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## **Child marriage as a choice: rethinking agency in international human rights**

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# 1 Introduction

## 1.1 INTRODUCTION

### 1.1.1 Child marriage in the international arena

The title of this dissertation, “Child Marriage as a Choice”, might sound contradictory. In a sense, it is, since the international human rights institutions that constructed the term do not recognize the possibility of children choosing to marry. Child marriage is a construction of international institutions. Over the past decade, organizations such as UNICEF and Girls Not Brides started to frame child marriage as a human rights violation and an obstacle to development (United Nations Children’s Fund Innocenti Research Centre 2001; Girls Not Brides n.d.a; UNFPA 2012; Equality Now 2014; United Nations Children’s Fund 2014; United Nations Development Programme n.d.). They define child marriage as “any formal marriage or informal union where one or both of the parties are under 18 years of age” (Girls Not Brides n.d.b). This definition is uniformly used and unchallenged. Within this established framework, children are considered incapable of deciding to marry. Thus, a child’s consent to marriage is merely an outcome of prevailing social norms. Such a marriage is forced, i.e., without consent.

Notwithstanding, marriage under the age of 18 has always occurred independently from how international institutions frame it. Countries with high child marriage prevalence<sup>1</sup> today are mostly in the ‘Global South’ – the top five being Niger, Central African Republic, Chad, Bangladesh, and South Sudan (Girls Not Brides n.d.c). However, it has been historically and globally commonplace to marry young, including in the West. For instance, in the 1950s and 1960s, the median age for a woman’s first marriage in the US was 20.<sup>2</sup> Gradually, a number of social developments in modern society, such as an increase in years of education, have increased the average marriage age.

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1 Percentage of ever-married women aged 20 to 24 married before age 18.

2 United States Census Bureau, “Table MS-2. Estimated Median Age at First Marriage, by Sex: 1890 to the Present”, <https://www.census.gov/data/tables/time-series/demo/families/marital.html> (accessed on November 7, 2019).

This change in the average marriage age corresponds with the global rise in the legal marriageable age. In England, for instance, the legal marriageable age was 14 for boys and 12 for girls until 1929 (Cretney 2005: 57-62). The minimum age changed to 16 under the influence of the League of Nations, which actively tried outlawing child marriage in parts of the world they deemed 'less-civilized' (Glendon 1989: 47). In this process of modernizing the legal marriageable age, marriage below the age of 18 has become "deviant behaviour". In Volpp's (2000) words, this change represents "the clash of cultures between 'modern' and 'backward' peoples" in the eyes of the colonial governments (Blackburn and Bessell 1997: 108). Policymakers also used the marriageable age as an instrument to control population growth (Ibid: 132). In other words, marital age was an area for significant colonial intervention (Bunting, Lawrance, and Roberts 2016: 19).

Alongside the increase in the minimum age for marriage, marriage by choice has also become the standard. Behind this normativization of marriage by choice is the modern core ideal: the importance of emancipation and autonomy, especially for women. The liberation of women has become a crucial marker of a state's level of civilization. At the same time, what Jenks (2005: 57-8) calls "the Apollonian" image of children has been influential in modern Western societies. Childhood is a time for play and should be a happy time. Children need protection and are pure and innocent. Within this model, children have become an object for protection, whereby their agency – their capacity to choose – has been compromised. The conceptual development of marriage and children has spanned the last few centuries and has, over the last few decades, crystalized the idea and discourse of child marriage as a human rights violation.

The transformation of norms around marriage suggests the concept has a fluid nature. It is important to understand that marriage has different meanings, norms, and consequences attached to it in every historical time and society. For instance, in contemporary Indonesia, marriage is the threshold of any valid sexual relationship. Thus, banning marriage under a specific age means practically banning sexual relationships under that age altogether. And even within the same country, marriage has different consequences. I will study how Indonesia's framework operates in practice as a case study in this dissertation. In patrilineal Bali, where I conducted the main part of the fieldwork, divorce has heavy social and practical consequences. By contrast, in West Java, divorce is quite common and relatively easy. Changing what it means to exit marriage also changes what it means to enter into marriage.

Considering the varied meanings of marriage in different contexts, can all marriages under the age of 18 be in the same category of 'child marriage' (as a human rights violation)? When we look at how international institutions frame child marriage, there is a general tendency to highlight only specific

types. For instance, Volpp (2000), in her analysis of the American narratives of 'culture', compares the public narratives of two groups of female adolescents who marry older men: white, and immigrants of colour. She discovers that the migrant girls' marriage is described as problematic and "cultural", while a white girl's marriage is described as an isolated instance of atypical behaviour. Her finding shows that race and ethnicity is two dimensions in identifying what to 'blame' as the cause of the practice. Another dimension is gender. Indonesian cases of girls marrying older men outrage human rights advocates.<sup>3</sup> However, when a boy married an older woman in Indonesia, the news was received as a heart-warming love story.<sup>4</sup> This specific way of presenting child marriage is related to the generalizing tendency of the campaigns against child marriage. They tend to present child marriage as a forced marriage between an early-teenage girl and a much older man. This portrayal creates 'a stereotypical child marriage' that appears on Google Images under the keyword 'child marriage'.



(Stephanie Sinclair, "Too Young to Wed"<sup>5</sup>)

- 3 Vatvani, Chandni (2017), "It's Tradition": The Child Brides of Indonesia's Sumenep Regency. CNA, <https://www.channelnewsasia.com/news/asia/it-s-tradition-the-child-brides-of-indonesia-sumenep-regency-9478014> (accessed on November 7, 2019).
- 4 BBC News (2017), "Teenager Weds Woman in Her 70s", <https://www.bbc.com/news/world-asia-40529590> (accessed on November 7, 2019). Thejournal.ie (2017), "Teenage Boy Marries 73-Year-Old Woman in Indonesia", <https://www.thejournal.ie/teenage-boy-wedding-indonesia-3485445-Jul2017/> (accessed on November 7, 2019). Hariyadi, Mathias (2017) "Ageless Love: 16-Year-Old Man Takes a 71-Year-Old Widow as His Lawful Wedded Wife", AsiaNews.It, <http://www.asianews.it/news-en/Ageless-love:-16-year-old-man-takes-a-71-year-old-widow-as-his-lawful-wedded-wife-41207.html> (accessed on November 7, 2019).
- 5 Stephanie Sinclair, "Too Young to Wed", <https://stephaniesinclair.com/too-young-to-wed/> (accessed on February 8, 2020). From the website, it isn't very clear where this photo was taken.

How representative of reality is the stereotypical child marriage? Certain studies mention a growing number of 'love marriages' between teenagers because of increasing educational opportunities and mobility (Grijns et al. 2016; Chaudhuri 2015). However, international discourses and narratives tend not to focus on such examples or the wider diversity of 'child marriage' cases. This absence could be because of CSOs' strategic simplification. For the sake of their campaign, and to attract the attention of the world's populations to the issue, they *need to* simplify the narratives to match extreme and sensational cases. They may also consider children as lacking the necessary cognitive maturity and moral development to decide to marry, thus not recognizing their agency to marry. Child marriage then becomes an outcome of social structures instead of the child's or children's agency. Bodineau (2014: 124) studied the international narrative about child soldiers and concluded that policies and programs do not reflect the diversity of children's experiences. This disconnect occurred because the diverse experiences challenged the representation of childhood at the foundation of children's rights. The same disconnect seems applicable to child marriage programs.

While they do not recognize children's agency *to marry*, international human rights institutions emphasize certain autonomous choices made by women and celebrate when girls exercise their agency *not to marry* (See for instance: United Nations Population Fund 2018; Reiss 2018; Child Helpline International n.d.). Here, the discourse shows two contradictory views on agency. Children's agency is dismissed when they do not do "the right thing" (Hanson 2016), as is also observed in child labour or child soldier cases (see Section 1.1.2. and Section 6.2.). Due to such contradictions, Hopgood (2017), with the example of Female Genital Mutilation, describes such intervention as "international paternalism".

Such a normative approach is based on specific assumptions about what it is to be a child, e.g., "the Apollonian" image of children. However, "the idea of childhood as a universal category does not meet the real experiences of children across the globe," i.e., there is no single 'childhood' but "the proliferation of childhoods" (Jenks 2004: 5-6). Indeed, anthropological literature has observed the diversity of childhoods throughout the world (see Section 1.1.2.).

While international organizations have published numerous reports on child marriage (see Chapter 2), they based these reports on the international child marriage framework. The definition of child marriage and its assumptions are unchallenged, and the approach to end child marriage is uncritically accepted. In other words, while child marriage is *constructed* by the international institutions, it is currently *uncontested* among international institutions working on this issue. Academic research on the topic is still limited to examples in Honduras, Uganda, Nigeria, Iran, India, Ethiopia, South Asian com-

munities in England, and Syrian refugees in Lebanon (Murphy-Graham and Leal 2015; Wodon, Nguyen, and Tsimpo 2016; Bunting 2005; Asghari 2017; Raj et al. 2009; Erulkar and Muthengi 2009; Gangoli, McCarry, and Razak 2009; Bartels et al. 2018). However, most of these studies also do not question the child marriage framework itself. Only certain publications have pointed out the dominant and at times unintentionally adverse characteristics of the child marriage discourse (Bunting and Merry 2007; Giaquinta 2016; Archambault 2011; Boyden, Pankhurst, and Tafere 2012). Helpfully, a recent edited volume on ‘forced marriage’ (see Section 1.2.5 for the different use of terms between ‘forced marriage’ and ‘child marriage’) also discusses the crucial concept of ‘consent’ in marriage by exploring the boundary between ‘coercion’ and ‘consent’ (Bunting, Lawrance, and Roberts 2016).

There is currently an increasing amount of investment, human resources, time, and passions spent on ending child marriage. Thus, it is a crucial time to reinvestigate and reconstruct the taken-for-granted framework. The key puzzle in the reinvestigation process is the contradictory views on agency. One of the assumptions underlying the international approach of prohibiting and outlawing child marriage is that children under the age of 18 are *incapable* of choosing to get married. But are they really incapable? If they are, why would they be *capable* of choosing not to get married? To explore these contradictory views, this dissertation explores *why children marry*. They do so not just because of the structural factors that human rights institutions present, e.g., poverty, oppressive culture, and lack of education. To understand *why children marry*, we need to ask *what for them are the reasons for getting married*. We need to listen to their perspective, acknowledging that they are capable of thinking and acting on their own. I will elaborate on this main question later in this chapter. In the next section, I will explain how this dissertation offers salience to the literature of human rights by answering the main question.

### 1.1.2 Academic debates on human rights and children’s rights

#### *Criticism to human rights*

Human rights are, in principle, universal. The Universal Declaration of Human Rights claims and prescribes universality (Henkin 1989). Created in the aftermath of the Second World War, the declaration was a political idea with moral foundations, aiming at ensuring that such a catastrophe would never take place again. All human beings, “with no distinction given to their race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Article 2 of the UDHR), were equally acknowledged to have these basic rights stipulated by the Declaration. The Vienna Declaration (para. 1) describes the universality of human rights “beyond question”. In short, human rights law is built on the normative premise that all human beings should enjoy all of these rights.

The problem with this claimed 'universality' has been widely addressed. The American Anthropologist Association (1947) issued the famous Statement on Human Rights with cultural relativist claims. They were concerned that the claimed universality of human rights was undermining cultural differences. Merry (2003: 56-7) points out that while some regard relativism as tolerance without limits (i.e., "anything goes"), others see it as a more nuanced recognition that tolerance of difference is an important ethical consideration. Arguing the latter, Merry (Ibid) criticizes external reform movements that try to change cultural practices without sufficient respect for differences. Some cultural anthropologists have charged that human rights is the imposition of the Western idea of natural rights, and therefore is a form of cultural imperialism. Dembour (2001: 56-58) points out that an approach assuming the righteousness of human rights standards risks "arrogance" as it excludes the experience of the "other". Cowan (2006: 10) similarly points out the one-sidedness of human rights standards, arguing that just as local practice is a product of 'culture', human rights in a way are a 'culture', "an increasingly pervasive structuring discourse [...] that shapes how the world is apprehended".

Different disciplines offer varied perspectives on this debate. Legal philosophers such as Donnelly (1984; 2003) assessed the cultural relativist claims and concluded that weak cultural relativism (instead of radical cultural relativism or universalism) was the answer: human rights are fundamentally universal, possibly with limited cultural variations. Human rights scholars like David Kennedy (2005) call for carefully assessing the negative impact of international humanitarian interventions, calling human rights the centre's (the West) criticism of the periphery (the rest). Political scientists like Stammers (1999) argue that proponents of human rights (as civil and political rights) are those with power, who fail to see violations of economic, social, and cultural rights. These criticisms pose a serious question on the legitimacy of the international human rights system and indicate the need for reform.

#### *Deconstructing human rights*

So-called post-colonial scholars such as Santos and Rorty, as well as TWAIL (Third World Approach to International Law) scholars such as Mutua and Baxi, also criticize and deconstruct human rights from a historical viewpoint (see Section 2.5). In brief, post-colonial studies call for a counter-hegemonic conception of human rights (Santos 2015: 9). This historical approach to deconstructing human rights highlights that human rights are a product of a specific historical background and are 'man-made', and so are imperfect and hardly universally relevant.

What the above-mentioned historical approach does not consider is that *the practice* of human rights could be different from *the idea* of human rights.



Some scholars focus on this distinction. Macdonald (2013: 26) argues that the human rights idea is not flawed because of its inherent characteristics, but because of what it has been turned into by its proponents. Legal anthropologists (Cowan, Dembour, and Wilson 2001: 6) point out that, in spite of the law's positivist approach of essentializing social categories, legal principles are actually constantly readjusted to the demands of local contexts. Ignatieff (2003) called for a careful assessment of what human rights proponents wish to achieve, importantly distinguishing between a "minimalist" approach and an expansionist approach of interventions in the name of human rights. These arguments underscore that international law is a social process with many different actors involved in the adaptation process (Merry, 2006a: 111). This means that, when human rights frameworks are put in context, their function, meaning, and consequences are often different from how they are designed. Therefore, the attempt to evaluate and reconstruct the current frameworks from bottom-up is crucial.

#### *Reconstructing human rights: The anthropology of human rights*

In response to these critics, scholars have deployed various approaches to reconstruct human rights. Rorty (1998) proposes a pragmatic approach to sentimental human rights education: teach that we must treat other people well because we feel sympathy for them, not because they are morally our equals. Scholars such as An-Na'im (1992: 3), Flynn (2013) and Harris-Short (2003: 175) call for "cross-cultural dialogue", or "intercultural dialogue", for enhancing the "cultural legitimacy" of human rights (see Section 2.5).

These are all interesting propositions. The need for dialogue, in particular, suggests the need for attention to differences, i.e., the need for empirical evidence that investigates real and situated practices. Merry (2006b) has demonstrated how human rights norms get translated in the local context, a process she calls the "vernacularization of human rights". In a normative sense, this suggests that human rights need to be adapted to local understandings and conditions to be effective. International human rights law in theory grants state parties broad discretion in how to realise rights domestically, for "culturally sensitive approaches to human rights" (Fraser 2018). As law is a normative discourse that aims to regulate an often elusive reality (Alves 2000: 499), the local supersedes the universal, no matter how globally one may try to think. Everything becomes relative, localized, and ephemeral (Ibid: 491). Anthropological research on human rights illustrates their function in plural normative orders and how they are perceived, e.g., concerning violence against women (Merry 2006b), female genital mutilation (Boyle and Corl 2010; Gunning 1991-1992), and polygamy (Campbell 2013). These studies demonstrate both the limitations and potentials of international human rights law and ideas, suggesting that paying attention to different socio-cultural contexts can make human rights relevant and less subject to the inequality of global power.

This need for the localization of human rights highlights the necessity of an anthropology of human rights (Freeman 1994). To conduct a fruitful debate about the universality of human rights, the discussion should focus on how human rights are applied in local contexts. If one asks how *universal* human rights are, we ought to ask: how *relevant* are human rights to people in each context? For instance, Ignatieff (2001: 111, 116) describes poor rural women in Pakistan who criticize honour killings. It is an example of how human rights go global by going local, empowering the powerless, and giving a voice to the voiceless as a language that creates the basis for deliberation. But when are rights indeed being used as a resource, and when do they start to become a constraint? In other words, there is a need to investigate the consequences of the human rights framework on people's lives. This dissertation studies exactly that.

In so doing, I aim to take a constructive approach to studying and writing about human rights in context, and eventually to make pragmatic suggestions. As Goodale (2006: 4) put it, "to study what human rights do is also to study what human rights are". These dimensions should be examined and analysed together. Thus, we need an ethnography of human rights that describes what human rights do and then reflects on what human rights are, reconceptualising human rights at the basic theoretical level.

### *Children's rights*

Some scholars have formulated a critical view of the international approach to children's rights, which arguably is based on modern Western ideas about childhood. Hanson et al. (Hanson, Volonakis, and Al-Rozzi 2015) have challenged the dominant abolitionist approach to child labour, and instead, suggest focusing on children's rights to work in dignity. With the example of child labour, Nieuwenhuys (1996: 238) points out that modern society places children in the position of dependency and passivity. Desmet (2012: 5) likewise suggests that some provisions of the Convention on the Rights of the Child (hereafter CRC) are "patronizing" and focused excessively on "protection".

Such arguments may have to do with the origin of the CRC. The basis of the CRC is found in the 1924 Declaration of Children's Rights, which was drafted and championed by a British social activist, Eglantyne Jebb. Her ideas reflected her time and socio-cultural disposition (Hart 2006: 5). The philosophy behind the CRC is informed by a particularly western conceptualization of childhood, which is characterised as irrational, natural, and universal (James and Prout 1997) (see Section 2.2.2). Child development psychology research from the early twentieth century has supported this model. However, the research is contentious because those psychological concepts, often taken as objective and scientific evidence, actually rest on a set of implicit assumptions and particular methods (James and Prout 1997; Henrich, Heine, and Norenzayan 2010). Boyden (1997) interprets the adop-

tion of the CRC as the export of a stereotyped childhood from the industrial world to the South. The protection-focused policies concerning children are deeply embedded in a liberal paternalistic view of childhood, which the following chapters will clarify.

The “localisation of human rights” approach is one method for studying real experiences, their diversity, and how they relate to the human rights framework (De Feyter and Parmentier 2011; Vandenhole 2012). The approach suggests investigating the use and relevance of human and children’s rights in local communities and translating the findings into the current international norms (Ibid). For instance, Ngira’s (2019) research in Kenya revealed that the systematic condemnation of child labour by international children’s rights institutions is counterproductive, as it ignores the role of some forms ‘child labour’ in integrating the child in the family and in guaranteeing their rights to education. Overall, the recognized challenge is to document and verify the effects and the consequences of policies concerning children’s rights in real-life contexts (Reynolds, Nieuwenhuys, and Hanson 2006: 295). This challenge emphasizes the role of anthropology in the study of children’s rights (Hart 2006). Montgomery (2007) conducted fieldwork to study child prostitution in Thailand. She expressed uneasiness with her view of “protecting children”, as she became increasingly aware of how it differed from the children’s accounts of their lives. Godoy (1999: 437) studied street children in Guatemala. She criticized CRC rights as based on a “Northern construct of childhood”, with limited relevance for children who live according to the traditional roles assigned to them.

Those anthropological studies reveal that internationally constructed ‘children’s rights’ are not always relevant to local conceptions and realities of childhood. For instance, Maithreyi (2019), from her ethnography of children’s education programmes in India. She concludes that children can be “strategically opportunising actors” who seek to make meaning of their lives despite structural and discursive constraints. Again, the key to disentangling this discrepancy between the local and the global is *agency* and *autonomy*. On the one hand, global human rights institutions assume that children (i.e., everybody under the age of 18) are not and cannot be fully *autonomous*. On the other hand, the very same institutions believe in and aspire towards *full autonomy* of human beings above the age of 18.

This idea of *full autonomy* is based on the ideals of modernity, the liberal understanding of agency that we all should be able to decide on our own lives instead of submitting to the traditional order. Relational autonomy, by contrast, suggests that such a conceptualization of agency is an illusion, as our ‘selves’ are all embedded in social interactions and relationships with others. This conceptual framework of agency, autonomy, and choice is crucial for this dissertation, as well as for understanding the puzzle of agency surrounding human rights and child marriage (see Section 1.2.5).

Through this dissertation, I deconstruct and challenge the taken-for-granted definition and assumptions in the child marriage framework, reconstruct the framework, and make it more relevant, efficient, and ethical. To do so, I use a case study approach, zooming in to study child marriage in Indonesia. Indonesia makes an excellent case to study how actors deal with different sets of rules regarding child marriage practices, as I elaborate in Section 1.2.2. First, I will introduce the existing literature that helps me to answer *why children marry in Indonesia*.

### 1.1.3 Research setting: Child marriage in Indonesia and changing marriage patterns

The most prominent record on marriage age in Indonesia to date is demographic research conducted by Gavin Jones. He emphasized the regional differences in marriage patterns. He concluded that of all Indonesians, West Javanese Muslims had the youngest female age of marriage (age 16.6) until the late 1960s. But since then, their marital age has started to rise, and Madurese speakers have become the earliest-marrying group (age 17.6 in the 1980s) (Jones 2001: 4). There have been other notable changes in marriage patterns, such as the increase in women marrying someone of lower or the same education level, associated with the increase in female labour participation and improved educational opportunities (Utomo 2014: 6; Malhotra 1997: 448). These changes suggest that the number of women who marry young decreases in the natural course of modern social changes, in line with research in other countries (see, e.g., Saardchom and Lemaire 2005; Garenne 2004).

Indeed, Cammack et al. (1996) found a significant decline in the early marriage of women and a corresponding rise of female marriage age. All women getting married below age 16 fell from about 40% in 1961 to about 20% in 1985. According to UNICEF, this decline has continued, with the percentage of women marrying below age 16 declining to 5.5%. They also associated these changes with modernization. The generation of new ideas about marriage became based more on female autonomy. This change occurred due to education, exposure to different cultural practices, and the destabilization of institutionalized beliefs regarding parental authority and female autonomy. According to the authors, the enactment of the Marriage Law 1974 had a slight effect on the decline of marriages in cities by having contributed to the destabilization of ideas, but overall had no significant independent effect (Cammack, Young, and Heaton 1996: 71-72).

Yet, according to the 2013 national household survey, 25% of all women aged 20-24 who had ever been married, still got married before the age of 18. This percentage even increased slightly between 2010 and 2012 (Badan Pusat Statistik (BPS) 2016). This rise is associated with an increase in child marriage prevalence in urban areas since 2008. In rural areas, child marriage prevalence has been steadily decreasing: 33.5% in 2008 to 29.2% in 2012. By

contrast, in urban areas it rose from 18.8% in 2008 to 19.0% in 2012 (Ibid) (see Section 5.3.1). What UNICEF Indonesia (2016) finds worrying is the recorded increase in marriage among girls aged 16-17 between 2008 and 2012. The increased child marriage prevalence in urban areas, as well as the rise of female (mid- to late-) teenage marriage, seems at odds with what we would expect from the modernization changes mentioned above.

What are the factors affecting the prevalence of child marriage? The UNICEF report and the BPS report show that low education levels and poverty are closely linked with child marriage prevalence. In 2015, girls who married below the age of 18 were six times less likely to complete upper secondary school compared to girls who married after the age of 18 (45.4 % and 8.9 % respectively). The data also shows that many married adolescent girls do not complete education beyond the primary school level. It is two times more likely for married girls to drop out of or never attended primary school compared to unmarried girls (9.9% and 4.5% respectively) (UNICEF Indonesia and UNICEF 2016). However, it is difficult to determine whether girls stop going to school because they marry early, or whether those who leave school early have little choice but to marry. To determine whether or not a causal relation exists requires qualitative assessment. Another UNICEF report finding is that, perhaps surprisingly, while child marriage is generally strongly associated with poverty, prevalence is still high among the wealthy. About one in eight girls marry before age 18 among wealthy households<sup>6</sup> in Indonesia. This prevalence indicates that the practice may be heavily influenced by other factors, including social and cultural norms that are accepted across all economic levels.

One of the UNICEF report's five recommendations is to "address social norms and cultural norms" by, e.g., "engaging local leaders" and "encouraging parents to make better investments in their daughters" (UNICEF Indonesia, 2016: 6). Other organizations make a similar suggestion. Reports from the implementing committee of the Convention on the Elimination of All Forms of Discrimination against Women (hereafter CEDAW) invariably mention cultural norms as one of the most difficult challenges to address, particularly when associated with religious interpretation (Committee on the Elimination of Discrimination against Women 2011). Plan International points out the strong influence of social norms playing a role in decision-making for marriage (Plan International Asia Regional Office and Coram International 2015). However, those reports tend to generalize what they call 'social norms'. They rarely discuss the content, mechanism, and diversity of the cultural, social, and religious norms. The way they use the term as a container category is not helpful towards addressing the issue, and even risks misleading possible solutions.

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6 The richest household among the five categories (poorest, poorer, middle, richer, and richest) by level of expenditure (UNICEF Indonesia, 2016).

The most relevant work to date that addresses social norms regarding child marriage is the ethnographic study conducted by Mies Grijns in a West Javanese village.<sup>7</sup> The study suggests that a key element in most child marriage cases is a fear of committing *zinah* (the sin of premarital sexual relations) (Grijns et al. 2016). A strong influence of religious norms on people's inclination to conclude and accept child marriages is also evident in the attempts to legalize child marriage. Parents ask the Islamic court for marriage dispensation to avoid *zinah*, and judges grant the dispensation referring to *zinah* (elaborated in Chapter 3). Marcoes (2016) has elaborated on the moral and social factors influencing the practice of child marriage. These factors include fear of being ridiculed by neighbours, fear of sin, the obligation for girls to relieve the burden on their parents, and fear of becoming an "old maid". These findings suggest that Islamic teaching and norms, such as *zinah*, have been an influential factor contributing to the prevalence of child marriage. However, Indonesian CSO Rumah Kita Bersama's extensive research project explained that Islamic texts do not actually promote the practice of child marriage (Ali et al. 2015).

Grijns has also developed a typology of underage marriage, which provides a useful point of departure for comparative purposes (Grijns et al. 2016):

1. Marriage according to orthodox values: for instance, girls are expected to marry simply because it is a family tradition to marry around the age of 15. In this case, parents usually do not see the use of continuing their education after elementary school and see being a good wife and mother as their ultimate destiny.
2. Marriage to escape serious problems at home, such as poverty or domestic violence: This is a type of marriage that mainly happens upon the initiative of the girls themselves. Examples include extreme poverty, where girls try to escape by marrying a boy with some economic perspective to create a better situation for themselves and to reduce the burden for their parents who have to raise more children.
3. Marriage of social orphans: This is child marriage that emanates from the neglect of girls by their parents and the wider community. This often starts because of broken homes or the absence of migrant parents. The parents do not raise their children, but place them in the care of a grandmother or other relative.
4. Love matches (*suka sama suka*): These are becoming more popular and frequent due to increased mobility, attending secondary school outside of the village, and the possibilities of getting to know others via social media, Facebook in particular.

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7 I was also involved in this research for my previous study. While she interviewed children and local actors in the village, I focused on interviews and analysis at the religious courts in the same area. Chapter 3 of this dissertation is based on a journal article that Grijns and I co-authored, written using part of our fieldwork data.

5. MBA (married by accident): This is an aggravating factor in all of the above cases. Usually the fear of being accused of *zinah* is enough for girls to take steps to get married.

This typology suggests that *zinah* is an underlying factor that plays different roles in each type of child marriage. Her findings are of particular importance because it shows that underage marriage does not conform to the 'traditional' pattern of an arranged marriage and that new forms of underage marriage have emerged. Grijns suggests that the level of agency exercised by the married children varies depending on the types of child marriage.

The existing literature reviewed above indicates the strong influence of social norms on child marriage practice, amongst other factors. This influence means that, from the perspective of reformists, the issue seems difficult to resolve without addressing social needs (e.g., getting married to avoid stigma). This difficulty reminds me of the legal reform debates during the colonial era. Benda-Beckmann and Benda-Beckmann (2011) explain that Dutch scholars on Indonesian *adat* law (e.g., Van Vollenhoven and Snouck Hurgronje) proposed a gradual development within a community. They argued that gradual change was the only way for appropriate social and economic progress to occur without damaging the local social order. In today's context, only a gradual integration of human rights could bring about the intended outcomes in harmony with the local social order. Bedner and van Huis (2010) also argue that local concerns must be considered for the vernacularization of women's rights to be effective. Furthermore, Cammack, Bedner, and Van Huis (2015) have noted that since *Reformasi*<sup>8</sup> there have been important developments in the field of women's rights in Indonesia. However, they are argued in terms of different interpretations of Islamic law rather than human rights (Ibid). For reformists and advocates of women's rights (including child marriage activists), it is also important to consider that the transition from traditional to modern (and more westernized) societies may not systematically lead to progress regarding women's rights (Malhotra 1997:435). These discussions hint at the necessity of child marriage research that focuses on the nuanced understanding of socio-cultural conditions, and the careful assessment of the consequences of the reformists' movements. This dissertation has been designed with attention to these elements, which the next section will explain.

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8 The period of political, legal, economic, and social reforms that followed President Suharto's resignation in 1998.

## 1.2 RESEARCH DESIGN

### 1.2.1 Research question

The central questions of this dissertation are (1) *why children marry, and (2) how this practice both informs and is treated within the multiple competing normative frameworks that are in place*. The question considers both structural (e.g., poverty, oppressive culture, lack of education) and subjective (i.e., *what for them are the reasons to get married*) reasons. Thus, it is crucial to examine 'child marriage' from different angles at different levels of society. This examination should relate to how actors at each level are dealing with different sets of rules in a context of legal pluralism (i.e., the second part of the question). Starting from analysing child marriage discourse at the international level, I then move to discuss the political contestation over child marriage at the national level. There, I use a case study on Indonesia, where the tension over the issue arises between the conservative Muslim organizations and liberal groups of human rights advocates. To zoom in further, I investigate child marriage as a social practice on the Indonesian island of Bali, where I conducted fieldwork over six months.

To unpack the multi-layered reasons why children marry, each chapter addresses and provides evidence to answer the sub-questions listed below:

- Under the international discourse, since when and how did people under 18 become too young to marry, and why did the age limit become 18? (Chapter 2)
- How does the Indonesian government regulate a social reality where children continue to marry under its law while setting goals to comply with human rights standards to end child marriage? And how is the state law implemented in practice, and by which state and local actors? (Chapter 3)
- How do state legal agents in Bali navigate state law through local concerns and customary law, dealing with child marriage arising from teenage pregnancy? (Chapter 4)
- Why do some children marry under the age of 18 in Bali? What are the contexts in which they decide to marry by themselves? (Chapter 5)
- When children consent to a marriage, is such a decision really the child's choice, considering the social pressure from and power dynamics between their parents, their extended family, and local leaders? And even when it is the child's autonomous decision to marry, to what extent should policymakers take their voices seriously? (Chapter 6)

### 1.2.2 Case study: Indonesia

To grasp a comprehensive yet detailed picture of the child marriage practice, I use the case study approach, first focusing on Indonesia. Indonesia is an interesting country to study child marriage for several reasons. First,



there are complex relations between changing marriage patterns and the persistently high rate of child marriage, as explained in Section 1.1.3.

Second, Indonesia is a Muslim majority country with a strong presence of Islamic organizations and norms. The Indonesian government is actively involved in international conventions and has set development goals that aim to end child marriage and comply with human rights standards. It simultaneously faces social and political resistance and a complex reality. Resistance towards policies and laws against child marriage, which at times comes from conservative Muslim groups, present a sharp contrast with groups with more liberal ideas such as organizations for women's rights and child protection. For instance, in 2014, these organizations requested a judicial review of the 1974 Marriage Law at the Constitutional Court. The event triggered heated debates about the minimum age for marriage. The debates went beyond the minimum age for marriage: they were about human rights and development, as well as religious faith and sexual morality (see Chapter 3).

Third, the Indonesian legal system is pluralistic, which studies have documented exhaustively (see, e.g., Hooker, 1975; Lev, 1972, 1973; Lukito, 2013). Many studies related to legal pluralism in Indonesia centre around how the extra-judicial system works at local levels and how it affects particular policy making (see, e.g., Vel and Bedner 2015; Muur 2018; Crouch 2013; Safitri 2011). The plurality of norms and types of law is particularly evident in family law. While van Huis (2015) and O'Shaughnessy (2009) take on the issue of divorce, Butt (2008) examines polygamy and mixed marriage cases, and Benda-Beckmann (1984) and Bowen (2003) and consider inheritance disputes. In comparison, child marriage in Indonesia remains an underexplored area of study. Still, the extensive literature on the pluralistic Indonesian legal system is useful towards disentangling the complex relationships between the different legal systems and actors involved.

Fourth, Indonesia has regional variations. Jones (2001) has documented regional differences and changes in the average marriage age. The BPS report (Badan Pusat Statistik (BPS) 2016) has recorded child marriage prevalence in each province (*provinsi*) and district (*kabupaten*) (see Section 1.1.3). Due to this regional variation, the research on child marriage in Indonesia is both challenging and compelling. To study child marriage in Indonesia in different regions, I organized a series of workshops in Jakarta together with both Dutch and Indonesian colleagues.<sup>9</sup> The workshops resulted in a 12 chapter edited volume that complements studies of contemporary child marriage in Indonesia. The volume focuses on South Sulawesi, South and West Sumatra, West Nusa Tenggara, West, Central, and East Java, and Di Yogyakarta (Grijns et al. 2019). Yet, child marriage practices in Indonesia's Muslim-minority areas are still under-researched.

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9 The workshops were not officially tied to my PhD project, but they informed my study.

Therefore, to zoom in further, I chose to conduct fieldwork in Bali, a Muslim-minority area of Indonesia with mainly Hindu populations. At the national debates about the minimum age for marriage, the national Hindu organization representing their region (PHDI, *Parisada Hindu Dharma Indonesia*) seems to support the international norm of the marriageable age of 18 (Parlina 2014). This stance contrasts with the Islamic religious organizations' opposition to raising the marriageable age and the dominance of the *zinah* discourse in national and local debates among Indonesian Muslims. The prevalence of child marriage is relatively low in Bali. The data between 2008 and 2012 shows that 15.6% of ever-married women aged 20 to 24 in Bali were first married before age 18, while the national average is 25.4% (Badan Pusat Statistik (BPS) 2016: 59). In 2017, the average age of first marriage in Bali (23.0%) is also above the average of Indonesia (21.8%).<sup>10</sup> While child marriage in Bali may not be as pronounced as in other provinces of Indonesia, it is one of the nine provinces where child marriage prevalence has been increasing recently (Badan Pusat Statistik (BPS) 2016; see also Section 1.1.3). Thus, the study of child marriage in Bali challenges the common assumption that child marriage is linked to orthodox Muslim beliefs. It also allows me to explore other possible explanations. Although the main area of my study is Bali, I occasionally refer to conditions in West Java, where I previously conducted relatively short fieldwork (see Horii 2015). The comparison between the two areas reveals the role of cultural practices and beliefs in child marriage patterns (discussed in Chapters 4 and 5).

### 1.2.3 Multi-layered analysis

Through the case study approach, I assess international trends and perspectives, and how they differ from the diversity of provincial, and individual practices of child marriage. All chapters have implications and connections with international debates about child marriage, while empirical data is collected at various levels. Accordingly, each chapter uses different data sets, as shown in Table 1.

Chapter 2 examines in two parts how child marriage is constructed at the international level. The first step traces the establishment of child marriage as a discursive practice since the 1960s, analysing international conventions and general recommendations regarding child marriage. The second step unpacks the dominant child marriage discourse by analysing the use of specific languages in reports about child marriage published by major international organizations.

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10 Badan Pusat Statistik, "Median Usia Kawin Pertama Perempuan Pernah Kawin Umur 25-49 Tahun Menurut Provinsi, 2012 dan 2017", <https://www.bps.go.id/dynamicctable/2018/06/06%2000:00:00/1445/median-usia-kawin-pertama-perempuan-pernah-kawin-umur-25-49-tahun-menurut-provinsi-2012.html> (accessed on February 6, 2020).

Chapter 3 analyses the way the Indonesian government and state agents deal with the social reality that children continue to marry, focusing on two levels: 1) law-making at the national level (Indonesia) and 2) the implementation of the law at the provincial level (West Java). At the national level of society, child marriage is a political contestation, as illustrated in the long-lasting debates on the marriageable age. To study how the state rules are implemented in practice, I use the case study of West Java, focusing on the role of intermediary actors in facilitating underage marriage to accommodate local needs and concerns.

Chapter 4 focuses on the provincial level (Bali), investigating how state authorities try to enforce their rules and norms. I focus on Balinese Hindu practices to identify the role of their *adat* law. Courts are where judges try to compromise between state law, religious law, and social norms. Therefore, they are a particularly interesting place to observe the tension between different legalities (Bowen 1998: 385). I accordingly investigated cases related to marriage dispensation and sex crimes at the *Pengadilan Negeri* (civil court).

Chapter 5 investigates child marriage practices in Bali and the socio-cultural conditions in which children marry. It analyses the link between child marriage and adolescents' sexuality in Bali, based on interviews and Focus Group Discussions (FGD) that I conducted during my fieldwork in 2017. I also refer to some of the cases of child marriage, specifically to examine the relationship between teenage pregnancy and child marriage. By investigating the data collected in Bali, I also clarify what these area-specific data mean for the transnational movements and policies about child marriage.

Chapter 6 then focuses on children's subjectivities. It looks at individual cases of child marriage in Bali, focusing on how children exercise their agency in deciding their marriage, relying on interviews with those between 14 and 28 years old that married below the age of 18. Based on these empirical data in Bali, I evaluate the current international children's rights scheme, in which agency is an increasingly pressing matter.

Chap.	Level of analysis	Methods	Scope of data	Types of data
2	international	legal analysis and discourse analysis of international documents	international	<ol style="list-style-type: none"> <li>1) conventions and general recommendations regarding child marriage that were issued by international human rights institutions since the 1960s</li> <li>2) reports about child marriage published by major international organizations in the period between 2001 and 2016</li> </ol>
3	national, provincial	socio-legal analysis of Indonesian law-making and implementation, social practice in West Java	national, provincial	<ol style="list-style-type: none"> <li>1) legal texts in Indonesia and their historical conception</li> <li>2) interviews and case analysis at religious courts in West Java</li> <li>3) ethnographic research in a village in West Java (conducted by Grijns)</li> </ol>
4	provincial	fieldwork in Bali, legal case-study analysis of court decisions	provincial	<ol style="list-style-type: none"> <li>1) interviews and case analysis from civil courts in Bali</li> <li>2) interviews with judges, marriage registrars, <i>adat</i> law scholars, and children and their families who were involved in legal cases</li> </ol>
5	provincial, individual	fieldwork in Bali, interviews and Focus Group Discussions with actors, analysis of case studies	provincial	<ol style="list-style-type: none"> <li>1) interviews and Focus Group Discussions with Balinese adolescents, legal practitioners, CSO staff members, government officials, health care personnel, and teachers</li> <li>2) case studies of child marriage or /and teenage pregnancy among the Balinese Hindu populations</li> </ol>
6	individual, international	fieldwork in Bali, analysis of case studies and interviews with early-married couples	provincial	<ol style="list-style-type: none"> <li>1) case studies of child marriage among the Balinese Hindu populations</li> <li>2) interviews with those between 14 and 28 years old who married below the age of 18</li> </ol>

Table 1: level of analysis, methods, scope, and types of data sets used in each chapter

#### 1.2.4 Interdisciplinarity

To analyse why children marry and in which conditions they make choices, I engage with four key concepts: *agency*, *structure*, *modernity*, and *tradition*. My understanding of these concepts stems mainly from anthropology and sociology and occasionally borrows specific ideas from social psychology, feminist philosophy, and postcolonial studies. To explain how I engage with all of these disciplines, I first clarify my understanding of the difference between multi-, inter-, and transdisciplinary studies. According to Craps (2019), multidisciplinary research refers to a loose collection of distinct disciplinary components without further integration. By contrast, interdisciplinary research involves a synthetic intent to integrate knowledge from different disciplines through an integral relationship between knowledge sources. Transdisciplinary research integrates different academic and non-academic knowledge by involving a diversity of social actors (Ibid). Under these definitions, I consider this study to be interdisciplinary, as I engage and integrate ideas from different disciplines. It is also transdisciplinary, as I also try to engage with non-academic social actors (see Section 1.3.2).

However, I do not engage equally with all of the disciplines I deal with in this dissertation. There is an important distinction between disciplines from which I borrow ideas and disciplines to which I aim to contribute with new ideas based on my study. This is a *socio-legal study of human rights and family law in a context of legal pluralism*. Thus, this dissertation aims to contribute to the scholarly field of human rights, children's rights, and legal pluralism. It aims to do so by borrowing ideas from other social science literature. Family law is a particular area of law that tries to govern the most private and intimate sphere of individuals' activities. Thus, significant differences in family law norms between multiple legal systems tend to be observed, creating governance challenges. The international rules regarding child marriage are an example of international human rights laws that have expanded to impinge on the private realm of family life. This expansion has brought into sharp relief the difficulties of implementation, enforceability, and the inclusion of cultural diversity in international child marriage regulation (Harris-Short 2003: 180).

#### 1.2.5 Key concepts and terminologies

This section introduces and defines key concepts and terminologies used in this dissertation, namely *tradition*, *modernity*, *choice* (*agency*, *autonomy*), *structure*, *child marriage framework*, *children*, *international/local*.

##### *Tradition*

The international human rights framework categorizes child marriage as a 'harmful traditional practice' (The Fourth World Conference on Women

1995). In this dissertation, I challenge such an essentialized way of using the word 'tradition' and critically examine the way the international human rights framework uses the term. While the international human rights community often criticises 'harmful traditional practices', it hardly discusses 'non-harmful traditional practices'. This contrast is because tradition is a mirror image of modernity: discourse on tradition reflects the ideology and beliefs of the creators of the discourse, subsuming the reverse image of modernity as something undesirable. Therefore, it is important to pay attention to the *modernification* of discourse on tradition, which (re)produces the stereotypes of tradition without considering each context. It is even likely that what is called 'tradition' is somewhat 'invented' by the international community. This possibility of "invented tradition" was first coined by Hobsbawm and Ranger (1983), whose work transformed the anthropological notion of tradition in the 1980s. Hence, the way the international human rights discourse uses 'tradition' is factually and anthropologically obsolete (see Chapter 2).

### *Modernity*

'Modernity' is both an important concept in this dissertation, but it is also a loaded concept that needs careful specification. In this dissertation I use modernity to mean a changing social condition. I borrow Giddens's idea that the modern world is where social life is "open" with multiple lifestyle choices (Giddens 1991: 6). He understands modernity as a post-traditional order in which lifestyle choice is increasingly important in the constitution of self-identity and daily-activity (Ibid: 6, 13). In this study, this choice is exemplified in increasing educational opportunities, engagement in career planning, and consequent mobility, with children having more opportunities and spaces to meet and mingle with the opposite gender. An increased prevalence of mobile-phone usage gives youngsters access outside of their communities and provides tools to communicate with their love interests via texts. Chapter 5 engages more with this concept.

### *Choice, agency, autonomy, and structure*

The modern world is then where individuals' choices become and are considered increasingly important. The human rights framework subscribes to this ideal: Ignatieff (2003) and Merry (2009: 385, 404) demonstrate that the protection of agency is the core principle in human rights discourse (see Section 2.4.1). Santos (2015: 6) also argues that collective rights are not part of the original canon of human rights, and the priorities continue to be accorded to individual rights over collective rights. Indeed, the ideals of modernity are at the base of international advocacy to 'end child marriage'. The ideal is that individuals should be fully autonomous and emancipated, 'free' from social norms that chain them. This approach is what Mackenzie (2013) calls a libertarian understanding of autonomy.

In contrast, this dissertation's analysis rests on the relational understanding of agency. According to Giddens's theory of agency and structure, agency is the capacity to observe one's experience and give reasons for one's actions (Tucker, 1999: 80). Another influential concept of agency in anthropology is "agentive capacity". This idea encompasses acts that resist norms and the multiple ways one inhabits norms (Mahmood, 2004: 15). For instance, the recent debates over the regulations on headscarves have revealed that what seems like a symbol of oppression to an outsider can be a Muslim woman exercising her autonomy. According to these understandings, agency is an ability to choose by making internal reconciliations with structure, i.e., patterned arrangements that influence or limit available choices. And such choice, limited by one's sense of moral community, is not less rational than that of the imagined full autonomy (Rorty 1998: 178).

In his concept of liquid modernity, Bauman (2000: 8) points out that individuals do not become free from structures. Traditional structures do not disappear but are replaced by self-chosen ones. This point also highlights that the structure that actors interact with is not the essentialized 'culture' or 'tradition', but persons with whom they are in relationships. To unpack the social connection that constitutes 'structure', I use the socio-psychological concept of 'reference network', which I will explain in Chapter 5. This understanding of structure and agency is crucial for discussions on consent in marriage.

The recognition of everyone's agency is an important topic among critical scholars of international human rights and development. The dominant discourse has often misrepresented or underrepresented the agency and subjectivity of "Third World Woman" (Spivak 2010; Mohanty 1984). Engle similarly points out the failure of the international human rights' to engage with the "Exotic Other Female" (Engle 1992). The agency of girls in the Third World is in the most precarious position in international development discourse (see Section 5.5). The relational understanding of autonomy or agency is crucial to challenging the paternalistic notions of development.

*Child marriage framework, child marriage, early marriage, forced marriage, arranged marriage, underage marriage, and marriage*

In this dissertation, the 'child marriage framework' means the basic structure upon which international organizations deal with child marriage practice, including its definition, discourse, and the relevant legal rules. According to the definition of international institutions, 'child marriage' means "any formal marriage or informal union where one or both of the parties are under 18 years of age". In this dissertation, I use this definition of 'child marriage' to evaluate this framework. 'Early marriage' in international discourse is often used in the same sense. The international child marriage framework frames all child marriage as 'forced marriage', i.e., as marriage without 'con-

sent'. However, throughout the dissertation, I will demonstrate that there is an important difference between the two. Bunting et al. (2016) elaborates on the difference between forced marriage and arranged marriage. Families may arrange marriages that are still based on the full and free consent of the two spouses. By contrast, forced marriage is conducted without such consent. According to these researchers, real autonomy means an ability to say no under the conditions of social, economic, and gender equality, which needs to be distinguished from habitual acquiescence, assent, silent dissent, submission, or enforced submission. I will discuss the meaning of autonomy under social, cultural, and economic constraints later in this dissertation. I use 'underage marriage' to mean a marriage under the minimum age for marriage under the respective state law. It can be a civil marriage that is somehow registered illegally or a customary or religious marriage without state registration (see Chapters 3 and 4). Thus, this dissertation's definition of 'marriage' is not limited to civil marriage or state-registered marriage but refers more broadly to a socially approved relationship, including customary and religious marriage. It is also noteworthy that, in spite of the varied meanings and forms of marriage throughout human history, no international treaty currently includes a good definition of 'marriage'. Does it mean only a civil marriage, or does it also include religious marriage without state registration? Does it imply a direct consummation or cohabitation? If it includes 'informal' customary marriage, what about cohabitation of teenagers in the West? These are important questions to ask when discussing 'child marriage'. Chapter 7 will return to this point.

#### *Children, adolescents, and teenagers*

'Children' in this dissertation refers to the category of those who are below 18 years old, adopting the international definition of children (see Section 2.2.2). I use this category to assess to what extent this large cohort as a homogenous category contributes to the realization of 'children's rights', as laid down in international instruments such as children's rights conventions. 'Adolescents' (from the Latin 'adolescere', meaning 'to grow up') or 'youth' is the broadest category I use here, referring to those who are 10 to 24 years old. They are the protagonists of this dissertation. Most of the informants whose accounts I relied on for analysis fall into the category of adolescents. I also refer to those who are 13 to 19 years old as 'teenagers'. When appropriate, this group is divided into three sub-categories: early teenage (13 and 14), mid-teenage (15 and 16), and late-teenage (17 to 19).

#### *International/local*

The 'child marriage framework' that I refer to in this dissertation is an '*international*' one. Merry's theory of 'vernacularization' helps to clarify what international and local mean here. She explains that a key dimension of the vernacularization process is the people in the middle, who work to



negotiate between local, regional, national, and global systems of meaning (2013: 211). These different levels, defined in both geographical and socio-economic terms (e.g., social class, education, mobility, and cosmopolitan awareness of elites), are relevant for the analysis of the transformation of the norms at each level (Ibid). Structures at the international level, such as international human rights conventions, are made to adopt universal moral frameworks. These frameworks face tensions and contradictions with the particularities of each locality. I am also aware that there are several local programs and movements on the issue of child marriage. These initiatives are informed by the international framework and 'vernacularized', 'localized', or 'translated' to a varied extent in each context. For the sake of analysis, I use these terms to define the 'child marriage framework' as an international one, constructed by various international institutions, including UN institutions (e.g., UNICEF, UNFPA, CEDAW, and CRC) and international CSOs (e.g., Girls Not Brides, Plan International, and Equality Now).

### 1.3 RESEARCH METHODS

#### 1.3.1 Qualitative methodology

In multidisciplinary research, epistemology becomes an essential point of consideration and contestation. This occurs because one of a methodology's functions is to ensure the internalization of standards and values underlying any particular discipline (Banakar and Travers 2005: 5). Socio-legal studies, for instance, have to reconcile different epistemologies, namely positivism and interpretivism (Ibid: 14-15). This research relies on constructivism as a paradigm (i.e., "a set of basic beliefs" and "a worldview", according to Guba and Lincoln (1994)). It thus relies on interpretivism as a theoretical perspective. This was an inevitable choice, as I have gone through intense fieldwork experiences, which I will explain in the next paragraphs. This paradigm and the fieldwork experiences led to my choice of qualitative over quantitative methods.

Initially, I planned to combine qualitative with quantitative methods. The survey that I prepared with my colleagues and assistants was ready to be distributed to adolescents in several schools in Bali. However, while preparing the survey, I came to understand several limitations of quantitative methods in this research. Firstly, the topic I was dealing with was a sensitive one, and the answers most likely included the most private and intimate information about the respondents' lives and beliefs. This type of information is not easily disclosed, and respondents in the survey would have had little motivation to answer the questions truthfully. There would be no reason for them to answer honestly. This expectation also came from my experience in the field: Informants occasionally 'lied' to me.

For instance, at the beginning of my fieldwork, I came to know Yuri,<sup>11</sup> one of the informants. She was a courageous, smart, and hardworking woman in her 20s. We started to form a friendship as we met regularly. In the beginning, when the two of us were chatting at a café, I asked her if it was common for young people in Bali to have sex before marriage, and if she did herself. She said, "I had never had sex with my boyfriends. I want to keep it until I know about my boyfriend." At that time, I just thought, "So, she is a kind of 'the good girl' who follows social norms then." One day, about three months after we started our meetings, we were having lunch together at a *warung* (street-food stand). She was talking about some intimate experiences with her ex-boyfriends. The time I needed to leave for the next appointment was approaching. I was thinking about how I should say that I needed to leave. But I hesitated. She was sharing a personal story, and I felt that she wanted to talk about it to me. So I stayed. It had been about one hour since we started to talk on the sofa by then. Then, she asked, "Do you have to leave? What time is your next appointment?" When I said, "It's okay -", before I finished the sentence, she continued, "Because actually, there is another thing I wanted to tell you." Then she continued, "I was not comfortable to tell this to anybody before, but I have been pregnant", and started sharing her true experience, which included an abortion.

Such 'lies' turned out to be the most revealing information once different versions of the same story came about. I had two versions of the story from the same person because the relationship between us has changed. This kind of revelation would not be possible in questionnaires. Of course, there is no certainty that the information I have collected through qualitative methods was the 'truth'. Margaret Mead is a famous and established anthropologist who has been lied to. Her study in Samoa, which has established her fame, has turned out to be based on lies by informants, as a way of mocking a foreigner.<sup>12</sup> This revelation shook the whole discipline of anthropology. People asked: Is interviewing a reliable method? How do researchers deal with lies?

These were also the questions I asked myself when I discovered these 'lies'. The discovery made me question my research integrity, the relationship with my informants, and the accuracy of my previous and future interviews. But I also realized that their 'lies' are also their 'truth'. This was how they decided to tell (or not tell) me what had happened. They are not 'lies', but only 'the act of lying'. To increase the accuracy of my data, I cross-checked the information I collected from interviews with various actors, as well as with reports and court judgements. However, I can never be sure of

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11 All of the informant names in this dissertation are pseudonyms.

12 Frank Heimans (1987) "Margaret Mead and Samoa", <https://www.youtube.com/watch?v=GOCYhmnx6o8> (accessed on November 7, 2019).

the complete accuracy of the information I collected. Nevertheless, qualitative methods allow me to read the information in a more detailed *context*.

The second and related reason for relying on qualitative methods is that, in the survey I was planning to distribute, I would not be able to use contexts and nuances both to ask questions and to understand their answers. The topic I was dealing with was personal and complex. I found it very difficult to design a user-friendly questionnaire that would be clear and easily understandable by adolescents.

I paid particular attention to nuances and contexts in communication with informants, as I consider them extremely important to understanding the informants' narratives. I always took extensive notes both during and after the interviews. The notes included what had been said, but also situations, gestures, facial expressions, tones, pauses, paces of speech, and my feelings as an observer. Two of the examples from my field notes read:

*When we came in, Nina was cheerful, smiling and hosting us. When she talks, she uses some gestures that are very teenager-like, such as touching her hair and ears or putting her hands together. It felt a bit strange, as it seemed that she possesses both the innocence of teenagers and the sensibility of grown-ups at the same time.*

*When D was talking, he was very clear in the way he talked and in what he said. He also remembered in detail the date of the events, etc. I wondered why, maybe it was because he thought about it a lot or he repeated it a lot during the legal process. S was from the beginning very nervous and obviously not content to be in that room. He constantly was moving nervously, touching his ears and hands. He also constantly looked away, his eyes moving all the time from here to there. He also answered very shortly, only with a few words.*

When I worked with research assistants, I also instructed them to make extensive notes on these details. I always accompanied them for the interviews they conducted to see the details myself. The survey would have been limited in its capacity to extract information in such detail.

This reliance on qualitative methods also creates limitations. One of the common disadvantages of qualitative methods is the limitation in sample size and representativeness. I have tried several methods to overcome this possible disadvantage. One of them is to use Focus Group Discussions. For Chapters 4 and 5, I relied partly on observations and remarks made during FGDs with local activists and Balinese adolescents. In addition to those who married before 18 whom I interviewed as case studies, I also talked to about 30 other adolescents, through either FGD or individual chats.

I also used the "vertical slice approach" to overcome the disadvantage of qualitative methods (González and Stryker 2014), which means engaging with social actors at different levels of society. I interviewed various actors,

including lawyers, judges, court clerks, members of different CSOs (focusing on reproductive health, education, women's rights, and children's rights), marriage registration officers, local (customary) leaders, academic experts on customary law, health care personnel, teachers. I also chatted with all kinds of people (e.g., neighbours and the staff at a laundry shop near home) in Bali about child marriage, teenage pregnancy, and Balinese social norms. This approach helped me have a more comprehensive picture of the issue. Media, such as local newspapers/magazines and social media, helped me understand the local context, although I did not use it as the main source.

I also focused on 20 cases of child marriage or teenage pregnancy. Some of those case studies involve interviews with girls, boys, their parents, and (extended) family members. Some of them were cases of sex crimes or marriage dispensation. I also obtained about 30 court decisions about marriage dispensation and sex crimes across different courts in Bali. I analysed these court decisions in light of interviews I conducted with about 10 judges (including both Balinese and non-Balinese) and court staff. I also noted the opinions expressed by the participants of the workshop I organized with a local legal aid organization (see Section 1.3.2). Appendix 1 provides an overview of the kinds of sources I collected during my fieldwork.

Another strategy for dealing with the issue of representativeness is participant selection and categorization of case studies. I limited the scope of case studies by focusing on Balinese Hindu informants. I consciously collected cases across class and caste, and then later categorized them based on these variables. In the beginning, I also tried to differentiate between urban and rural cases, but the boundary between the two was much blurrier than I imagined. Therefore, the urban/rural division was not very relevant. For instance, some of the informants were originally from rural areas of Bali, working in urban Denpasar, so it would be inaccurate to categorize them as either rural or urban.

It is also worth paying attention to the cases that I *did not* choose (Reybold, Lammert, and Stribling 2012). The selection bias results from practical reasons and positionality. Who was easier to access, and who was more difficult? My main research area was set in Denpasar, and I based myself there by renting a house and creating networks. For me, it was both a pragmatic and strategic choice to focus on cases that I could find in Denpasar. So although I seized upon any opportunity to study cases in other areas of Bali (mostly in East Bali), my sources were principally from around the Denpasar area.

Another type of cases that I did not study was the 'silent cases'. While some informants felt comfortable or even eager to talk, others did not wish to do so. When my research assistants and I were looking for interviewees,

finding those who were willing to be interviewed about their private life was initially difficult. My assistants and I tried finding informants through friends' and families' networks. However, of those contacted, some did not respond, some kept cancelling appointments, and others explained that they did not wish to be interviewed. This is what one of my research assistants wrote when he approached a potential informant through his friends' network:

*When I met K's family, they apologized to me and said that she in general does not easily welcome strangers and she is too lazy to receive guests at her home. So via text-message I have negotiated if I could interview her alone outside of her house, but she still refused to meet me, saying that her husband did not allow us to interview her.*

Eventually, after expanding our local networks, I accessed some valuable cases by the end of the fieldwork. For instance, thanks to a local legal assistance CSO, I interviewed some informants who were in the middle of legal cases, who perhaps would not have been open to talking outside of the CSO. It is nonetheless important to be reminded that the cases I studied were the ones where informants were willing to talk, excluding the 'silent cases'.

Another possible selection bias is caused by who I am. In Bali, I was a foreign researcher, a woman in her 20s, and a mother. Bellow (2003: 40-41), in conducting fieldwork to study Balinese understandings of sex and desire, also reflected on the impact of her positionality on the types of information she retrieved:

*I suggest the principal reason I became a confidant of these women was because I was perceived as an American woman "without morals." This attribution of immorality stemmed from my identity as an American woman coupled with my status as an unmarried mother, a janda, and an undefended woman on the sexual prowl from a place (America) understood as one where people marry for love, have no rules for social conduct, and are sexually "free." From the Balinese perspective, such a person is clearly not in a position to judge or gossip about others, having already so much to hide. My multiple categories and meanings, which crossed the boundaries of Western and Balinese identities and subject positions, represented methodological (and personal) challenges as well as advantages, both limiting and expanding the range of topics I could address and the range of interlocutors with whom I could converse and interact [...].*

Her account is relevant, as Bellow and I were both "foreign" researchers there, although there is also a clear racial difference between us. While she was perceived as "an American woman" and Caucasian, I am Japanese and was generally perceived as "Asian". Her experience points to the importance of reflecting on one's positionality, which I will elaborate on in Section 1.3.3.

### 1.3.2 Multivocality and collaboration with local actors

One of the important methodological features of this study is multivocality, i.e., including multiple and various voices in qualitative methods (Tracy 2010: 844). In avoiding collecting and analysing data from a one-sided perspective, I tried to apply what Evers et al. (2015) call “intermediality in dialogue”. This approach asks researchers to constantly inquire into conceptual divergence and convergence by being aware of different perspectives and uses of terms. I used triangulation to expand the opportunities for inquiring into different perspectives (i.e., collecting information from a diverse range of individuals and settings using a variety of methods). For instance, I interviewed the same person both in an FGD and in a one-to-one interview. In these two settings, informants expressed different opinions, revealed different information, and highlighted the local public norms. I also often used FGD to collect feedback on data collected in individual interviews.

Collaboration with local actors was particularly important for me. Throughout my fieldwork in Bali, I was working with LBH Apik Bali (*Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia untuk Keadilan Bali*, Legal Aid Association of Indonesian Women for Justice), a local branch of a national CSO providing legal assistance for vulnerable people, e.g., women and children from low-income families. The association was interested in my topic and supported my research. For instance, they introduced me to a 17-year-old-girl and her family, who was in the process of a legal case against her ex-boyfriend, who made her pregnant (see Chapter 4). Working with them gave me access to key interviewees (such as children, local leaders, and judges) and opportunities for participant observation. During the latter, I observed how these intermediaries ‘translate’ (Merry 2006b) rights norms into local terms through legal awareness programs, and how they use various legal systems to strategize their objective to protect their clients.

With LBH Apik, I organized a workshop at the end of my fieldwork. In the workshop, I first presented my findings and discussed the issues related to child marriage in Bali with local actors. The topics included: 1) causes and consequences of teenage pregnancy, 2) prosecution for pre-marital sexual intercourse between adolescent lovers, 3) marriage dispensation, 4) the legal position of unwed mothers, 5) laws and policies on contraceptive means, and 6) child marriage cases not resulting from pregnancy. I shared the real-life examples of problems that pregnant teenagers faced in Balinese society, particularly in relation to their legal rights under both state and customary law. The participants were all key persons in Bali for the topic, such as staff from the Marriage Registration Office (*Kantor Catatan Sipil*), members from religious/*adat* organizations, and organizations for the protection of women and children.

I organized this workshop for three reasons. First, to 'give back' to the local community, I wanted to share the findings for local actors to utilize in some ways. For that purpose, instead of making a report and presenting problems and solutions from my perspective, I wanted the local actors to formulate what they thought were the problems and solutions. Second, I aimed to use this workshop as an FGD, and as an opportunity to collect further information. I prepared a set of questions for each participant and assigned a research assistant to make notes of all the discussions and opinions shared during the workshop.

Third, the workshop was my way of contributing to LBH Apik's goal. Their clients include victims of domestic violence, women who need legal recourse and advice about divorce and custody proceedings, and child victims of sexual violence. Sharing the interview results with them and other stakeholders, and discussing concrete solutions was consistent with their goals. As local key persons, the participants had the potential to impact local practice with the workshop's insights.

I also worked closely with local research assistants. They were two young women and one young man, all Balinese and in their 20s, whom I hired as research assistants. Over time, they also became my friends and colleagues. I held regular meetings with them, where I encouraged them to take the initiative and freely express their opinions about the research approach, methods, and interpretations. With time, they also started to confide in me enough to share the most intimate and private information about young Balinese's life. They were of great help in expanding my network in Bali for looking for informants. I conducted most interviews with one of them, although sometimes with more than one, and sometimes alone. During the interviews, they helped me linguistically (especially when informants talked in Balinese), in understanding the social codes, and in interpreting what informants had said.

Overall, working with the local organization and the assistants was a crucial part of this research. It gave me opportunities to consider locally sensitive solutions to the issue, instead of blindly imposing a foreign standard that could be irrelevant to the local situation. In other words, such collaboration provided me with differently "situated knowledge" (Haraway 1988) that I otherwise had limited access to because of my positionality.

### 1.3.3 Reflexivity

Reflexivity, i.e., situating knowledge, plays a crucial role in this research. As I subscribe to constructivism as a paradigm, I considered bias inevitable as researchers are also human beings. I planned to deal with this risk by practicing what Bourdieu calls "participant objectivation". This is a reflexive attitude toward the researcher's experience and relationship with the

research subject. Montgomery's work also informed me of these risks in advance of my fieldwork. Based on her experience of conducting ethnographic research on child prostitutes in Thailand, she explains that researchers themselves have their moral values about children's rights, and that these values affect how they perceive the situation (Montgomery 2007: 427).

When I started to work on the topic of child marriage, I saw it as a human rights violation, just as the human rights discourse framed. Slowly and gradually, I started to realize that this discourse was based on certain assumptions about what 'child' and 'marriage' mean and that those meanings were not necessarily universally relevant. In Chapter 2, I explain these assumptions that have been embedded in the child marriage framework. Throughout the other chapters, I show the different contexts where the assumptions are not applicable based on my empirical findings. This divergence is precisely how my views developed through the reflexive process. In this sense, reflexivity constitutes the essence of the whole of this dissertation. For this research, reflexivity was a tool to minimize bias and reactivity for the validity of the data that I collected. The myth of silent authorship has been proven false (Charmaz and Mitchell 1996) and reflexivity is a standard practice in today's anthropology of writing through which researchers identify themselves. However, it was also an attitude towards fair accounts and storytelling.

As a part of the reflexive effort, when I interviewed those who married before the age of 18, I deliberately did not apply the label 'child bride' to them. I consider this label as one of the "Western diagnostic labels" (Wikan 1990: 137) that prevent researchers like myself from truly understanding local reality. Such labels obscure fair accounts in studying individual cases. Montgomery (2007) also describes how such labels overshadowed her understanding of the children in Thailand. She claims it is crucial to acknowledge that such anthropological work on children does not always give researchers the answers that we expect and that our ideas about children may be profoundly challenged (Ibid: 429). Other examples of prejudices in relation to my informants include 'traditional practices are harmful to women', 'child marriage is bad for children', and 'child brides are victims, and their families are poor and uneducated'. By seeing the early-married girls without these labels, it became apparent to me that married children were not simply passive victims of a child marriage that had been forced upon them. Contrary to the stereotype of child marriage involving a young girl, there were many boys who married before the age of 18. About 75% of my case studies involve both girls and boys as underage parties, half of which are cases where boys are younger than girls.

Reflexivity also sheds light on relational aspects of fieldwork. Fieldwork involves intense relational work (Coffey 1999: 39), all the more if the research deals with intimate topics such as marriage and pregnancy. Interpretivism rests on the idea that information varies depending on the con-



text in which the information was retrieved. Under this assumption, the relationship between the researcher and the researched should be a part of the analysis. For instance, I brought my then three-year-old daughter to my fieldwork, and her presence had some impact on the relational work there. When establishing local relationships, a child's presence was the best reason for both sides to start a conversation. We became more accessible to each other. When meeting informants who have small children, I sometimes brought my daughter with me so that they could relate to us and let their children play with her. In this sense, having a child helped me get to know people and enter the community, and it helped deepen and maintain my relationships with them.

Concerning the relational aspects of data collection, positionality is also relevant, i.e., the researcher's role, image, representation, self-identification, and identification by others. My daughter's presence in the field naturally accentuated my positionality as a mother. My being a mother and motherhood coincided with that of young mothers. In interviews with some of my informants, I consciously shared my personal profile and stories, that I am a young unmarried mother. Despite some painful differences between us, such as class and education, I focused on finding and emphasizing commonalities. For instance, there was a moment when Ratna, one of the informants, opened up to me, after which she started to share her intimate and private experiences. Our conversation at that moment went as follows:

*Ratna: Wow, M (my daughter's name) is so smart.*

*me: Because her mother also studies! (Ratna was a teenage single mother, who continued her education regardless of the situation)*

*Ratna: Haha yes, that is true... Hoko, if you live in the Netherlands now, are your parents far away?*

*me: Yes, my parents live in Japan, so I come back to Japan once every year to see them. You have a very nice mother. She supports you all the time.*

*Ratna: yes, that is right. She is a very nice mother.*

*me: My mother too. When I heard your story yesterday, I remembered my story and my mother.*

*Ratna: We are the same, aren't we, Hoko?*

*me: Yes, we are the same.*

Being a mother myself also impacted how I interpreted the informants' accounts. Fieldwork is also personal, emotional, and identity work (Coffey 1999: 1). When I listen to and write the stories of the young mothers in Bali, I do so through my own experiences of becoming a mother, making life choices, dealing with daily tasks, feeling vulnerable, and finding strength. Retrospectively, the (re)construction of my identity during the fieldwork was itself more than a tool for collecting information but became part of the information itself. My identity as a young, educated, and single mother is an uncommon one in most places, including and perhaps particularly in my home country of Japan and in my fieldwork site, Bali. During my fieldwork,

I sent several emails to friends, one of which shows how this identity sometimes played an informative role:

*Also, while having lunch with D (one of my Balinese friends), she asked me about M (my daughter) and her father, so I shared my story. I always answer openly when people ask me that kind of question, but people usually do not ask and keep wondering where the father is, or just assume that he works and lives away, etc. Apparently, it took her 3 months to ask me that question.*

When people in Bali assumed that I was married given that I had a child, in certain contexts, I sometimes chose not to deny it and let them continue to see me as a 'normal' mother. I did so partly consciously, knowing that being a 'normal' (married) mother would probably enable a smoother process in connecting with them, without raising unnecessary suspicion, discomfort, or gossip. And perhaps also unconsciously, I did so by sensing the atmosphere and the need to be accepted there. How I experienced my identity through local interactions further confirmed that strong social structures around the shame of being an unmarried mother existed in Bali. This structure was exactly the reason why local teenagers were marrying.

This is the "outward" part of reflexivity in the double reflexive gaze (Rose 1997). While the inward gaze explores the identity of the researcher, the outward gaze tries to locate the self in knowledge production. Concerning knowledge production, the fact that the author has the power to interpret and write about the stories is a significant determiner of power relations between the research and the researched. Trying to flatten this inherent power imbalance by engaging with the perspectives of the researched is a complex task. My perspective was dynamic and fluid, floating between theirs, others, and mine. It kept changing throughout the process, through gaining access to informants, interviewing, leaving the field, analysing, and writing. Such a process was confusing, and integrating all of the perspectives was indeed "a god-trick" (Haraway 1988: 581). Such an outcome may even be undesirable, as aligning one's perspective too closely with those of the researched arguably limits a critical stance and self-awareness (i.e., the risk of over-familiarization and immersion (Coffey 1999: 34)).

Distancing one's perspectives to flatten the power imbalance is bound to fail. A person cannot see north and south at the same time. Instead, one can go back and forth between two (or more) positions repeatedly. Engaging with 'their' perspectives was an intense enough task for me during fieldwork. I needed time and distance after returning from fieldwork to make space to view the different perspectives. I needed to distance myself both physically, metaphysically, spatially, and temporally. This is not the solution to the problem of the power imbalance in knowledge production. Still, if reflexivity's goal is set to produce humble knowledge that learns from other kinds of knowledge, one must allow oneself distance in every sense to create space for reflexivity.

#### 1.3.4 Research with adolescents & ethics

One of the biggest methodological challenges for this research was interviewing adolescents. ERIC (Ethical Research Involving Children) is an international guideline for researchers who conduct ethical research involving children. It ensures that the children's rights and wellbeing are respected in every phase (Graham et al. 2013). The guideline covers four main concerns: 1) harms and benefits, 2) informed consent, 3) privacy and confidentiality, and 4) payment and compensation. All of these concerns are applicable to research in general, but some contain particular or additional challenges in research involving children.

For instance, one such issue is the limits of interviews. As a researcher interviewing children on sensitive subjects, I often needed to decide how far I could go in listening to them and asking them questions. While some were willing and even eager to talk, others were occasionally reluctant or hesitant to do so. Any scholars ought not to force informants to talk in any way. This concern is especially important when interviewing children, for whom it might be more difficult to express their unwillingness due to a lack of experience and their perceived social position. Considering that listening to children can be intrusive and cause distress (Roberts 2000), I carefully observed them for signs of reluctance or hesitance. For instance, when I saw one of the informants nervously shaking his legs and never touching the food during the interview at a restaurant, I considered it a sign of reluctance and did not ask him for another interview. On another occasion, when a teenage girl with a traumatic experience started crying as she described distressing nightmares, I told her she could contact me if she needed somebody to talk to, but never contacted her again myself.

Another issue is informed consent. Some might ask whether children are capable of providing consent at all. One might assume that children lack the cognitive and moral capacity to make informed decisions about their participation in research. However, such an assumption has been challenged by studies showing that children, including those who are very young or have learning difficulties, can make informed decisions when provided with appropriate information (Powell et al. 2012: 13-21). Therefore, resolving this issue is perhaps less about determining whether children are capable of providing consent and more about whether researchers can provide information in a way that children understand the consequences of their consent (Graham et al. 2013: 59).

This ethical concern points to the essence of this dissertation: the complexity of 'listening to children'. Komulainen (2007) warns researchers who aim to 'listen to [a] child's voice' that voices are always social and thus that researchers have to consider the social dynamics in interactions with children. A power imbalance is present in any relationship between researchers

and the researched, but it is of particular importance when interviewing children. As I described above, I paid particular attention to signs of reluctance because I assumed that 'it might be more difficult for children to express unwillingness due to lack of experience and their perceived social position'. This relational aspect shall be carefully considered when 'listening to children's voices'. However, the intention of 'protecting' children, if taken too far, could result in liberal paternalism, which is exactly what I challenge in this research. In short, this need and wish to protect children from harm should not overshadow their agency. Chapter 6 will elaborate on the agency of children and the thin line between the protection and empowerment of children.

To 'listen to children', we need to recognize them as subjective agents. This is not as self-evident as it might sound. It was only in the 1970s when scholars started to challenge the assumptions embedded in what is implied in the concept of 'a child' (Garnier 2015). Before, children were regarded as a passive object for protection, with neither 'voice' nor 'agency'. The whole field of 'childhood studies' is marked by orienting studies on children towards the social sciences, started by recognizing them as active agents worth being studied in their own light. The sociology of childhood has experienced a paradigm shift by regarding children as active agents and recognising their voices (James and Prout, 1997; Leonard, 2015).

Subjectivity is the precondition of agency. As described in the research question, when I try to understand '*why they marry*', I am also trying to understand '*what for them are the reasons to get married*'. Here, I am focusing on their subjectivity. Put simply, I am taking them seriously. Ethnographic investigations of children's subjectivity can offer new ways of understanding and explaining children's experiences (Williams 2016: 344).

I use the category of 'children' in this dissertation to analyse the international framework, which defines a child as a person who is below 18 years old. However, during fieldwork, I did not consider informants as *children*. Somewhat instinctively, I treated them as equals and not as less knowledgeable, mature, or capable. I believe this made all the difference. From the viewpoint of constructivism, subjectivity is dependent on relations (Hill 2006: 70). Therefore, if informants are treated as incompetent or as victims, they are more inclined to act like one. Blazek (2016: 34) also points to the dynamic, interactive, and flexible approach to fieldwork, destabilizing the boundaries between the researcher and the researched, and challenging the imagination of the passive field and the active researcher. Foucault (1998: 291) explains that subjectivities are "not something invented by the individual himself". Instead, subjectivities are "the models that he finds in his culture and that are proposed, suggested, imposed upon him by his culture, his society and his social group". By this logic, unequal relations reinforce the subjectivity of children even when they are not necessarily incompetent

or victims. For instance, their response might have been different if I interviewed them explicitly as 'child brides'.

This approach simultaneously deconstructs the concept of childhood and adulthood. Discussing children's agency is difficult because of this underlying dichotomy. Agency, as an anthropological and sociological concept, is based on the idea of reasoning and rationality (Giddens 1979). Rationality is what is considered to distinguish adulthood from childhood (see Section 2.2.2). However, such dichotomic categorization is not realistic (Johansson 2012: 112), and children are constantly in transition between the two. Two of the case studies illustrate this ambiguity well.

In one case, a 17-year-old boy decided to marry his girlfriend when she became pregnant. From how he described the decision-making process, it was evident that his decision at that time was informed by social structure: the social norms, connections, and expectations surrounding him. He said, "I was a bit scared, but my father told me that I just need to accept the fate and marry her." At the same time, he believes that "you have to marry when there is pregnancy of your child". In this sense, his decision was informed by social structure in two ways: he wanted to be a good son and a good father.

In the second case, I met a 14-year-old girl for the first time just after she gave birth. She was holding her two-week-old baby in her arms while being engaged in household chores. Then she looked like a young mother in her late teens. However, when she said she was very happy about having a baby and wanted another child, her shy and innocent smile reminded me that she was still 14.

#### 1.4 OVERVIEW OF CHAPTERS

Following this Introduction, Chapters 2 to 5 were originally written as articles in different journals, although all have been substantially revised here. Thus, each chapter engages with different scholarly discussions. Chapter 2, originally an article published in *The International Journal of Human Rights*, engages with (critical) theories of human rights. Chapter 3, based on an article co-authored with Mies Grijns in *Asian Journal of Law and Society*, is a contribution to socio-legal studies of Indonesian family law. Chapter 4 was published previously as an article in *Journal of Legal Pluralism and Unofficial Law* and discusses the literature on legal pluralism and human rights. Chapter 5 was originally written as an article in the Special Issue "Early Marriage" in *Progress in Development Studies*, situating agency and modernity in development studies. Chapter 6, an article published in *Childhood* journal, engages in the scholarly discussion on children's rights. Throughout the dissertation, I have researched all types of material on child marriage,

e.g., scholarly, advocacy, reports, and legal texts. My study aims to offer an alternative way of approaching the issue of child marriage.

*Readership and social relevance*

As such, I hope this dissertation reaches a varied readership. Firstly, it is relevant for scholars in various disciplines, including human rights, child marriage, socio-legal studies, legal pluralism, legal anthropology, children's rights, youth studies, and Indonesian and Southeast Asian studies. I hope both the content and methodology are of interest and use and become a point of discussion. Secondly, I strongly believe that its relevance is not limited to the world of academics, but also of so-called practitioners. The practitioners include legislators, such as the UN treaty bodies and national legislative bodies, and those who support the process of legislative changes. For instance, national legislative bodies in several countries have now raised the minimum age for marriage under the national law, supported and celebrated by (mainly international) campaigns against child marriage. I hope my empirical findings can inform those policies.

Finally, I am confident that the findings and arguments in this dissertation will benefit organizations and individuals who are engaged with projects to protect or enhance the human rights of people out there. The organizations can be large and both national and international: e.g., UNICEF, UNFPA, Ministries of Foreign Affairs, Plan International, Girls Not Brides. They can also be small CSOs who work at a national scale. I know many of these organizations and individuals who work most ardently and effectively, and I pay them enormous respect. Child marriage has become increasingly invested in the international women's rights and children's rights agenda. It is now crucial to re-examine, reflect, and discuss the general approach to child marriage, so that the invested time, human resources, finances, and passions are used constructively and effectively. I hope this dissertation will be of use for that process.