Too Young to Marry? The Malaysian Legal Dilemma

Priyadharshni Eswaran[1], Nur Batrisyia binti Mohamed Romizan[2], Shariffah Nuridah Aishah binti Syed Nong Mohamad[3]*

[1,2,3]Faculty of Law and International Relations, University Sultan Zainal Abidin, Terengganu, Malaysia

DOI: https://doi.org/10.47772/IJRISS.2026.101100269

Received: 08 November 2026; Accepted: 13 November 2026; Published: 25 November 2026

ABSTRACT

In Malaysia, marriage is governed by a complex dual legal system consisting of civil law for non-Muslims and Syariah law for Muslims. This framework reflects the nation's socio-religious landscape, where the general minimum age of marriage is set at 18, yet remains fragmented across various state and federal statutes. The primary problem lies in the persistence of underage marriage facilitated by legal exceptions that allow unions below the age of 18 through judicial or administrative approval. Despite a statistical decline in reported cases from 2,288 in 2016 to 923 in 2023, thousands of minors mostly girls, remain vulnerable to physical, psychological and developmental harm. Thus, this research aims to analyze the minimum age provisions under both legal systems and examine the challenges in harmonizing these laws. Utilizing a doctrinal legal methodology and a comparative study of reform models in Indonesia and the Philippines, the study investigates the "capacity paradox" created by the Age of Majority Act 1971 and the broad exercise of judicial discretion. The findings reveal a conflict between domestic practices and Malaysia's international commitments under the Convention on the Rights of the Child and Sustainable Development Goal. While the National Strategy Plan provides a policy roadmap, legislative progress is hindered by decentralized jurisdiction and religious opposition at the state level. This research proposes harmonization of laws to establish 18 as the minimum marriage age without exception. The study is important for providing a legislative blueprint to safeguard the fundamental rights and developmental potential of children, ensuring Malaysia's legal system prioritizes child protection over outdated socio-legal justifications.

Keywords: Child marriage; Minimum age of marriage; Malaysian legal framework; Legal pluralism; Child rights protection.

INTRODUCTION

Underage marriage remains a significant socio-legal concern in Malaysia. It reflects the complex interaction between legal pluralism, child protection and religious and cultural traditions. Malaysia's dual legal system regulates marriage through the civil legal framework for non-Muslims and the Syariah legal framework for Muslims. Although this arrangement accommodates religious diversity, differences in the applicable minimum marriage ages and approval mechanisms create challenges for ensuring consistent protection of children's rights. Child marriage, generally understood as a marriage involving a person below the age of 18, exposes children to potential physical, emotional, educational and developmental harm (UNICEF, n.d.).

Malaysia's international commitments to child protection and gender equality raise questions about the compatibility of its domestic marriage laws with international human rights standards. Malaysia ratified both the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1995. Nevertheless, exceptions permitting underage marriage remain within the domestic legal framework particularly under the Syariah law. This continuing practice highlights the conflict between Malaysia's international obligations and domestic legal arrangements (Samuri & Mohd Awal, 2018).

The legal position differs between Muslims and non-Muslims. Under section 10 of the Law Reform (Marriage and Divorce) Act 1976, the minimum marriage age for non-Muslims is generally 18 years although a female

aged 16 or 17 may marry with the required license from the Chief Minister. For Muslims, the Islamic Family Law (Federal Territories) Act 1984 and corresponding state enactments provide mechanisms through which marriages below the prescribed minimum ages may be authorized by the Syariah Court. These differing provisions raise concerns about the consistency of legal protection afforded to children, particularly where exceptions permit marriage before the age of 18. The continued availability of such exceptions also presents challenges to achieving Sustainable Development Goal (SDG) 5 which calls for the elimination of harmful practices including child and forced marriage by year 2030 (European Commission, n.d.).

The scale of the problem further demonstrates the need for effective legal and policy responses. UNICEF Malaysia's reporting indicates that more than 15,000 applications for underage marriage were recorded nationwide between 2008 and 2018. Civil society reporting has also identified regional differences in the prevalence of applications involving Muslim minors including in Sarawak (UNICEF Malaysia, 2020; Sarawak Women for Women Society, n.d.). Although initiatives to raise the minimum marriage age have emerged in states such as Kedah and Selangor, exceptions remain possible under the applicable legal frameworks. Socioeconomic vulnerabilities limited educational opportunities, poverty and prevailing community norms have also been identified as contributing factors to child marriage in Malaysia (UNICEF Malaysia, 2020).

At the policy level, the National Strategy Plan in Handling the Causes of Underage Marriage (2020–2025) introduced by the Ministry of Women, Family and Community Development sought to address the underlying causes through preventive, educational and support measures. These initiatives recognize that child marriage cannot be addressed solely through legal restrictions. Socioeconomic conditions, access to sexual and reproductive health education, parenting support and public attitudes must also be considered. Nevertheless, preventive strategies may have limited impact if the law continues to permit exceptions that legitimize marriages involving children.

Underage marriage remains a significant socio-legal concern in Malaysia despite various government initiatives aimed at reducing its prevalence. The issue attracted considerable national attention following the marriage of an 11-year-old girl to a 41-year-old man in Kelantan which generated widespread criticism from civil society organizations, human rights advocates and the public (Jayakumar, 2023). The incident highlighted a fundamental contradiction between societal expectations concerning child protection and the existing legal framework which continues to permit marriages involving children under certain circumstances. Although the number of reported cases has declined over the years, the continued occurrence of underage marriages raises serious questions about the effectiveness of existing legislation, institutional mechanisms and government policies in protecting children (UNICEF Malaysia, 2020).

National statistics demonstrate a consistent downward trend in reported underage marriages, declining from 2,288 cases in 2016 to 923 cases in 2023. Nevertheless, the persistence of hundreds of cases annually indicates that the problem has not been effectively eliminated. Table 1 illustrates the reported national statistics between 2016 and 2023 (Ova, 2022 March 18; Iskandar, 2025 February 21).

Table 1 Reported cases of underage marriage in Malaysia (2016–2023)

Year	Number of cases	Trend
2016	2,288	Highest recorded cases
2017	2,107	Declining
2018	1,856	Continued decline
2019	1,467	Further decline
2020	1,354	Declining
2021	1,086	Declining
2022	1,035	Slight decline

2023	923	Continued decline

Note. Compiled by the author based on Ova (2022, March 18) for year 2016-2021 and Iskandar (2025, February 21) for year 2022-2023

Although these figures indicate progress, the declining trend should not be interpreted as evidence that the underlying legal and institutional problems have been resolved. Furthermore, the statistics require careful interpretation due to limitations in national data collection particularly concerning the classification of marriages according to religion, legal jurisdiction and the number of applications approved by civil and Syariah courts. Samuri & Mohd Awal (2018) highlighted that official statistics on child marriage in Malaysia were not systematically collected, analyzed or consistently reported. Such deficiencies make it difficult to establish the full extent of the practice and evaluate the effectiveness of existing preventive measures.

The prevalence of underage marriage also varies considerably across Malaysian states, suggesting that the problem is influenced by differing socioeconomic conditions, cultural practices and state-level legal arrangements. Between 2017 and 2021, Pahang, Sabah, Johor and Perak consistently recorded relatively high numbers of underage marriages. Sabah and Pahang recorded 1,536 and 1,377 cases respectively between 2016 and 2020 which reflects the concentration of cases in certain geographical areas (Ova, 2022 March 18; UNICEF Malaysia, 2020). The state-level distribution is illustrated in Table 2 below.

Table 2 Reported underage marriage cases by state (2017–2021)

State	**2017**	**2018**	**2019**	**2020**	**2021**
Pahang	318	279	224	164	97
Sabah	300	344	255	193	154
Selangor	254	183	77	29	20
Johor	235	202	177	140	125
Perak	233	185	185	151	144
Kedah	154	148	140	119	141
Terengganu	151	154	122	128	153
Sarawak	112	56	53	246	98
Negeri Sembilan	91	77	66	48	30
Kuala Lumpur	73	59	28	36	23
Pulau Pinang	68	51	39	41	28
Melaka	45	45	51	17	27
Perlis	41	47	31	33	31
Labuan	20	15	8	8	12
Kelantan	12	11	9	1	2
Putrajaya	0	0	2	0	1

Note. Compiled by the author based on Department of Statistics Malaysia (n.d.)

The geographical differences become particularly significant when examining applications and approvals under Syariah jurisdiction. Recent figures for 2022–2024 indicate that Kelantan recorded the highest number of underage marriages among the states listed followed by Selangor, Kedah and Terengganu. These figures suggest that the practice continues to present a challenge within the Syariah legal framework notwithstanding legislative and administrative efforts to raise the minimum marriage age. Table 3 below presents the reported state-level figures.

Table 3 Reported underage marriages under Syariah jurisdiction (2022–2024)

State	**Number of underage marriages**
Kelantan	193
Selangor	133
Kedah	126
Terengganu	115
Johor	73
Sabah	63
Pahang	51
Perlis	39
Negeri Sembilan	38
Federal Territories (Kuala Lumpur, Labuan and Putrajaya)	27
Melaka	19
Pulau Pinang	4

Note. Compiled by the author based on Rozlan (2025)

The legal position also raises concerns regarding Malaysia's international human rights commitments under the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article 1 of the CRC defines a child as every human being below the age of 18, while Article 16(2) of CEDAW provides that the betrothal and marriage of a child shall have no legal effect and requires legislative action to specify a minimum age for marriage. The continued availability of statutory exceptions therefore raises questions about the extent to which domestic marriage laws reflect international standards concerning children's rights, gender equality and protection from harmful practices (UNICEF Malaysia, 2020). Furthermore, the persistence of underage marriage presents a challenge to achieving Sustainable Development Goal (SDG) 5 which calls for the elimination of child and forced marriage by 2030 (European Commission, n.d.).

Although the government introduced the National Strategy Plan to address the socioeconomic and institutional factors contributing to the practice including poverty, limited educational opportunities, inadequate sexual and reproductive health awareness and prevailing social norms, the effectiveness of these measures remains a concern (UNICEF Malaysia, 2020). Policy interventions and preventive program may have limited impact if the underlying legislation continues to provide avenues for underage marriages through statutory exceptions. The absence of a uniform minimum marriage age, differences in approval mechanisms and inadequate coordination between civil and Syariah institutions further complicate efforts to eliminate the practice.

Accordingly, the central problem is not merely the continued occurrence of underage marriage but the legal inconsistencies that allow the practice to persist within Malaysia's dual legal system. The coexistence of different marriage age requirements and statutory exceptions raises a fundamental question as to whether legal pluralism should justify different standards of protection for children. This study therefore critically examines the adequacy of Malaysia's existing legal framework and its compatibility with international child protection standards, with a view to proposing a harmonized legal approach that establishes 18 years as the minimum marriage age for both Muslims and non-Muslims without exceptions.

LITERATURE REVIEW

Underage marriage remains a significant legal and socio-cultural concern in Malaysia, particularly in view of the country's international human rights commitments and its pluralistic legal system. Although international standards generally regard marriage involving individuals below 18 years of age as child marriage, Malaysia continues to permit such marriages under specific statutory and judicial exceptions. The coexistence of civil, Syariah and customary laws has consequently created a fragmented legal framework in which the minimum age of marriage and the procedures for granting exceptions vary according to religion, gender and jurisdiction. This divergence raises questions about the consistency of child protection and the extent to which Malaysia's domestic laws reflect its international obligations.

The literature identifies legal pluralism as a significant factor contributing to the continued occurrence of underage marriage in Malaysia. Under the Law Reform (Marriage and Divorce) Act 1976 which governs non-Muslim marriages, the general minimum age is 18. However, the Act permits girls aged 16 and 17 to marry with a special license granted by the relevant state authority. Lau (2018) criticizes this arrangement for its limited procedural safeguards, particularly the absence of clear statutory criteria, independent child welfare assessments and sufficient consideration of the minor's views. The gender-specific nature of this exception also raises concerns about unequal protection and the reinforcement of traditional gender stereotypes.

A similar issue arises under Islamic family law where the minimum age and approval requirements are governed by state Islamic Family Law Enactments. Generally, the prescribed minimum age is 18 for males and 16 for females, although some states have introduced different provisions. Underage marriage may nevertheless be authorized through judicial consent as reflected in section 8 of the Islamic Family Law (Federal Territories) Act 1984. Abdol Malek and Samuri (2025) highlight the lack of clear statutory guidelines governing the circumstances in which such permission may be granted. This may result in inconsistent judicial decisions influenced by individual assessments, social expectations and prevailing economic or cultural circumstances. Reasons commonly advanced for approving underage marriages include premarital pregnancy, financial hardship and the prevention of illicit sexual relations. However, reliance on these considerations raises concerns about whether the child's welfare and long-term interests receive adequate priority.

Available statistics indicate a general decline in reported underage marriages in Malaysia. Nevertheless, the decline should be interpreted cautiously. Ooi Kok Hin (2017) suggests that lower reported figures may reflect administrative constraints, stricter documentation requirements or underreporting rather than a genuine reduction in the practice. The problem is further complicated by differences in reporting and registration, particularly where customary marriages remain unregistered or are registered only after a considerable period. Inadequate disaggregated data also limits a comprehensive understanding of the relationship between underage marriage and factors such as education, income, ethnicity and geographical location.

Socio-cultural and religious considerations also influence attitudes towards underage marriage. Within Islamic legal discourse, the application of Maqasid al-Shariah has become an important area of debate. Zainal Abidin and Shamsuddin (2025) argue that justifications for underage marriage sometimes place excessive emphasis on the preservation of lineage (hifz al-nasab) without considering the protection of life (hifz al-nafs) and intellect (hifz al-'aql). This raises questions about whether approving underage marriage genuinely fulfils the broader objectives of Islamic law particularly where early marriage may affect a child's education, health and personal development. The role of the wali particularly the doctrine of wali mujbir and the assessment of a minor's consent are also important issues in the literature. Although parental authority has traditionally played

a significant role in marriage decisions, contemporary discussions emphasize the need to consider the child's welfare, personal autonomy and genuine consent. A child's dependence on parents and limited capacity to make independent decisions may affect the reliability of consent obtained in such circumstances. These concerns reinforce the importance of ensuring that the child's interests are not subordinated to parental expectations or prevailing social pressures.

Despite the initiatives introduced by the Malaysian government, Saiman and Mahadzir (2023) highlight the limitations of relying on policy measures without corresponding legislative reform. As a policy document, the strategy does not independently require state governments to amend their Islamic family law enactments or remove existing judicial exceptions. At the state level, reforms to raise the minimum age of marriage to 18 for both males and females demonstrate progress towards stronger child protection. However, the retention of judicial exceptions limits the effectiveness of these reforms. The continued availability of such exceptions means that the prescribed minimum age does not operate as an absolute prohibition. Consequently, legislative reform must address not only the stated minimum age but also the exceptions and approval mechanisms that permit underage marriage.

Comparative experiences in other jurisdictions provide useful insights into possible approaches to legal reform. Indonesia amended its Marriage Law in 2019 to establish 19 as the minimum age of marriage for both males and females. However, the persistence of unregistered sirri marriages illustrates the limitations of legislative reform where social practices and enforcement mechanisms are not adequately addressed. Mohsi et al. (2025) therefore emphasize the importance of combining legal reform with community engagement and effective enforcement.

The Philippines provides another comparative approach through the Prohibition of Child Marriage Act 2022 which criminalizes the facilitation of child marriage. This approach reflects a stronger legislative response by treating child marriage as a matter of public concern rather than solely a private family arrangement. The experiences of Indonesia and the Philippines demonstrate that raising the minimum age has to be supported by effective implementation, enforcement and measures addressing the social circumstances that contribute to underage marriage.

The existing literature provides substantial discussion of the legal, social, religious and policy dimensions of underage marriage. Nevertheless, several areas require further investigation. These include the consistency of judicial decisions across different states, the influence of economic considerations on decisions to approve underage marriage, the impact of digital platforms on informal or cross-border marriages and the experiences of male minors who receive comparatively less attention in existing research. More importantly, there is a need for a comprehensive examination of how Malaysia's civil and Syariah legal frameworks can be harmonized to provide consistent protection for all children. The continued existence of different minimum ages and statutory exceptions raises fundamental questions about equality, legal certainty and the best interests of the child. Accordingly, this study examines the legal framework governing underage marriage in Malaysia, evaluates existing reform initiatives and their limitations and draws comparative lessons from other jurisdictions.

RESEARCH METHODOLOGY

This study adopts a qualitative legal research approach comprising doctrinal, descriptive-analytical and comparative legal methods. Doctrinal legal research is employed to examine the relevant legislations and legal principles governing the minimum age of marriage in Malaysia. This approach facilitates a systematic analysis of the law as formally established and interpreted by the courts (Hutchinson, 2018). Attention is given to the Law Reform (Marriage and Divorce) Act 1976, Islamic Family Law (Federal Territories) Act 1984 and relevant state enactments. The descriptive-analytical approach complements the doctrinal analysis by identifying and evaluating the differences in marriage age provisions, approval procedures and statutory exceptions across the Malaysian states. It further examines the consistency of the existing legal framework with international human rights standards particularly the principles of child protection and gender equality (Pradeep, 2019). In addition, a comparative legal approach is adopted to examine the legal frameworks of

Indonesia and the Philippines. Drawing on the functional method of comparative legal research, the study identifies similarities and differences in the legislative approaches adopted by these jurisdictions and considers their relevance to potential legal reforms in Malaysia (Oderkerk, 2025).

The study relies on both primary and secondary sources. Primary sources comprise the Federal Constitution, relevant federal and state legislations and international instruments particularly the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The relevant marriage laws and legislative reforms in Indonesia and the Philippines are also examined to facilitate the comparative analysis. Secondary sources include academic journal articles, books, legal commentaries, government publications, statistical reports and publications by relevant national and international organisations including the Department of Statistics Malaysia (DOSM), the Department of Syariah Judiciary Malaysia (JKSM), UNICEF, UNFPA, SUHAKAM and Sisters in Islam. These materials provide additional socio-legal and statistical perspectives on the prevalence, causes and consequences of underage marriage as well as existing reform initiatives and their limitations.

The collected materials are analysed qualitatively through content and thematic analysis. Directed qualitative content analysis is used to examine statutory provisions and judicial decisions according to predetermined categories. This approach enables the identification of legal provisions and underlying assumptions reflected in legislative reasoning (Assarroudi et al., 2018). The analysis of judicial decisions relies on secondary reports due to limited access to unreported judgments. Thematic analysis is further employed to identify recurring issues and patterns across academic literature, government reports and publications by non-governmental organisations. Attention is given to themes relating to legal inconsistencies, socio-cultural and religious justifications, gender inequality, child welfare and the challenges of legislative reform. Thematic analysis provides a systematic means of identifying and interpreting recurring patterns within qualitative materials (Bhat, 2020). The findings from these approaches are subsequently synthesised to evaluate the effectiveness of Malaysia's existing legal framework and formulate recommendations for harmonising the minimum age of marriage.

Legal Framework Governing the Minimum Age of Marriage in Malaysia

Historical evolution of marriage laws under civil and Syariah systems

The legal framework governing the minimum age of marriage in Malaysia has evolved through the interaction of customary practices, Islamic principles and English common law. Before colonial rule, marriage practices were largely influenced by Malay local customs including Adat Perpatih and Adat Temenggong alongside Islamic law (Musa, 2022). During the colonial period, English common law was introduced while matters relating to personal law and customary practices were generally preserved (Mohamad, 2011). Following independence, marriage laws were progressively codified through the Law Reform (Marriage and Divorce) Act 1976 (LRA 1976) for non-Muslims and the Islamic Family Law (Federal Territories) Act 1984 (IFLA 1984) for Muslims.

The statutory provisions in Malaysia

Under the civil law, section 10 of the LRA 1976 establishes 18 years as the general minimum age for marriage. However, section 21(2) provides an exception allowing a female who has attained 16 but is below 18 years to marry with a special licence granted by the Chief Minister. The ability to authorise marriages below 18 through ministerial discretion raises concerns about the adequacy of legal protection afforded to minors especially when contrasted with the more stringent rhetoric of child rights protection under international norms (Mohd Awal, 2013).

Meanwhile, a different framework applies to the Muslims under section 8 of the IFLA 1984 which prescribes the minimum age of 18 for males and 16 for females. Nevertheless, the provision allows a marriage below these prescribed ages with the written permission of a Syarie Judge. These provisions demonstrate that the Malaysian legal framework does not establish a uniform minimum marriage age for all individuals with exceptions continuing to permit marriages involving persons below 18 years.

Judicial discretion and administrative approval mechanisms

The exercise of judicial and administrative discretion further contributes to the problem of regulating underage marriage. In Syariah proceedings, applications for underage marriage may be considered based on the circumstances of individual cases with factors such as pregnancy, financial difficulties and concerns about unlawful sexual relationships commonly raised as justifications. It is reported that 5,362 applications were received and 4,999 were approved between 2013 and 2017, representing an approval rate of approximately 93.2% (Zainal Abidin & Shamsuddin, 2025). The introduction of the Department of Syariah Judiciary Malaysia's Standard Operating Procedure in 2018 sought to strengthen the assessment process by considering matters such as reproductive health, mental preparedness and the financial capacity of parents. Nevertheless, the continued availability of judicial discretion raises questions about the consistency of decisions and the adequacy of safeguards for children (Zainal Abidin & Shamsuddin, 2025).

Federal Constitution and the dual legal structure

The constitutional division of legislative powers also presents challenges to harmonising the minimum age of marriage. Under the Ninth Schedule of the Federal Constitution, matters relating to non-Muslim marriage fall within federal legislative competence, whereas Muslim personal and family law generally falls within the jurisdiction of the respective states. Article 121(1A) further provides for the separation of jurisdiction between civil courts and Syariah courts in matters within their respective legal authority. However, the Federal Court decision in Indira Gandhi v Pengarah Jabatan Agama Islam Perak (2018) clarified that civil courts retain their constitutional supervisory role, particularly in matters involving the constitutionality and validity of administrative actions and legislation. This constitutional arrangement illustrates the legal and institutional complexities involved in introducing a uniform minimum marriage age across Malaysia.

Inconsistencies and legal loopholes enabling underage marriage

Additional legal gaps may also affect the protection of children from underage marriage. The marriage-related exception under sections 2 and 4 of the Age of Majority Act 1971 together with the application of customary marriage practices among certain indigenous communities raises questions concerning the consistency of the existing legal framework. Furthermore, differences in civil and Syariah marriage registration and administration may create practical challenges in monitoring and enforcing minimum-age requirements. The lack of coordination between Syariah and civil marriage registries coupled with registration gaps affecting indigenous and refugee communities affects the accurate monitoring of child marriage in Malaysia. Furthermore, the dual legal system may create opportunities for forum shopping including religious conversion to circumvent civil minimum-age requirements and seek permission for underage marriage under Syariah law (Ahmad, 2018). Taken together, these issues demonstrate that Malaysia's current framework remains fragmented with statutory exceptions and jurisdictional divisions potentially undermining consistent protection for children.

Socio-Legal and Human Rights Dimensions of Underage Marriage

Underage marriage in Malaysia is a complex socio-legal issue influenced by socio-cultural traditions, religious interpretations, economic circumstances and the country's dual legal system. Despite Malaysia's commitments under international human rights instruments particularly the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), statutory exceptions continue to permit marriages involving persons below 18 years. The persistence of this practice reflects the interaction between social expectations, economic vulnerabilities and legal provisions that do not provide uniform protection to all children.

Socio-Cultural, Religious and Economic Factors

The practice of underage marriage in Malaysia is sustained by several interconnected factors. In certain communities, early marriage is perceived as a means of preserving family honour, addressing premarital pregnancy and conforming to established cultural expectations. Religious interpretations also influence

attitudes towards marriage, particularly where puberty is regarded as an important consideration. Nevertheless, contemporary discussions increasingly emphasise the principles of Maqasid al-Shariah particularly the protection of children's welfare, health, education and intellectual development (Abdol Malek & Samuri, 2025; Zainal Abidin & Shamsuddin, 2025). The exercise of judicial discretion under state Syariah legislation, however, continues to create opportunities for underage marriage with concerns raised about the influence of parental consent, religious authorities and local customs in the decision-making process.

Economic vulnerability further contributes to the persistence of underage marriage. Families experiencing poverty, limited employment opportunities and financial insecurity may perceive marriage as a means of reducing household responsibilities or securing financial support for their daughters. Limited access to education and sexual and reproductive health information may also increase children's vulnerability to early marriage. These factors are recognised in Malaysia's National Strategy Plan in Handling the Causes of Child Marriage (2020–2025) which identifies poverty, inadequate access to education, insufficient sexual and reproductive health knowledge and social norms as among the principal factors contributing to the practice (Ministry of Women, Family and Community Development, 2020; UNICEF Malaysia, 2020).

Psychological, Educational and Gender Implications

Underage marriage has significant implications for children's psychological well-being, education and future development. Children who marry before attaining adulthood may experience emotional distress, social isolation and difficulties arising from marital responsibilities for which they may not be adequately prepared. Unequal power relations within marriage may further limit their autonomy and ability to make independent decisions. These concerns are consistent with the CRC Committee's recognition that adolescence is a critical stage of development requiring protection including safeguards against harmful traditional practices and early marriage (Committee on the Rights of the Child, 2003).

Educational disruption is another significant consequence. Marriage may interrupt a child's schooling, particularly where domestic responsibilities and early parenthood make continued education difficult. This can restrict access to higher education, vocational training and future employment, thereby reinforcing existing cycles of poverty and gender inequality (Samuri & Mohd Awal, 2018; UNICEF Malaysia, 2020). Early marriage may also expose adolescent girls to reproductive health risks and limit their ability to make informed decisions concerning their health and future. Collectively, these consequences demonstrate that underage marriage is not merely a question of marital eligibility but one that directly affects children's development, autonomy and equal opportunities.

International Human Rights Obligations

Malaysia's approach to underage marriage must also be assessed against its international human rights commitments. Three principal frameworks are particularly relevant; the CRC, CEDAW and Sustainable Development Goal (SDG) 5. Together, these instruments emphasise child protection, gender equality and the elimination of harmful practices, including child, early and forced marriage.

Under the CRC, a child is generally defined as a person below 18 years of age (Convention on the Rights of the Child, 1989, art. 1). The Convention requires State Parties to protect children from violence, exploitation and harmful practices, while safeguarding their rights to health, education and development. The CRC Committee has further highlighted the vulnerability of adolescents and the need for states to protect them from early marriage and its associated health and developmental consequences (Committee on the Rights of the Child, 2003). These obligations support the need for domestic legislation that prioritises children's best interests and provides consistent protection against underage marriage.

CEDAW complements the CRC by addressing the gender discrimination associated with early marriage. Article 16 requires equality between men and women in marriage and family relations, while Article 16(2) provides that the betrothal and marriage of a child shall have no legal effect and requires states to establish a minimum age for marriage. The CEDAW Committee's General Recommendation No. 21 further emphasises the importance of free and full consent and the establishment of a minimum marriage age (Committee on the

Elimination of Discrimination against Women, 1994). In addition, the joint guidance issued by the CEDAW and CRC Committees identifies child marriage as a harmful practice that requires coordinated legislative, policy and community-based interventions (Committee on the Elimination of Discrimination against Women & Committee on the Rights of the Child, 2014).

At the global policy level, SDG Target 5 calls for the elimination of harmful practices, including child, early and forced marriage by 2030. Indicator 5.1 measures the proportion of women aged 20–24 who were married or in a union before the ages of 15 and 18, providing a basis for monitoring progress towards this target (United Nations, 2015; United Nations Statistics Division, 2024). Although the SDGs are not legally binding treaties, they provide an important policy framework for strengthening national legislation, improving data collection and addressing the structural factors that perpetuate child marriage.

Human Rights Implications and SUHAKAM's Position

Underage marriage raises serious human rights concerns particularly in relation to children's rights to education, health, development, autonomy and equal protection under the law. The interruption of education may restrict future opportunities, while early assumption of marital and parental responsibilities may expose children to emotional, social and reproductive health challenges. The practice also raises concerns about meaningful consent, as children may lack the maturity and independence necessary to make decisions concerning marriage without pressure from family or community expectations.

From a gender perspective, girls are particularly affected because the existing legal framework prescribes different minimum marriage ages for males and females and permits exceptions through civil and Syariah procedures. These disparities may perpetuate unequal treatment and undermine the protection of girls' rights. SUHAKAM has raised concerns about the continued availability of legal exceptions and advocated for the harmonisation of civil and Syariah laws by establishing 18 years as the minimum marriage age without exceptions (SUHAKAM, 2022). Similar concerns have been expressed by civil society organisations, which emphasise that legislative reform should be accompanied by public education, community engagement and measures addressing the socio-economic conditions that contribute to underage marriage.

Evaluation of the National Strategy Plan 2020–2025

The National Strategy Plan introduced by KPWKM represents an important policy initiative addressing the multiple factors underlying underage marriage in Malaysia. The Plan adopts a comprehensive approach by identifying six key areas requiring intervention: household poverty; inadequate access to sexual and reproductive health education and services; limited access to education and poor school attendance; social norms and stigma surrounding child marriage; legal provisions permitting marriage below 18 years; and weaknesses in the coordination and collection of marriage-related data (KPWKM, 2020; UNICEF Malaysia, 2020).

The Plan proposes interventions involving financial and social support for vulnerable families, improved access to education and health information, community awareness programmes, legal reform and stronger coordination among relevant government agencies. It also recognises the importance of addressing gaps in marriage registration and data collection to improve the monitoring of underage marriage. These measures demonstrate an understanding that child marriage cannot be addressed through legislation alone but requires coordinated action involving government institutions, religious authorities, educational institutions and civil society.

Nevertheless, the effectiveness of the Plan is constrained by the continued existence of statutory exceptions under civil and Syariah laws, differences in their implementation and the challenges of coordinating data across relevant institutions. Its policy objectives therefore require sustained legislative and institutional commitment to translate proposed interventions into effective protection. In particular, the continued availability of judicial and ministerial discretion remains inconsistent with the objective of establishing a uniform minimum marriage age. The Plan's implementation consequently reinforces the need for

comprehensive legal harmonisation, effective monitoring and stronger enforcement mechanisms to ensure that children receive equal protection regardless of religion, gender or community.

Reform Challenges in Harmonising Marriage Age Laws

Reforming the legal framework governing the minimum age of marriage in Malaysia presents complex constitutional, religious, political and institutional challenges. As discussed earlier, child marriage persists partly because Malaysian law permits marriage below the age of 18 through exceptions under both civil and Syariah legal frameworks. The coexistence of these frameworks together with differences among state Islamic family law enactments complicates efforts to establish a uniform minimum marriage age. The challenge is not confined to legislative amendments. It also involves reconciling different interpretations of Islamic jurisprudence, addressing federal-state jurisdictional boundaries, strengthening institutional coordination and ensuring that the welfare and best interests of children remain central to decision-making.

Political, Religious and Institutional Resistance

Political Resistance

Harmonising the minimum marriage age in Malaysia is complicated by the constitutional division of legislative authority, as Islamic family law falls under the State List in the Ninth Schedule of the Federal Constitution. Consequently, amendments to state Islamic family law enactments require the cooperation of individual state authorities, making nationwide reform challenging. Differences in state priorities, religious interpretations and political considerations further contribute to inconsistencies in minimum marriage age provisions and judicial discretion. Broader concerns, including poverty, teenage pregnancy and community values, are also sometimes used to justify retaining exceptions. Therefore, effective reform requires sustained federal–state cooperation and a shared commitment to prioritising children's rights and welfare while respecting the constitutional framework.

Religious Resistance

Religious resistance is another significant consideration in the reform of Muslim marriage laws. Traditional interpretations of Islamic jurisprudence often associate marital eligibility with the attainment of puberty (bulūgh), rather than a universally prescribed chronological age. Concepts such as parental guardianship (wilāyah) and the authority of religious judges have also historically influenced discussions concerning the validity and approval of underage marriages. Nevertheless, Islamic jurisprudence is not confined to a single interpretation of marriage eligibility. Contemporary discussions increasingly emphasise the objectives of Islamic law (maqāṣid al-sharīʿah) particularly the protection of life, intellect, dignity and lineage. From this perspective, the welfare of children should be considered in light of their physical development, psychological maturity, education, health and capacity to make informed decisions.

Zainal Abidin and Shamsuddin (2025) explain the importance of reconciling discussions on early marriage with the objectives of maqāṣid al-sharīʿah. Their discussion provides a basis for considering child welfare and the prevention of harm when evaluating the permissibility and regulation of marriage. A minimum age requirement may therefore be understood as a contemporary legal safeguard intended to promote maṣlaḥah (public welfare) and prevent harm (darʾ al-mafsadah). The debate should consequently not be framed as a conflict between Islamic law and child protection. Rather, it concerns how Islamic legal principles can be interpreted and applied to address contemporary social realities. The experiences of Indonesia and the Philippines, discussed later in this chapter, demonstrate that religious and customary considerations can be addressed alongside stronger legislative protection for children.

Institutional Resistance and Fragmentation

Institutional fragmentation further complicates efforts to eliminate underage marriage. Several authorities are involved in matters relating to marriage registration, approval, welfare assessment and child protection. These

include civil courts, Syariah courts, the National Registration Department (JPN), the Department of Islamic Development Malaysia (JAKIM), state religious departments and the Department of Social Welfare (JKM).

Each institution operates within its respective statutory mandate and administrative procedures. Differences in documentation requirements, assessment practices and information-sharing arrangements may create difficulties in monitoring applications and registered marriages involving minors. The National Strategy Plan recognises the coordination of marriage data and underage divorce as one of the areas requiring attention (Ministry of Women, Family and Community Development, 2020). UNICEF Malaysia (2020) similarly identifies the importance of improving data collection, coordination and institutional responses to child marriage. The absence of comprehensive and disaggregated data may affect the government's ability to identify the actual prevalence of the practice and evaluate the effectiveness of existing interventions.

Institutional coordination is therefore essential. A more integrated approach should include consistent reporting requirements, systematic data-sharing arrangements, standardised welfare assessments and clear responsibilities among the relevant authorities. Such measures would strengthen monitoring and ensure that decisions involving children are made through a consistent child-protection framework.

Legal Pluralism and Judicial Discretion

Malaysia's dual legal system provides separate legal pathways governing marriage for Muslims and non-Muslims. Under the Law Reform (Marriage and Divorce) Act 1976, the general minimum age of marriage is 18 years. However, section 21(2) permits a female aged between 16 and 18 to marry with a special licence granted by the Chief Minister. Under Islamic family law, the Islamic Family Law (Federal Territories) Act 1984 establishes different minimum ages for Muslim males and females, while section 8 permits a Syariah judge to grant written permission for a marriage below the prescribed age. State enactments may contain corresponding provisions, although their requirements and minimum-age provisions are not entirely uniform. The continued existence of these exceptions demonstrates that the Malaysian legal framework does not establish an absolute prohibition on marriage involving persons below 18. Instead, it allows certain authorities to approve such marriages in specified circumstances. This creates differences in the level of protection afforded to children under the civil and Syariah legal frameworks.

Judicial discretion is commonly justified on the basis that individual circumstances should be considered before an application is approved. Factors such as parental consent, pregnancy, family circumstances and the welfare of the prospective spouses may be considered. Nevertheless, discretion may produce inconsistent outcomes where there are no uniform assessment standards or mandatory welfare requirements. The National Strategy Plan 2020–2025 recognises the need to strengthen monitoring of judicial approval processes and improve the assessment of applications involving underage marriage (KPWKM, 2020). However, the effectiveness of these measures depends on consistent implementation across the relevant jurisdictions.

Table 4 Procedural Variation in the Exercise of Judicial Discretion in Malaysia

Criteria assessed during application	**Civil-law approval process**	**Syariah court process**	**Remarks**
Welfare assessment by JKM	Rarely indicated in the original source	Present in some states	Not standardised nationwide
Psychological assessment	Not routinely required, according to the original source	Limited	Requires clearer assessment standards
Pregnancy as justification	Yes	Yes	Identified in the original source as a frequently cited consideration

School status considered	Rarely	Occasionally	No uniform mandatory policy identified
Child's consent examined	Yes	Yes	Standards and methods of assessment may differ

Note. Compiled by the author based on Sisters in Islam (2020); Women's Aid Organisation (2022)

Table 4 above illustrates the potential differences in the assessment of applications involving underage marriage. Welfare and psychological assessments appear to be applied inconsistently while the consideration of pregnancy, educational status and the child's consent may vary between jurisdictions. These differences raise concerns about whether children receive an equivalent level of protection regardless of the legal framework or state in which an application is considered.

A more consistent approach would require mandatory and comprehensive welfare assessments including consideration of the child's physical and psychological development, educational circumstances, family environment and capacity to understand the implications of marriage. The child's views should also be obtained and considered in an age-appropriate manner. Such requirements would help ensure that judicial discretion is exercised in accordance with a consistent child-protection standard. The existence of judicial discretion should not undermine the objective of establishing a uniform minimum marriage age. Where the law continues to permit exceptions, the protective effect of minimum-age legislation remains limited.

Debates on Fiqh Interpretations and Child Protection

Debates on the minimum marriage age in Islamic law generally reflect two perspectives: the traditional approach which associates marital eligibility with puberty (bulūgh) and parental guardianship (wilāyah) and the contemporary maqāṣid al-sharīʿah approach which prioritises the protection of life, intellect, dignity and lineage. The latter supports legal safeguards that consider children's physical and psychological development, education, health and overall welfare (Zainal Abidin & Shamsuddin, 2025). Accordingly, setting the minimum marriage age at 18 may be justified as a measure to promote public welfare and prevent harm. Indonesia's 2019 amendment, which raised the minimum marriage age to 19 for both males and females demonstrates that legislative reform can be undertaken within a Muslim-majority legal system (Cabinet Secretariat of the Republic of Indonesia, 2019).

Government Reform Efforts and Civil Society Advocacy

Malaysia has introduced the National Strategy Plan in Handling the Causes of Child Marriage (2020–2025) as a comprehensive initiative to address the underlying factors contributing to child marriage. The Plan adopts a multi-sectoral approach by identifying six key factors namely poverty and low household income, inadequate sexual and reproductive health education, limited access to education, social norms that encourage early marriage, legal provisions permitting marriage below 18 and weaknesses in the coordination of marriage and underage divorce data (KPWKM, 2020; UNICEF Malaysia, 2020).

To address these challenges, the Plan outlines seven objectives, 17 strategies and 58 programmes or actions involving 61 ministries, government agencies, non-governmental organisations and international bodies. These measures demonstrate that eliminating child marriage requires more than legislative reform; it also demands coordinated interventions in education, healthcare, social protection, community awareness and institutional governance (UNICEF Malaysia, 2020). Nevertheless, the effectiveness of the Plan depends on consistent implementation, stronger monitoring and legislative amendments to address the continued availability of underage marriage exceptions and differences among state Islamic family law enactments. Civil society organisations and international agencies further complement these efforts through research, legal advocacy, public education and policy engagement, reinforcing the recognition of child marriage as an issue of children's rights, gender equality and social justice (KPWKM, 2020; UNICEF Malaysia, 2020).

Table 5 Civil society organisations and their contributions to reform in Malaysia

Organisation	Main purpose	Key contributions relevant to reform
Sisters in Islam (SIS)	To advance Muslim women's rights, equality and justice	Legal and policy advocacy, rights-based interpretations of Islamic family law and engagement on gender equality.
Girls Not Brides Malaysia (GNBR)	To contribute to efforts to end child marriage through policy reform and community awareness	Advocacy, policy engagement, community outreach and support for alignment with SDG 5.
Women's Aid Organisation (WAO)	To address violence against women and promote gender equality	Advocacy, public awareness, support services and engagement on the legal and social consequences of gender-based violence.
All Women's Action Society (AWAM)	To promote women's rights, gender equality and freedom from discrimination and violence	Research, public education, policy advocacy and support for institutional and social reform.
UNICEF Malaysia	To promote and protect children's rights	Technical assistance, research, data collection, policy advocacy and support for child-protection frameworks.
United Nations Population Fund (UNFPA) Malaysia	To advance population and reproductive health, including adolescent sexual and reproductive health	Advocacy and technical support concerning reproductive health, gender equality and the prevention of harmful practices.

Note. Compiled by the author based on Sisters in Islam (2020); Girls Not Brides Malaysia (n.d.); Women's Aid Organisation (2022); All Women's Action Society (2022); UNICEF Malaysia (2020); United Nations Population Fund (2022).

The organisations identified in Table 5 contribute to the broader reform agenda through different but complementary approaches. SIS, for example, advocates for the rights of women and engages with questions concerning Islamic family law and gender equality (Sisters in Islam, 2020). WAO provides support and advocacy concerning violence against women while also engaging with legal and policy reforms to strengthen women's rights (Women's Aid Organisation, 2022). AWAM similarly promotes gender equality through advocacy, education and support services (All Women's Action Society, 2022). At the international level, UNICEF Malaysia has contributed to policy research and advocacy concerning the prevention of child marriage. Its advocacy brief identifies the need for a standardised minimum marriage age and the removal of legal exceptions that permit marriage below 18 (UNICEF Malaysia, 2020). The involvement of these organisations is important because legislative reform requires sustained public engagement, institutional accountability and awareness of the rights and welfare of children. Nevertheless, civil society advocacy must be complemented by concrete action from the relevant legislative and administrative authorities. The ultimate responsibility for harmonising the law and ensuring effective implementation rests with the government and the respective state authorities.

Comparative Legal Frameworks

Comparative analysis provides an opportunity to examine how other jurisdictions have addressed the tension between traditional or religious norms and the need to protect children from early marriage. Indonesia and the Philippines offer useful examples because both have experienced challenges involving legal pluralism, religious diversity and the regulation of marriage.

Indonesia

Indonesia's experience is particularly relevant to Malaysia because both countries have Muslim-majority populations and legal frameworks influenced by Islamic jurisprudence. Before the 2019 reform, Indonesia's Marriage Law prescribed different minimum marriage ages for males and females, permitting girls to marry at 16 while boys were required to be 19. This gender disparity attracted criticism from women's rights and child protection advocates because it exposed girls to the risks associated with early marriage and reinforced unequal treatment. In response, Indonesia enacted Law No. 16 of 2019, amending Law No. 1 of 1974 on Marriage. Article 7(1) establishes a minimum marriage age of 19 for both males and females. The amendment represents an important step towards gender equality and the protection of children's welfare. Nevertheless, Article 7(2) retains an exception allowing parents to apply to the court for marriage dispensation where there are very urgent reasons supported by sufficient evidence. Article 7(3) further requires the court to hear the views of both prospective spouses before granting dispensation (Republic of Indonesia, 2019). The retention of judicial dispensation demonstrates that Indonesia adopted an incremental rather than an absolute prohibition model. The reform sought to establish a uniform minimum age while allowing courts to consider exceptional circumstances. It is therefore more accurate to describe the Indonesian framework as an age-harmonisation approach with judicial exceptions, rather than a system that completely prohibits all marriages below the prescribed age.

An important feature of Indonesia's reform is the introduction of Supreme Court Regulation No. 5 of 2019 (PERMA No. 5/2019), which provides guidelines for adjudicating applications for marriage dispensation. The Regulation requires judges to consider the best interests of the child, the child's understanding and consent, psychological and health conditions, educational circumstances, economic factors and the possibility of physical, psychological, sexual or economic coercion. It also allows judges to hear the child's views separately from the parents and to obtain recommendations from relevant professionals (Supreme Court of the Republic of Indonesia, 2019). These procedural safeguards are significant because they demonstrate that judicial discretion can be subjected to structured legal standards. Rather than relying solely on parental consent or family circumstances, courts are expected to examine the wider consequences of the proposed marriage. Kurniawan et al. (2025) further discuss the relevance of maqāṣid al-sharīʿah reasoning in marriage dispensation decisions, illustrating the potential for Islamic legal principles to support child protection.

The reform has also been supported by civil society advocacy and public engagement. Yusuf et al. (2025) examine strategies for addressing child marriage in Indonesia and the transition from traditional practices towards stronger child protection measures. Mustamam et al. (2025) similarly highlight the importance of interpreting the preservation of lineage (ḥifẓ al-nasl) in conjunction with other objectives of Islamic law. These discussions demonstrate that the protection of children can be advanced through contemporary Islamic legal reasoning without treating religious principles and human rights as mutually exclusive. Indonesia's experience nevertheless illustrates that raising the statutory age alone does not eliminate child marriage. The continued availability of judicial dispensation means that the effectiveness of reform depends on consistent judicial application, appropriate evidentiary requirements, public awareness and institutional monitoring.

Philippines

The Philippines adopted a more comprehensive legislative approach through Republic Act No. 11596, known as the Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof, enacted on 10 December 2021. The Act defines a child as a person below 18 years of age and includes marriages solemnised through civil, religious, traditional or customary practices. It also covers informal unions and cohabitation involving children (Republic Act No. 11596, 2021).

Unlike Indonesia's approach, the Philippine legislation does not establish a judicial dispensation mechanism permitting child marriage below the statutory age. Section 2 expressly provides that the best interests of the child shall be the primary consideration in interpreting the Act. Section 4 criminalises specified conduct, including facilitating or arranging child marriage and solemnising such marriages. The Act also treats the prohibited acts as public crimes, meaning that proceedings may be initiated by any concerned individual.

Under section 6, child marriage is void ab initio, meaning that it is legally invalid from the outset (Republic Act No. 11596, 2021).

The Act is significant because it addresses marriages conducted under religious, traditional and customary practices. It therefore seeks to ensure that cultural or religious justifications do not provide a legal basis for child marriage. Nevertheless, the Act also recognises the importance of culturally appropriate implementation and institutional cooperation. Section 10 identifies the Department of Social Welfare and Development (DSWD) as the lead agency in developing the implementing rules and regulations in coordination with agencies including the Department of Health, Department of Education, Council for the Welfare of Children, National Commission on Muslim Filipinos (NCMF) and National Commission on Indigenous Peoples (NCIP). The Act also provides for consultation with civil society organisations representing women, children, Muslim Filipinos and indigenous communities. An important qualification concerns the transitional arrangements under section 11. The Act provides a one-year transitional period during which the application of certain criminal provisions to Muslim Filipinos and indigenous cultural communities or indigenous peoples was suspended while the NCMF and NCIP undertook measures to facilitate compliance. This transitional provision should not be confused with a permanent religious or customary exception to the prohibition.

The Philippine approach therefore reflects a rights-based legislative model that combines legal prohibition, criminal accountability, invalidity of child marriages and inter-agency cooperation. Tagorda (2024) highlights the importance of community participation and advocacy in addressing child marriage. This demonstrates that legislative prohibition should be accompanied by public education, institutional coordination and engagement with affected communities.

Comparative Analysis of Malaysia, Indonesia and the Philippines

Table 6 Comparative Analysis of the Legal Frameworks on Child Marriage in Malaysia, Indonesia and the Philippines

Comparative dimension	**Malaysia**	**Indonesia**	**Philippines**
Minimum age of marriage	The civil law generally sets 18 years for both parties under section 10 of the Law Reform (Marriage and Divorce) Act 1976. Under section 8 of the Islamic Family Law (Federal Territories) Act 1984, the prescribed age is 18 for males and 16 for females.	19 years for both males and females under Article 7(1) of Law No. 16 of 2019, amending Law No. 1 of 1974 on Marriage.	18 years with child marriage prohibited under Republic Act No. 11596 (2021). The Act's definition also covers certain informal unions and marriages conducted according to traditional, cultural or customary practices.
Exceptions to the minimum age	Exceptions remain. Under section 21(2) of the 1976 Act, a female aged 16–17 may marry with a licence granted by the Chief Minister. Under section 8 of the 1984 Act, a Syariah Judge may grant written permission for a marriage below the prescribed ages. Customary marriage arrangements also require consideration of the native and customary laws.	Article 7(2) permits parents to apply to the court for dispensation where there are urgent reasons supported by sufficient evidence. Article 7(3) requires the court to hear the views of the prospective spouses.	No general judicial or parental dispensation from the statutory prohibition. The Act expressly addresses marriages conducted through civil, religious, traditional, cultural and customary practices.

Criminalisation	There is no equivalent comprehensive statutory prohibition that specifically criminalises all persons who facilitate or solemnise child marriages across the civil, Syariah and customary systems. Section 37 of the 1976 Act addresses the use of force or threats to compel marriage but this is not a general child-marriage facilitation offence.	Law No. 16 of 2019 raises and harmonises the minimum age and regulates judicial dispensation but does not establish a comprehensive, standalone criminal offence covering all persons who facilitate child marriage. Other offences may apply depending on the circumstances.	Republic Act No. 11596 criminalises specified acts including facilitating, arranging or solemnising child marriage and an adult's cohabitation with a child outside wedlock. The Act also provides penalties for relevant violations including those involving parents, guardians and public officers.
Judicial guidelines and safeguards	The exercise of Syariah judicial discretion is subject to state enactments and administrative procedures. The article refers to the Department of Syariah Judiciary Malaysia's 2018 Standard Operating Procedure. However, a uniform national judicial framework comparable to Indonesia's PERMA No. 5 of 2019 is not established by the provisions examined in this study.	Supreme Court Regulation No. 5 of 2019 (PERMA No. 5/2019) provides specific guidance for adjudicating marriage dispensation applications. Relevant considerations include the child's views, best interests, health, psychological condition, education and the possibility of coercion.	The Act adopts a prohibition-based approach rather than a dispensation model. It does not establish a judicial process for routinely authorising child marriages below the statutory age. Its implementation involves relevant government agencies including the Department of Social Welfare and Development.
Enforcement and implementation	Enforcement is complicated by the dual civil and Syariah legal systems, differences among state Islamic family law enactments, continuing approval mechanisms and the need to address customary marriage practices. Coordination, registration and monitoring remain important challenges.	Implementation depends on consistent judicial scrutiny of dispensation applications, marriage registration and public awareness. The persistence of unregistered marriages shows the limitations of legislative reform without effective monitoring and community engagement.	The Act provides for criminal accountability, the voiding of child marriages and inter-agency implementation. It also requires social and educational interventions and engagement with communities. Effective implementation remains dependent on institutional capacity, public awareness and access to support services.
Lessons for Malaysia	Malaysia needs to harmonise its civil, Syariah and relevant customary legal frameworks, remove statutory exceptions and strengthen institutional coordination.	Malaysia can draw on PERMA No. 5/2019 for more structured, child-centred assessment where judicial discretion continues to exist. However, the Indonesian model does not eliminate child marriage because dispensation remains available.	Malaysia can consider a clearer statutory prohibition, legal consequences for those who facilitate or solemnise child marriage and a coordinated implementation framework that includes customary and indigenous communities.

Note. Compiled by the author based on the Law Reform (Marriage and Divorce) Act 1976 (Act 164); Islamic Family Law (Federal Territories) Act 1984 (Act 303); Law No. 16 of 2019 (Indonesia); Supreme Court Regulation No. 5 of 2019 (Indonesia); and Republic Act No. 11596 (2021) (Philippines).

Comparative Analysis and Implications for Malaysia

The comparative analysis reveals three distinct legislative approaches to address child marriage. Malaysia adopts a fragmented regulatory approach in which the minimum age and approval mechanisms differ between civil and Syariah laws, while certain customary marriage practices require separate consideration. Indonesia adopts an age-harmonisation approach by establishing 19 years as the minimum age for both males and females although judicial dispensation remains available in exceptional circumstances. In contrast, the Philippines adopts a prohibition-based approach under Republic Act No. 11596 which criminalises specified acts facilitating or solemnising child marriage and renders child marriages void. These differences reveal that the effectiveness of legal protection depends not only on the prescribed minimum age but also on the availability of exceptions, the legal consequences of violations and the mechanisms established for implementation.

Indonesia provides an important example of how judicial discretion may be regulated through specific procedural safeguards. PERMA No. 5 of 2019 requires the courts to consider the child's best interests, views, health, psychological condition and educational circumstances when determining applications for marriage dispensation. This approach demonstrates that judicial discretion can be guided by a more structured and child-centred framework. Nevertheless, the continued availability of dispensation means that the statutory minimum age does not operate as an absolute prohibition. For Malaysia, Indonesia's experience offers a useful model for strengthening judicial procedures particularly where existing Syariah law provisions continue to permit marriages below the prescribed minimum age. However, procedural safeguards should be regarded as an interim protective measure rather than a substitute for substantive legislative reform.

The Philippines adopts a more comprehensive prohibition-based approach by addressing not only the solemnisation of child marriage but also its facilitation and certain informal unions. Republic Act No. 11596 is particularly relevant to Malaysia because its scope expressly includes marriages conducted through traditional, cultural and customary practices. This is significant in the Malaysian context, where legal pluralism and the continued recognition of certain native and customary marriage practices raise questions about the consistency of child protection. The Philippine approach demonstrates the importance of ensuring that legislative protection extends beyond formally registered civil and religious marriages. Nevertheless, criminalisation alone cannot eliminate the practice without effective enforcement, public education, institutional cooperation and appropriate social support.

Malaysia's existing framework therefore presents a distinctive challenge. Unlike Indonesia, Malaysia has not established a uniform minimum age across its civil and Syariah marriage laws. Unlike the Philippines, it does not have a comprehensive statutory prohibition that criminalises the facilitation and solemnisation of child marriage across the different legal and customary settings examined in this study. Malaysia should consider a combined reform approach: adopting an exception-free minimum marriage age of 18, strengthening institutional and judicial accountability and addressing potential gaps involving customary marriages. The comparative findings suggest that legislative harmonisation, effective enforcement and community engagement must operate together to ensure consistent protection for all children, irrespective of religion, gender or legal jurisdiction.

Lessons for Malaysia

The experiences of Indonesia and the Philippines offer five important lessons for strengthening child marriage protection within Malaysia’s dual legal system. Harmonising the minimum marriage age at 18 across civil and Islamic family law would address inconsistencies between the Age of Majority Act 1971 and existing marriage legislation. This would establish a more consistent legal standard for child protection. The Philippines’ Republic Act No. 11596 provides an important example of expressly addressing child marriage within traditional, cultural and customary practices. In the Malaysian context, the Aboriginal Peoples Act 1954 and relevant customary laws require careful review to identify potential gaps in protecting indigenous children. Effective reform would also benefit from the involvement of indigenous representatives and relevant stakeholders (Thuraisingam & Abdul Hadi, 2021).

Besides that, Indonesia's judicial guidelines under PERMA No. 5 of 2019 offer a useful model for strengthening judicial oversight where statutory exceptions remain. Considerations include the child's views, health, psychological well-being, education and the possibility of coercion. Similar safeguards could promote consistency and accountability in Malaysian civil and Syariah courts (Supreme Court of the Republic of Indonesia, 2019). The principles of maqāṣid al-sharīʿah on the protection of life, intellect, dignity and welfare provide a constructive basis for building religious and institutional support for reform. This approach highlights the compatibility of child protection with the objectives of Islamic law (Zainal Abidin & Shamsuddin, 2025; Mustamam et al., 2025). Effective reform requires whole-of-society engagement involving government agencies, religious authorities, civil society organisations and local communities. Public awareness, access to education and social protection, together with a reliable national data system, are essential for monitoring progress and addressing the underlying factors contributing to child marriage.

Recommendations for legislative and institutional reforms

Addressing child marriage in Malaysia requires comprehensive legal reform supported by effective institutional coordination and social intervention. The central recommendation is to establish a uniform minimum marriage age of 18 for both males and females across civil, Syariah and customary legal systems. This should be accompanied by amendments to relevant legislation, stronger judicial oversight, improved enforcement mechanisms and sustained public education. The experiences of Indonesia and the Philippines demonstrate that legislative reform is most effective when supported by institutional accountability, community engagement and measures addressing the socio-economic causes of child marriage (Republic of Indonesia, 2019; Republic Act No. 11596, 2021).

Raising the minimum marriage age to 18

Malaysia should establish 18 as the minimum marriage age for all persons, irrespective of religion or jurisdiction and without exceptions. The existing provisions permitting ministerial approval, Syariah court dispensation and certain customary practices create inconsistencies and weaken the protection afforded to children. The Philippines' Republic Act No. 11596 (2021) which prohibits child marriage and criminalises specified acts facilitating such marriages, demonstrates the importance of removing legal loopholes. Indonesia's experience also illustrates the limitations of age harmonisation where judicial dispensation remains available (Republic of Indonesia, 2019).

A uniform minimum age would strengthen the consistency of Malaysian law and improve its alignment with the Convention on the Rights of the Child (CRC) and Article 16(2) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It would also address the inconsistency between the general age of majority under the Age of Majority Act 1971 and the continued availability of marriage below 18. From an Islamic perspective, the reform may be justified through maqāṣid al-sharīʿah on the protection of life, intellect and human dignity, alongside the prevention of harm (Zainal Abidin & Shamsuddin, 2025). Accordingly, an exception-free minimum age of 18 should form the foundation of Malaysia's child marriage reform.

Amending Syariah Enactments and Related Legislation

Legal harmonisation requires coordinated amendments to the state Islamic Family Law Enactments because Islamic family law falls within state legislative jurisdiction under the Federal Constitution. Federal institutions like the National Council for Islamic Religious Affairs could facilitate consultation and consensus among state authorities and religious leaders. The reforms undertaken in Selangor and Kedah show that raising the minimum marriage age to 18 is achievable within Malaysia's existing constitutional framework.

At the federal level, section 4(a) of the Age of Majority Act 1971 should be reviewed to remove the exclusion relating to marriage and establish consistency with the proposed minimum age. The Law Reform (Marriage and Divorce) Act 1976 should also be amended to remove the exception permitting marriage below 18. In addition, the legal framework governing customary marriages should be reviewed including the Aboriginal Peoples Act 1954 to identify and address gaps in child protection among indigenous communities. Drawing

on the Philippine approach, Malaysia should develop appropriate mechanisms involving indigenous representatives, government agencies and civil society organisations to ensure that children in these communities receive equal legal protection (Republic Act No. 11596, 2021; Thuraisingam & Abdul Hadi, 2021).

Enhancing Judicial and Administrative Oversight

Where judicial discretion continues to operate, clear and child-centred assessment procedures are necessary to prevent marriage dispensation from undermining child protection. Malaysia should strengthen the existing Standard Operating Procedures issued by the Department of Syariah Judiciary Malaysia (JKSM) by requiring independent welfare and psychosocial assessments, appropriate health evaluations, consideration of educational continuity and an examination of possible coercion. The child's views should also be obtained independently and given due consideration.

Indonesia's Supreme Court Regulation No. 5 of 2019 provides a useful model because it requires judges to consider the child's best interests, health, psychological condition, education and personal circumstances when deciding applications for marriage dispensation (Supreme Court of the Republic of Indonesia, 2019). Malaysia could adopt comparable safeguards in both civil and Syariah courts. The establishment of specialised family support units involving social workers, counsellors and healthcare professionals would further support informed judicial decisions. In addition, a coordinated national database should be developed to integrate relevant marriage application, approval and registration data across civil and Syariah institutions. Secure digital monitoring systems, potentially supported by AI-assisted analysis, could help identify inconsistencies and improve transparency. Such technologies should support, rather than replace, professional assessments and judicial decision-making.

Strengthening Education, Awareness and Enforcement Mechanisms

Legislative reform should be supported by education and community engagement to address the social attitudes that contribute to child marriage. Child rights, personal safety and age-appropriate education on the consequences of early marriage should be incorporated into relevant school programmes. These initiatives should address the implications for children's health, education, psychological development and future opportunities (UNICEF Malaysia, 2020). Engagement with religious scholars, traditional leaders, parents and community organisations is equally important. In Muslim communities, the principles of maqāṣid al-sharīʿah can provide a religiously grounded basis for promoting child protection (Zainal Abidin & Shamsuddin, 2025). Public awareness programmes should therefore communicate that preventing child marriage is consistent with the broader objectives of welfare and harm prevention.

Effective enforcement also requires accessible and child-friendly reporting mechanisms. Children exposed to forced or underage marriage should have access to confidential reporting channels, trained officers, legal assistance, counselling and appropriate welfare protection. These measures should be accompanied by educational support, financial assistance and social protection programmes to address poverty and other circumstances that may lead families to view early marriage as a solution (KPWKM, 2020; UNICEF Malaysia, 2020).

Implications for Future Policy and Research

Future policy development should adopt a more inclusive and participatory approach by involving young people, indigenous communities, religious authorities and civil society organisations. Their participation would help ensure that reform measures reflect the circumstances and needs of children affected by early marriage. Further Malaysian empirical research is also necessary, particularly longitudinal studies examining the health, psychological, educational and economic consequences of child marriage. Research should give greater attention to the experiences and perspectives of affected children while maintaining appropriate ethical safeguards. Improved data coordination among civil registries, Syariah courts and welfare agencies is equally important to provide reliable national statistics and support evidence-based policymaking. These measures

would strengthen the evaluation of existing policies and help ensure that future reforms respond to the actual circumstances of vulnerable children.

CONCLUSION

This study has examined the legal framework governing child marriage in Malaysia, focusing on the differences between civil and Syariah laws, the challenges of legal reform, and comparative approaches adopted in Indonesia and the Philippines. The findings reveal that Malaysia's divided legal framework especially the differing minimum marriage ages and the availability of exceptions continue to create inconsistencies in child protection. Although Malaysia has introduced reform initiatives, significant challenges remain. These include legal pluralism, state-level legislative differences, religious and cultural sensitivities, and institutional limitations. The experiences of Indonesia and the Philippines demonstrate that stronger legislative measures and coordinated institutional efforts are possible, while also highlighting the importance of addressing implementation challenges.

Malaysia should establish a uniform minimum marriage age of 18 for all individuals, regardless of gender, religion or legal jurisdiction without exceptions. This reform should be supported by effective enforcement, public education and coordinated institutional action. Aligning domestic laws with the principles of the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Sustainable Development Goal 5 would strengthen Malaysia's commitment to protecting children's rights. Ending child marriage requires not merely legislative amendments, but a firm commitment to ensuring that every child is protected, educated and given the opportunity to develop into adulthood before entering marriage.

REFERENCES

1. Abdol Malek, M. A. G., & Samuri, M. A. A. (2025). Child marriage in Malaysia and the proposed legal reform: Views of Muslim stakeholders and religious officials. El-Usrah: Jurnal Hukum Keluarga, 8(1), 313–343. https://doi.org/10.22373/f97qt681
2. Age of Majority Act 1971 (Act 21). Malaysia Federal Legislation. https://lom.agc.gov.my/processFile.php?token=aHR0cHM6Ly9sb20uYWdjLmdvdi5teS9pbGltcy91cGxvYWQvcG9ydGFsL2FrdGEvTE9NL0VOL0FjdCAyMS5wZGZ8YmNiOTRjYTJhYmRhM2NjOTM5Y2E2ZDVmMjk4MjlhNjU0YmVjMDhlNGM4NDYyOWI3MDYyMjRiYTUwNzJhNjA4ZQ%3D%3D
3. Ahmad, A. (2018, February 8). Malaysian custody cases of children unilaterally converted to Islam: Indira Gandhi Mutho v. Pathmanathan Krishnan (2016). Islamic Law Blog. https://islamiclaw.blog/2018/02/
4. All Women's Action Society. (2022). Child marriage and gender-based inequality in Malaysia. https://www.awam.org.my/
5. Assarroudi, A., Heshmati Nabavi, F., Armat, M. R., Ebadi, A., & Vaismoradi, M. (2018). Directed qualitative content analysis: The description and elaboration of its underpinning methods and data analysis process. Journal of Research in Nursing, 23(1), 42–55. https://doi.org/10.1177/1744987117741667
6. Bhat, P. I. (2020). Doctrinal legal research as a means of synthesizing facts, thoughts, and legal principles. In Idea and methods of legal research (pp. 143–168). Oxford University Press. https://doi.org/10.1093/oso/9780199493098.003.0005
7. Cabinet Secretariat of the Republic of Indonesia. (2019). New law raises minimum marriage age to 19. https://setkab.go.id/en/new-law-raises-minimum-marriage-age-to-19/
8. Committee on the Elimination of Discrimination against Women. (1994). General recommendation No. 21: Equality in marriage and family relations. https://www.ohchr.org/sites/default/files/Documents/HRBodies/CEDAW/GR_21.pdf
9. Committee on the Elimination of Discrimination against Women, & Committee on the Rights of the Child. (2014). Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child

on harmful practices. https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=9n10uT18KKCzEri7OKCV8QdtfO2DoE3sUa%2BmDVRYTUnPLqZwZa3KJtg1jHbynWgJM5UmyKl9bhMpc3GBBmdSfHcpjX%2FlnaAILyhlLjQcFo0%3D

10. Committee on the Rights of the Child. (2003). General comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4). https://www.ohchr.org/Documents/Issues/Women/WRGS/Health/GC4.pdf
11. Department of Statistics Malaysia. (n.d.). Statistical data on underage marriage 2017–2020. In Annex O (p. 25). Ministry of Women, Family and Community Development. https://kpwkm.gov.my/uploads/content-downloads/file_20250105200730.pdf
12. European Commission, Joint Research Centre. (n.d.). SDG 5: Gender equality. Knowledge for Policy. https://know-sdgs.jrc.ec.europa.eu/sdg/5
13. Hutchinson, T. (2018). Doctrinal research: Researching the jury. In D. Watkins & M. Burton (Eds.), Research methods in law (2nd ed.). Routledge.
14. Iskandar, I. M. (2025, February 21). Significant drop in child marriages over 5 years, says minister. New Straits Times. https://www.nst.com.my/amp/news/nation/2025/02/1178171/significant-drop-child-marriages-over-5-years-says-minister
15. Jayakumar, J. J. D. (2023, July 7). Stop normalising child marriages. EMIR Research. https://www.emirresearch.com/stop-normalising-child-marriages/
16. Kurniawan, A., Muhammadromli Samae, S. B., & Arbi, H. (2025). From judicial discretion to maqāṣid al-sharīʿah reasoning: The case of marriage dispensation at the Muara Bulian Religious Court, Indonesia. Islamic Law and Social Issues in Society, 1(1), 64–85. https://doi.org/10.64929/ilsiis.v1i1.11
17. Ministry of Women, Family and Community Development. (2020). National strategy plan in handling the causes of child marriage (2020–2025). https://intranet.kpwkm.gov.my/kpwkm/uploads/files/Dokumen/Pelan%20Strategi%20Perkahwinan%20Bawah%20Umur/EXECUTIVE%20SUMMARY.pdf
18. Mohamad, M. (2011). Colonial legal pluralism and the transformation of Islamic family law in Malaya. ISA eBulletin. https://www.isa-sociology.org/uploads/files/EBul-Aug2011-MaznahMohamad.pdf
19. Mustamam, Danialsyah, Harahap, N., Saputri, M. A., & Ariestino, L. (2025). Reinterpreting ḥifẓ al-nasl in contemporary marriage contracts: Navigating Islamic normativity and state law. MILRev: Metro Islamic Law Review, 4(2). https://e-journal.metrouniv.ac.id/milrev/article/view/11158
20. Oderkerk, M. (2025). Methods of comparative legal research: How to set up and carry out a comparative legal research project. In M. Bartl, L. Burgers, & C. Mak (Eds.), Uncovering European private law: A student handbook (Chapter 16). https://doi.org/10.11647/obp.0448.16
21. Ooi, K. H. (2017, July 10). Child marriages in Malaysia: Reality, resistance and recourse. Penang Institute. https://penanginstitute.org/publications/issues/981-child-marriages-in-malaysia-reality-resistance-and-recourse/
22. Ova. (2022, March 18). Malaysia's child marriages halved from 2016 to 2020. Ova. https://ova.galencentre.org/malaysias-child-marriages-halved-from-2016-to-2020/
23. Pradeep, M. D. (2019). Legal research: Descriptive analysis on doctrinal methodology. International Journal of Management, Technology, and Social Sciences, 4(2), 95–103. https://doi.org/10.5281/zenodo.3564954
24. Republic Act No. 11596. (2021). An Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof. https://elibrary.judiciary.gov.ph/ thebookshelf//showdocs/2/94025
25. Republic of Indonesia. (2019). Law No. 16 of 2019 on the amendment of Law No. 1 of 1974 concerning marriage. https://setkab.go.id/en/new-law-raises-minimum-marriage-age-to-19/
26. Rozlan, N. I. (2025, February 28). Lebih 900 perkahwinan bawah umur direkodkan sejak 2022, Kelantan catat jumlah tertinggi. Majoriti. https://majoriti.com.my/berita/2025/02/28/lebih-900-perkahwinan-bawah-umur-direkodkan-sejak-2022-kelantan-catat-jumlah-tertinggi
27. Samuri, M. A. A., & Mohd Awal, N. A. (2018). Child marriage in Malaysia [Working paper]. UNICEF Malaysia. https://www.unicef.org/malaysia/media/711/file/Child%20 marriage%20in%20Malaysia.pdf
28. Sarawak Women for Women Society. (n.d.). Child marriage in Malaysia. https://sarswws.org/child-marriage-in-malaysia/
29. Saiman, M. Z., & Mahadzir, F. A. (2023). Causes and negative effects of child marriage in Malaysia: A case study. Asian Economic and Social Society, 13(4). https://doi.org/10.55493/5007.v13i4.4789

30. Sisters in Islam. (2020, May 5). SIS supports Azalina Othman Said's statement on banning child marriage. https://sisforum.org/sis-supports-azalina-othman-saids-statement-on-banning-child-marriage/
31. Supreme Court of the Republic of Indonesia. (2019). Supreme Court Regulation No. 5 of 2019 concerning guidelines for adjudicating applications for marriage dispensation. https://jdih.mahkamahagung.go.id/legal-product/perma-nomor-5-tahun-2019/detail
32. Tagorda, Y. A. (2024). Combatting child marriage: A study of youth-led civil society initiatives in the Bangsamoro Autonomous Region in Muslim Mindanao, Philippines. Journal of Contemporary Sociological Issues, 4(1). https://doi.org/10.19184/csi.v4i1.45840
33. Thuraisingam, A. S., & Abdul Hadi, S. (2021). Child marriages in Malaysia—A myth or phenomenon. Legal Network Series. https://www.scribd.com/document/680653071/CHILD-MARRIAGES-IN-MALAYSIA-A-MYTH-OR-PHENOMENON
34. United Nations. (2015). Transforming our world: The 2030 agenda for sustainable development. https://sdgs.un.org/2030agenda
35. United Nations Population Fund Asia and the Pacific, & United Nations Children's Fund East Asia and the Pacific. (2022). Beyond marriage and motherhood: Patterns and trends of adolescent pregnancy and child marriage in Southeast Asia and the Pacific. https://asiapacific.unfpa.org/en/publications/beyond-marriage-and-motherhood
36. United Nations Statistics Division. (2024). SDG indicator metadata: Indicator 5.3.1-Proportion of women aged 20–24 years who were married or in a union before age 15 and before age 18. https://unstats.un.org/sdgs/metadata/files/Metadata-05-03-01.pdf
37. UNICEF. (n.d.). Child marriage. UNICEF Protection. https://www.unicef.org/protection/child-marriage
38. UNICEF Malaysia. (2020). Advocacy brief: Towards ending child marriage in Malaysia. https://www.unicef.org/malaysia/media/1781/file/Advocacy%20brief:%20Towards%20ending%20child%20marriage%20in%20Malaysia.pdf
39. Women's Aid Organisation. (2022). Annual report 2022. https://wao.org.my/wp-content/uploads/2023/07/WAO-Annual-Report-2022.pdf
40. Yusuf, H., Ganti, M., Suryaningsi, T., Irmayani, N. R., & Sritimuryati, S. (2025). Exploring strategies for ending child marriage in Indonesia: A transition from tradition to transformation. International Journal of Innovative Research and Scientific Studies, 8(1). https://www.researchgate.net/publication/389310933_Exploring_strategies_for_ending_child_marriage_in_Indonesia_A_transition_from_tradition_to_transformation
41. Zainal Abidin, N. S., & Shamsuddin, M. M. J. (2025). The misconception of early marriage: Reconciling perspectives through maqasid al-Shariah. Jurnal Pengajian Islam, 18(1), 123–143. https://doi.org/10.53840/jpi.v18i1.343