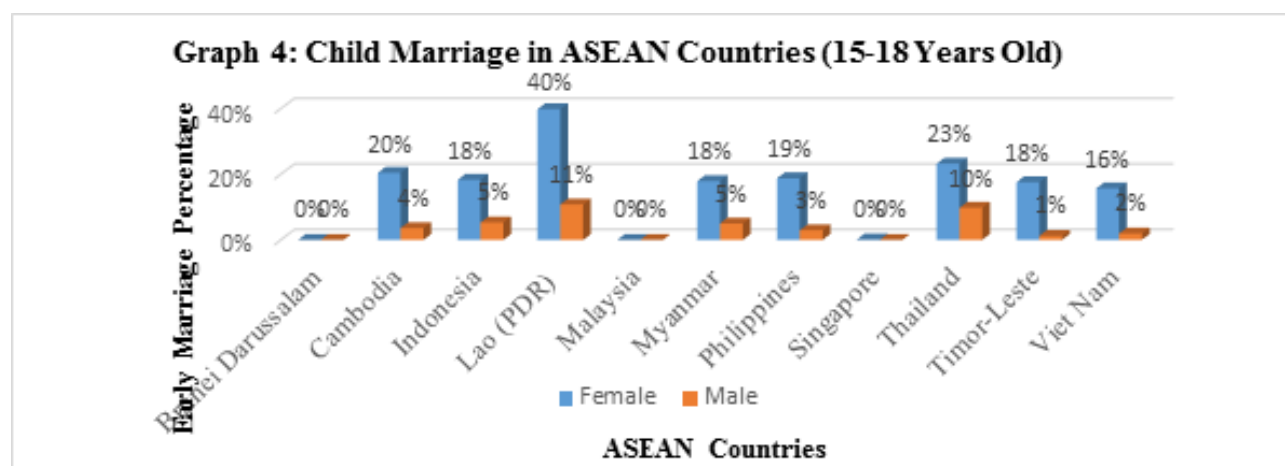
|             |     |     |
|-------------|-----|-----|
| Malaysia    | -   | -   |
| Myanmar     | 18% | 5%  |
| Philippines | 19% | 3%  |
| Singapore   | -   | -   |
| Thailand    | 23% | 10% |
| Timor-Leste | 18% | 1%  |
| Viet Nam    | 16% | 2%  |

Source: DHS, MICS, and other national surveys, UNICEF (2023)

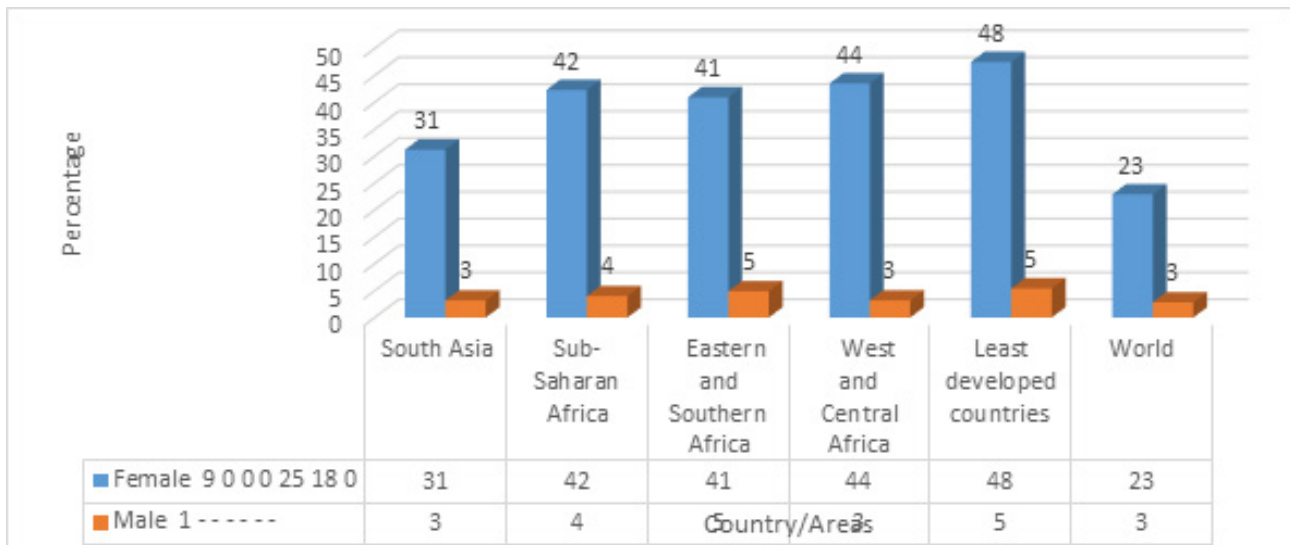
Abdulkadir Muhammad argued that incorporating Dutch Law into Indonesian national law was necessary to protect the citizens. Previously, the regulations were based on Stb Marriage Ordinance Number 348 of 1929 Jo. Staatblad 467 of 1931 and the Staatblad Mixed Marriage Ordinance 1933 Number 98, but they no longer met the current requirements. Concurrently, it is unfeasible to expeditiously enforce novel legislation. Following the enactment of Act Number 22 of 1946, which addressed the topics of marriage, divorce, and reconciliation, prompt measures were implemented to separate the processes of marriage registration, divorce, and reconciliation from the jurisdiction of Religious Courts. These changes were intended to be applied nationwide on October 26, 1954.<sup>35</sup>

Taufiqurrohman Syahuri in Jamaluddin also asserts that the Marriage Law represents the adoption of legal pluralism, serving as a replacement for the Dutch Marriage Law. In addition, Islamic law has distinct provisions compared to other religions. Consequently, specific regulations were established to govern marriage in accordance with Islamic law. These regulations complement the Marriage Law outlined in Presidential Instruction No. 1 of 1991, which focuses on the compilation of Islamic law.<sup>36</sup>

Among the ASEAN countries, only Brunei Darussalam and Malaysia lack data on early marriage, as these two nations do not disclose such information. There is no specific age restriction for marriage, but individuals are permitted to marry once they have reached the legal age of adulthood. The data about early marriage in ASEAN, encompassing various countries and regions, is presented in Table 4, Graph 4, and Graph 5 below:



Graph 5: Early Marriage by Countries and Areas (15-18 Years Old) in Percentage



Source: DHS, MICS, and other national surveys, UNICEF (2023)

### **Maqāṣid Al-Sharī'ah in Marriage Law**

Indonesia has a relatively high rate of early marriage, although it is still lower than the global average. It is often compared to India, the largest country in Asia. However, by 2020, Indonesia is projected to become the largest country in the world before being surpassed by Nigeria in 2022 ("Countries with the Highest Absolute Numbers of Child Marriages as of 2020 (in 1,000s)", 2023). As such, the Indonesian government must prioritize addressing the issue of early marriage. To mitigate different dangers faced by its residents, the government aims to decrease the prevalence of child marriages from 11.2% to 8.74% through the implementation of the 2020 National Medium-Term Development Plan (RPJMN).<sup>37</sup>

UNICEF seeks to optimize the utilization of violence against children by employing diverse tools and indicators to gather and track new data in the realm of child protection. Furthermore, UNICEF collects and analyzes trend data on child protection, which is then utilized strategically to guide program initiatives. This is achieved through partnerships with academic institutions and other relevant organizations on a global scale (UNICEF Seeks to Prevent and Respond to Violence, Exploitation, and Abuse of Children Everywhere, 2023). Numerous factors, including the following, cause early marriages to occur:<sup>38</sup>

- Mature (*balig* or level of maturity)
- Domination of female guardians
- Community traditions
- Community economy

A couple is eligible to get into a marriage if they have reached the age of adulthood. Regarding the definition of adulthood, Jamal Al Banna argued that the minimum age for marriage should be determined by specific circumstances and the progress of society rather than being based solely on the traditional criteria of adulthood - such as men having wet dreams at 15 years old and women experiencing menstrual bleeding at nine years old. Al Banna questioned what should be done if individuals do not meet these criteria, suggesting that jurists establish maturity based on age.<sup>39</sup>

Based on the Marriage Law, the age limit for women is under 16 years and for men, it is under 19 years. According to Article 6, section (2), individuals who want to get married before the age of 21 must get permission from their guardian and obtain a dispensation from a District Court. However, under the Marriage Renewal Law, marriage can be allowed at the age of 19. Beyond that, it is necessary to request a dispensation from a court, as stated in Article 7, section (1).<sup>40</sup>

Nevertheless, there exists a legal loophole that allows marriage to take place with the permission of a judge, bypassing the need for consent from the parent or guardian. As a result, early marriages continue to occur frequently due to factors such as the daughter becoming pregnant before marriage, which is a consequence of promiscuity. Additionally, parents may choose to marry off their children early to alleviate financial burdens and avoid societal stigmas associated with being an unmarried adult, "*bujang lapuk*" and "*perawan tua*."<sup>41</sup>

Ramadhita, Fitria Ma'arif, and Abintoro Prakoso also expressed that early marriage brings a sense of pride to parents and relatives. This condition is inherently linked to the inadequate level of education and economic conditions within families, therefore perpetuating an endless cycle. The approval or dispensation of judges to allow early marriage is often justified as a means of law enforcement. However, from the perspective of neglected child legal protection, this practice can have detrimental effects on a child's well-being. It forces them to abandon their aspirations and goals due to the pressures of patriarchy and poverty and often results in them leaving school to get married.<sup>42</sup> Early marriage is considered a criminal offense and can result in a maximum penalty of two years of punishment.<sup>43</sup>

In Indonesia, early marriage is considered a violation of the constitution and state laws. This is done to safeguard, encourage, and enhance the well-being and education of the nation's children. The Child Protection Act is implemented to uphold the principles outlined in the Convention on the Rights of the Child, which encompasses various aspects of children's rights, including their political, economic, and social rights. The state, society, and parents must ensure that these rights are fulfilled. Implementing an age restriction for marriage is anticipated to be successful, as it aims to enhance the human capital for the future generation of the country and contribute to the advancement of the nation, which is currently in a period of globalization.<sup>44</sup>

According to the principles of *maqāsid al-sharī'ah* in marriage law, particularly regarding early marriage, it is important to highlight that marriage serves not only as a means of strengthening civilization but also involves a mutually beneficial relationship between partners that entails rights and responsibilities, including the upbringing of children in a harmonious and balanced manner. Marriage should be seen as more than only a legitimization of sexual relations but rather as a means to establish a *warahmah*, *mawadah*, and *sakinah* family.<sup>45</sup>

Moreover, early marriages frequently arise as a result of parental and guardian coercion, in accordance with Sharia provisions that deem marriage permissible if it satisfies the legal prerequisites, including the presence of a guardian. Nevertheless, parents cannot compel their children to marry if they have not reached the appropriate age or level of maturity. Here, the mutualistic symbiosis between husband and wife is a partnership characterized by equitable rights and responsibilities. An ideal marriage will foster gender equality and promote the equitable distribution of responsibilities between men and women in the public domain. Jamal Al-Banna stated that early marriage can be invalidated if it fulfills the following conditions:<sup>46</sup>

1. Marriage is conducted after surpassing the legally stipulated age restriction, taking into account not only rational and mature considerations. Hence, the age limit is not merely a numerical value

denoting age.

2. The guardian's predicament lies in the presence of *ijbar* (forced) rights that compel them to exert pressure on their children to marry at a young age.

The legality of the marriage depends on the presence or absence of a guardian. Within this framework, the author maintains that the role of the guardian remains a significant concern, in contrast to Jamal, who holds the belief that guardianship is not of essential importance. According to Jamal, an independent adult woman has the prerogative to get into matrimony with herself without requiring consent from her guardian. The matter of guardianship in marriage remains a subject of divergence, even among the jurists themselves.<sup>47</sup>

An essential aspect that requires attention in the matter of guardianship is the presence of the right of *ijbar* (forced) marriage, which involves the use of force and undermines the fundamental objective of marriage. On this basis, it is imperative to eliminate the *ijbar* rights associated with the guardian. Ideally, the relationship between guardians and women is mutually beneficial and not a competition to satisfy each other's egos.<sup>48</sup>

Further, local traditions have a significant impact on the prevalence of early marriage, as exemplified in India, where turmeric parties are ceremonially smeared on the bodies of the individuals involved. In Indonesia, several cultural customs contribute to the prevalence of early marriage, above a national average of 30% (specifically, 39%). According to the Indonesian Child Protection Commission (KPAI), 20% of early marriages occur when children are between the ages of nine and ten.<sup>49</sup>

Early marriage is a cultural phenomenon that has become established in a society where parents face social consequences, such as embarrassment if they do not arrange marriages for their children. For instance, within the Sasak tribe in the Lombo Area, early marriage is prevalent due to the cultural practice of "*Merarik*" (elopement), when girls are taken away and their consent for marriage is sought. Tana Toraja discovered that their society adheres to a cultural practice where females are expected to marry at the onset of menstruation (about nine years old), and men who are employed are expected to marry before turning 18 in order to uphold family honor and avoid shame. The traditional marriage in Tana Toraja is deemed legitimate and embraced by the community, which follows a hereditary culture, despite the existence of legal restrictions on the optimal age for marriage. This practice will persist through court dispensation requests and the participation of village elders in facilitating early marriage. In relation to that, Landung stated that parents did not take into account the negative health consequences associated with early marriage when deciding to marry off their children at a young age.<sup>50</sup>

### **Economic Analysis of Law in Early Marriage**

Medema, Steven, G. and Samuel, Warren stated that law will always affect other fields, including the economic, social, political, and cultural value systems of a society, where harmonization in society is created through interaction in fulfilling the economy. Here, economic action has a relationship with every member of society's appreciation of the idea of social harmony. In connection with the socio-cultural dimension, it can be seen that the economy is in touch with the assessment of how something develops for members of society.<sup>51</sup>

Economic analysis of the law examines the use of legal penalties in relation to economic infractions and assesses the influence of these penalties on human conduct. In microeconomics, the law of demand and supply might be compared to the concept of sanctions being the price and supply being the corresponding behavior. More than a scientific theory of behavior, economics provides a normative standard for evaluating laws and policies. Law is not only a technical argument but also an instrument

for achieving social goals. To find out the effect of the law on these goals, judges and other legal instruments must have a method for evaluating the effect of the law on social values. Economists predict the effect of this policy based on efficiency.<sup>52</sup>

Cost-benefit analysis can be utilized to decrease the prevalence of early marriage by implementing a restriction on marriage dispensation for guardian parents. This measure would enhance child safety, regulate population growth, and improve community well-being. Imposing fines on parents who are compelled to arrange marriages for their underage children can positively affect the well-being of the community and help prevent the burden of unwanted overpopulation on the state budget.<sup>53</sup>

Additionally, Novita Lestari stated that the legal system in Indonesia is pluralistic, particularly in relation to marriage. This is governed by Act No. 1 of 1974, Article 2, section 1, which stipulates that all marriages must adhere to the laws of each respective faith and belief in accordance with the 1945 Constitution. Presently, Indonesian marriage law faces numerous challenges, encompassing interfaith marriages, same-sex marriages, unregistered marriages, and contract marriages. Early marriage is already legal, but it has significant social repercussions as it fails to adequately safeguard the rights of children. There remains a considerable number of rules that require modification or inclusion in the marriage legislation, especially sections pertaining to severe penalties for individuals who violate marital laws.<sup>54</sup>

To establish order and peace in society, it is crucial to adhere to the legal principles by employing proportional evidence. However, the effectiveness of regulating the institution of marriage will remain limited unless there is alignment and coordination with customary and religious laws. This is essential to ensure that legal safeguards for children are adequately met. Modifications to the adjustments in the age restriction for those seeking to enter into a marriage can be coordinated with the implementation of the Child Protection Act.<sup>55</sup>

Moreover, it should be noted that every child possesses the inherent entitlement to exist without any exemptions. This signifies that the Islamic faith had previously recognized and supported this fundamental right prior to the Western development of Human Rights (HAM). For instance, a mother has a duty to nourish and nurture her child through breastfeeding since it is essential for the child's physical and psychological well-being. Regardless of personal preferences, a mother must ensure the proper care and sustenance of her infant, as neglecting these responsibilities could result in the child's demise. Consequently, in this case, the elevated prevalence of early marriage poses a significant risk of malnutrition and child maltreatment, which will ultimately impose a heavy burden on the family, community, and nation.<sup>56</sup>

### **Quadruple Helix in Early Marriage**

The concept of quadruple helix refers to a legal framework that engages stakeholders through a comprehensive approach, ensuring that their actions are both effective and efficient in enforcing the law in society. This method is particularly relevant in the context of Sharia business (*tijarah*). Implementing the quadruple helix in Islamic economics is imperative and indispensable. Ultimately, the law serves as a mechanism for maintaining the stability of the environment and the Sharia economy, which is upheld by the national legal system due to Indonesia's adherence to legal diversity. Nevertheless, all these systems necessitate a tool for assessing the caliber of legislation, specifically the quadruple helix innovation system, which encompasses an entity known as ABGUS - academic, business, government, and user/society - in order to establish a productive and streamlined legal ecosystem.<sup>57</sup>

According to Mulyana, a system is considered effective and efficient when the legal quality audit model is applied in society with the collaboration of various stakeholders, including academics, businesspeople, government, and society. This collaboration aims to promote creativity, innovation, and technology development.<sup>58</sup>

In the context of early marriages, the government is responsible for implementing regulations that raise the minimum age for marriage to 19 years, as stated in Act No. 16 of 2019. Additionally, the government guides parents and guardians who seek Marriage Dispensation in court through premarital provisions. Consequently, obtaining permits for early marriages is not a straightforward process, despite being a citizen's right. The quadruple helix, which refers to the involvement of government, industry, academia, and civil society, remains ambiguous and severely restricted. The Indonesian government is currently making continuous efforts to enhance the caliber of its human resources by focusing on education and public health. This includes raising awareness about the hazards of early marriage and engaging community leaders to promote the idea that delaying marriage until the ideal age is the most favorable decision.<sup>59</sup>

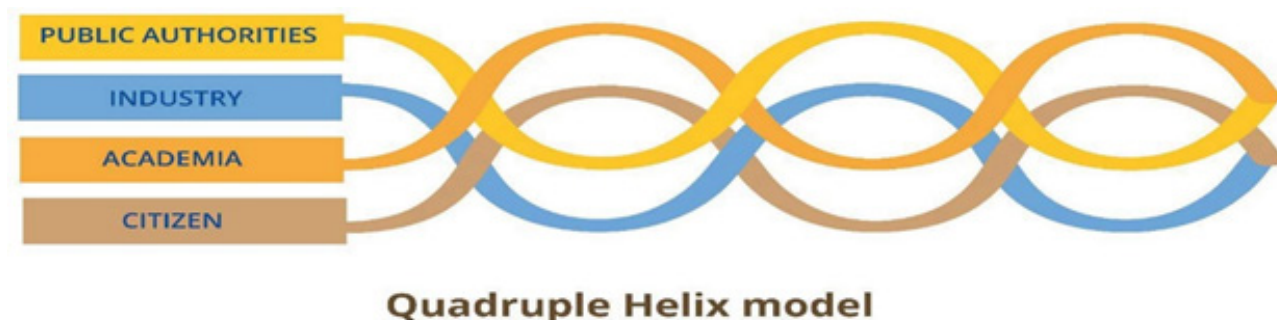
Entrepreneurial engagement in the prevention of early marriage can offer corporate social responsibility (CSR) aid in enhancing education and community well-being in neighboring areas through training and business support. Meanwhile, academics contribute to community understanding by engaging in community service as part of the Three Pillars of Higher Education. Therefore, by involving the community, the law-conscious family (*Kadarkum*) can have a greater impact in reaching out to the community.<sup>60</sup>

Additionally, Dai, in their capacity as an Islamic preacher, assumes the responsibility of offering viable resolutions to the predicaments faced by individuals, particularly in the present intricate circumstances. Dai, as a religious leader, can serve as the third pillar in the quadruple helix by offering the public a clear understanding of marriage that emphasizes the importance of the benefit aspect over maturity, taking into account the biological characteristics of puberty such as wet dreams for men and menstrual bleeding for women. However, it is also crucial to consider psychological and mental readiness, as well as the level of education and knowledge about childcare. Given the intricate nature of the problems, Dai must possess the ability to actively contribute to society by considering the socio-historical characteristics of a community. Millie asserts that *da'wah bil lisan*, which involves conveying teachings through lectures or speeches, is a legitimate da'wah activity as it plays a crucial role in several Islamic activities, such as *tabligh akbar*, recitation, *tausiyah*, and others.<sup>61</sup>

The quadruple helix approach is most effective when the community is the ultimate user of a legal system and when community involvement is prioritized. In this approach, the community plays a bottom-up role by actively demanding the necessity of a rule. Simultaneously, the top button incentivizes the government to act as a pioneer in delivering services that cater to the community's demands, creating a synergistic effect. The active participation of the community as the ultimate user is crucial for the quadruple helix model to achieve its objectives. This method fosters greater interaction and enhances the social impact of society as a whole, leading to increased efficiency. By completely endorsing the implementation of legislation, the community plays a vital role in ensuring its efficacy.<sup>62</sup>

The four pillars involved in preventing early marriage can be seen in Figure 1 below.<sup>63</sup>

Figure 1: Model and Member of Quadruple Helix



Source: Värmland County Administrative Board (2018)

As Afonso, Fernando, So Young, and Chinovski said, the fast-moving development of fintech - information technology - is currently having an impact on the process of organizing life so that changes in society's order are becoming more rapid. Creativity and innovation have always played a vital role in the economy. In developing countries, tangible assets based on the economic paradigm include creativity and innovation. In encouraging the growth of innovation, the quadruple helix is the main pillar that plays a role. Creativity and innovation in organizations have an inseparable relationship that will support organized innovation that results in optimal performance and competitive advantage.<sup>64</sup>

According to Park, an effective quadruple helix system is an implication that is a hybrid between top-down and bottom-up because the two models implemented simultaneously will produce the same results. Nevertheless, bottom-up community initiatives and actions can help shape, refine, and make policies and practices by governments, universities, and industries more effective.<sup>65</sup>

The quadruple helix principle is, in fact, a legal quality control system to resolve every legal and social problem effectively and efficiently. As explained above, this legal quality system involves interested parties - the government, community, academics, and the business world, with the roles as follows:

#### 1. Government

The government combats the issue of early marriage by implementing consistent policies and fostering a collective commitment to prevention. This includes planning, budgeting, and monitoring and evaluating the prevention efforts at both the central and regional levels.<sup>66</sup> Additionally, lower government institutions such as the KUA (Religious Affairs Office) are involved in these efforts.<sup>67</sup>

The successful execution of government plans relies heavily on the community's support and active involvement, as well as the preservation of its cultural values. Thus, the collaboration of indigenous groups in raising awareness about the adverse consequences of early marriage is required, including concerning the potential for malnutrition, learning challenges, behavioral issues, and the perpetuation of intergenerational patterns of marrying at a young age.<sup>68</sup> Behavioral problems and educational outreach within the community can help to shift people's perspectives and transform the prevailing culture around early marriage. As a result, the government is implementing measures such as issuing marriage certificates and providing premarital counseling guidance.<sup>69</sup>

In addition to revising regulations concerning the optimal age for marriage to align with international sustainable development goals (SDGs), the government actively engages with organizations focused on gender equality and women's rights at both national and international

levels through institutions dedicated to the protection of women and children.<sup>70</sup> Both the national and regional governments must engage in socialization efforts to raise awareness about the consequences of early marriage. This can be achieved through the active involvement of the National Population and Family Planning Agency (BKKBN)<sup>71</sup> and the Women's Empowerment and Child Protection Service.<sup>72</sup>

## 2. Society

Social and religious institutions are concerned with preventing early marriage as they have to establish an improved social atmosphere and contribute to the advancement of the nation. Collaboration between state and social institutions can be an effective solution. Collaboration between stakeholders through partnerships and involving community participation in policymaking is crucial in preventing early marriage.<sup>73</sup>

The trend of early marriage can be reduced effectively through the involvement of social workers in the community, and their role is to educate the community regarding the importance of preparing for a better future through marriage at the ideal age according to applicable regulations.<sup>74</sup> The parents also play an important role in giving significance to the role of the family in providing basic education to shape the child's character.<sup>75</sup>

## 3. Academics

Higher education functions as a pro-public and environmentally conscious innovator, introducing creative ideas and approaches in the field of communication science while also supporting public interests and preserving nature. This means that higher education teaches a curriculum in the field of communication science that serves three interests, namely industry, government, and civil society, as well as a natural environment perspective.<sup>76</sup>

Higher education institutions have a crucial role in development, as they are one of the Three Pillars of Higher Education, with community service being one of these pillars. The problem of early marriage can be addressed through community service programs that focus on educating teenagers about the ideal age for marriage, as stated in Act Number 16 of 2019, Act No. 32 of 2014, and Act No. 23 of 2002, which are laws aimed at protecting children. By prioritizing further education, these programs aim to provide enlightenment and discourage early marriage among high school students. This program also seeks to maximize Indonesia's demographic bonus to attain a prosperous generation by 2045.<sup>77</sup>

## 4. Business

The reallocation of corporate social responsibility (CSR) contributions towards social activities has a direct impact on reducing the prevalence of early marriage. This impact is achieved by the allocation of finances, provision of facilities, and other contributions, both directly and through community institutions. Social institutions protect and fulfill children's rights through the Association of Indonesian Child-Friendly Companies (APSAI), which can channel their CSR funds on a community support basis.<sup>78</sup>

For example, 15 companies channeled their CSR into supporting the eradication of the trend of early marriage in Indonesia, in addition to programs to improve the economy of people who have dropped out of school. The CSR also, through scholarships for high-achieving communities, had an impact on reducing the rate of early marriage.<sup>79</sup>



Preventing child marriage is an act of justice that aims to safeguard the well-being of children, particularly girls. This is crucial as child marriage can lead to a range of adverse effects on their economic, social, physical, and psychological aspects. One of the key factors in achieving SDG target 5.3, which aims to eliminate actions that harm the safety of children and women, is the eradication of early marriage. Early marriage contributes to various negative consequences in the community, including increased poverty, higher rates of maternal and child mortality, and lower levels of child participation in education. By addressing early marriage, the state can work towards ensuring that women have equal access to socio-economic opportunities and healthcare, thereby promoting justice.<sup>80</sup> For this reason, all stakeholders need an integrated solution through a quadruple helix to achieve justice for women. Apart from that, collaboration from these stakeholders can provide certainty, benefit, and justice.<sup>81</sup>

Safeguarding children from early marriage is crucial, necessitating the imposition of penalties on parents who fail to fulfill their duty in caring for and overseeing their children. In addition to engaging stakeholders in the quadruple helix, it is not inherently capable of reducing the prevalence rate. Therefore, a deterrent impact is required to discourage parents from coercing their children into early marriages. Besides, it is imperative to establish stringent regulations about the granting of marital dispensations in court. However, this poses challenges as marriage is legally permitted but lacks advantages due to its bad effects (*haram li gairih*). Hence, it is advantageous from a legal standpoint to have strict and definite legal repercussions to decrease the prevalence of early marriage.<sup>82</sup>

### **Concluding Remarks**

Regarding early marriages, the government is responsible for implementing regulations that raise the minimum age for marriage to 19 years, as stated in Act No. 16 of 2019. Additionally, the government should guide parents and guardians who seek Marriage Dispensation in court through premarital provisions. Consequently, obtaining permits for early marriages is not a straightforward process despite it being a citizen's right. The effectiveness and scope of the quadruple helix approach in addressing this issue remain uncertain and constrained. Presently, the Indonesian government is consistently endeavoring to enhance the quality of human capital through education and public health initiatives. This includes raising awareness about the hazards of early marriage and engaging community leaders to promote the notion that postponing marriage until the optimal age is the most favorable decision.

Entrepreneurial engagement in the prevention of early marriage can offer corporate social responsibility (CSR) support to enhance education and community welfare in neighboring areas through training and business support. Academics can contribute to community understanding by engaging in community service as part of the Three Pillars of Higher Education. Additionally, by promoting legal awareness within families, academics can further enhance their outreach to the community. Furthermore, the involvement of stakeholders in the quadruple helix will not achieve maximum effectiveness unless there are sanctions in place that discourage parents from exploiting the loopholes in marriage regulations through *Isbat Nikah* proceedings in court. Therefore, it is essential to strengthen the criteria for granting *Isbat Nikah*.

Hence, implementing a cost-benefit analysis can effectively reduce the prevalence of early marriage by imposing restrictions on parental consent for marriage. This measure will enhance child protection, regulate population growth, and improve community well-being. Additionally, imposing penalties on parents who coerce their underage children into marriage will further contribute to community welfare.

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