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Appendices

APPENDIX 1. LIST OF SOURCES FROM THE FIELDWORK IN BALI

- In-Depth Interviews with women ever-married before 18: 10
- In-Depth Interviews with ever-pregnant teenage girls (not married): 7
- In-Depth Interviews with men ever-married before 18: 3
- In-Depth Interviews with boys whose actions resulted in pregnancies (not married): 3
- In-Depth Interviews with young wives' (husbands') parents: 6
- In-Depth Interviews with ever-pregnant teenage girls' (and the boyfriend's) parents: 3
- Interviews with judges and court staff: 9
- Interviews with legal practitioners: 5
- Interviews with marriage registration officers: 1
- Interviews with government officers (from various governmental institutions): 5
- Interviews with people from (reproductive) health care (including doctors): 4
- Interviews with CSO members: 8 (along with the workshop, the WhatsApp chat, etc.)
- Interviews with customary authorities (local/provincial leaders, professors): 5
- Interviews with teachers: 2
- Chats with adolescent boys: 6
- Chats with adolescent girls: 20
- Chats with neighbours, friends: 25
- Participant observation with a local legal aid organization: 4 trips to the field, a half-day workshop, and 15 observation sessions at their office.
- Participant observation with a CSO working in adolescent reproductive health: 1 day
- Workshop with a local legal aid organization on child marriage in Bali (details explained in Section 1.3.2)
- Hearing on a marriage dispensation case: 1 (2 sessions)
- Hearing on a sex crime case: 1 (3 sessions)
- Minutes of the drafting process of the 1974 Marriage Law
- Minutes of the judicial review on a minimum age for marriage
- Court decisions on marriage dispensations: 20
- Court decisions on sex crimes: 10

APPENDIX 2. LIST OF MARRIAGE DISPENSATION CASES

Case	Region	Decision	Applicant	Wife candidate	Husband candidate	Reasons that the judges gave	State Law cited	Adat/religious Law cited
A 7/Pdt.P/ 2016/PN/Bli	Bangli	granted	fathers of the candidates	Brahmana 19-year-old Hindu farmer	Sudra 18-year-old Hindu private employee	As the girl is pregnant, if she does not immediately marry, there will be a situation of <i>cuntike/lethi</i> according to <i>adat</i> and religion. <i>Adat</i> law does not set a certain age limitation on marriage, and it allows the marriage of children. This is because in <i>adat</i> law, marriage is not merely the union of both individuals but also the union of two families (<i>keluarga kerabat</i>). An underage marriage or a marriage of children is not a problem in <i>adat</i> law because the families will guide the wife and husband, so <i>adat</i> law does not prohibit the marriage of children. The minimum age limit provisions in A7(1) mean that married persons are expected to have maturity, mental maturity, and adequate physical strength. Due to the circumstances of a six-month-long pregnancy, it is appropriate to grant marriage dispensations. The decision also does not conflict with the rules, legislation, or <i>adat</i> law in force in the applicants' place of residence.	A6, A7, A47, A50 of Marriage Law 1974 A34 A35 of Law No.23 2006 juncto Law No.24 2013 Administration	<i>Adat</i> law does not set an age limit for marriage. In <i>adat</i> law, marriage is between two families.
B 13/Pdt.P/ 2016/PN.Bli	Bangli	granted	fathers of the candidates	Sudra 18-year-old Hindu farmer	Sudra 18-year-old Hindu farmer	As the girl is pregnant, if she does not immediately marry, there will be a situation of <i>cuntike/lethi/kotor</i> according to <i>adat</i> and religion. After the discussion between the two families, they planned the marriage. There was no barrier to conducting the marriage either in terms of kinship or <i>adat</i> relationships. There is no prohibition against conducting marriage under Balinese <i>Adat</i> Law and Hinduism. If the marriage dispensation is not granted, there will be unfavourable negative impacts on both parties, so the judge believes that the best legal solution is to provide a marriage dispensation. Granting marriage dispensations has been reasoned and is not against state law.	A7 Marriage Law 1974	There is no prohibition on conducting marriages under Balinese <i>Adat</i> Law and Hinduism
C 60/Pdt.P/ 2016/PN.Bli	Bangli	granted	father of the wife candidate	Sudra 14-year-old	Sudra 20-year-old	They have been in <i>pacaran</i> for three months, and the relationship went over the limit (<i>Hubungan tersabit melampaui batas</i>). The wedding is already planned on 28th October. The girl is eight weeks pregnant. The man is ready to be responsible for his actions, and the marriage must be carried out immediately so that their child has a clear status.	A7 Marriage Law 1974	

Case	Region	Decision	Applicant	Wife candidate	Husband candidate	Reasons that the judges gave	State Law cited	Aidat/religious Law cited
D 104/Pdt.P/2016/PN Srp	Semarang	granted	mother of the wife candidate	Sudra 14 years old at the time of marriage (2013)	Sudra	As a result of a free relationship (<i>akibat pergaulannya yang begitu bebas</i>), the girl became pregnant. They already married in July 2013 and have a child without a birth certificate. When they married, the girl was underage. To now seek a marriage certificate (<i>akta perkawinan</i>), they must obtain permission from the Court. Underage marriage is strongly discouraged as it risks the reproductive health of women who are unprepared and still psychologically unstable. Thus, it should not be too easy to grant dispensations for underage marriages if there are no logical reasons for the children's interest. Their marriage (pregnancy) was caused by their social freedom and lack of supervision from parents, so the future of the newborn baby requires a complete family consisting of a father and a mother to raise, care for, and devote love to the baby's growth. Child protection aims to guarantee the fulfillment of children's rights to live, grow, develop, and participate optimally in accordance with human dignity and values, and to be protected from violence and discrimination. Their marriage was a lawful marriage carried out by a Hindu religion, so it has fulfilled the provisions of A2(1) of the Marriage Law.	A2(1) A6 A7 Marriage Law 1974 A3 Law No. 23 of 2002 on Child Protection	
E 28/Pdt.P/2016/PN.Srp	Semarang	granted	mother of the husband candidate	Sudra 17 years old at the time of marriage (2014)	Sudra 17 years old at the time of marriage (2014)	As a result of a lack of supervision by the parents, the girl and the boy had a free and spouse-like relationship (<i>hubungan layaknya suami istri</i>), and the girl became pregnant. When the baby was born (December 2015) the boy was still underage (under 19), so they needed permission from the court to marry. They were married in October 2014. At that time they were both 17 years old. As they obtained their parents' permission for the marriage, and as their marriage was based on mutual love and not coercion, the marriage was lawful.	A2(1) A6 A7 Marriage Law 1974 A34(1) Law No. 23 2006 about Marriage Administration of the Population	

Case	Region	Decision	Applicant	Wife candidate	Husband candidate	Reasons that the judges gave	State Law cited	Adat/religious Law cited
F 20/Pdt.P/ 2017/PN Srp	Semarang	granted	parents of the husband candidate	Sudra 18 years old at the time of marriage (2012)	Sudra 19 years old at the time of marriage (2012)	As a result of a lack of supervision by the parents, they had a free relationship (<i>akibat pergaulannya yang bebas</i>), whereby the girl got pregnant. They had an <i>adat</i> marriage in July 2012 and had a baby. As under-age marriage is strongly discouraged as it risks the reproductive health of women who are unprepared and still psychologically unstable. Thus, it should not be too easy to grant dispensations to under-age marriages if there are no logical reasons for the children's interest. Their marriage (pregnancy) was caused by their social freedom and lack of supervision from their parents, so the future of their newborn baby requires a complete family consisting of a father and a mother to raise, care for, and devote love towards the baby's growth. Child protection aims to guarantee the fulfilment of children's rights to live, grow, develop, and participate optimally in accordance with human dignity and values, and to be protected from violence and discrimination. Their marriage was a lawful marriage carried out by a Hindu religion, so it has fulfilled the provisions of A2(1) of the Marriage Law.	A2(1) A6 A7 Marriage Law 1974 A3 Law No. 23 of 2002 on Child Protection	
G 84/Pdt.P/ 2017/PN Srp	Semarang	granted	parents of the husband candidate	Sudra 16 years old at the time of marriage (2015)	Sudra 16 years old at the time of marriage (2015)	As a result of lack of supervision by the parents, they had a free relationship (<i>akibat pergaulannya yang bebas</i>), whereby the girl became pregnant. They had an <i>adat</i> marriage in 2015. Under-age marriage is strongly discouraged as it risks the reproductive health of women who are unprepared and still psychologically unstable. Thus, it should not be too easy to grant dispensations to under-age marriages if there are no logical reasons for the children's interest. Their marriage (pregnancy) was caused by their social freedom and lack of supervision by the parents, so the future of the newborn baby requires a complete family consisting of a father and a mother to raise, care for, and devote love towards the baby's growth. Child protection aims to guarantee the fulfilment of children's rights to live, grow, develop, and participate optimally in accordance with human dignity and values, and to be protected from violence and discrimination. Their marriage was a lawful marriage carried out by a Hindu religion, so it has fulfilled the provisions of A2(1) of the Marriage Law.	A2(1) A6 A7 Marriage Law 1974 A3 Law No. 23 of 2002 on Child Protection	

Case	Region	Decision	Applicant	Wife candidate	Husband candidate	Reasons that the judges gave	State Law cited	Adat/religious Law cited
H 47/Pdt.P/2016/PN.Srp	Semarang	granted	parents of the husband candidate	Sudra Was 15 years old at the time of marriage and was still in school (2013)	Ksatria Was 15 years old and still in school at the time of marriage (2013)	Their marriage was conducted according to Hinduism and <i>adat</i> , so it is legal (<i>sah</i>). According to the Decisions (<i>Keputusan-keputusan dan Ketetapan-ketetapan</i>) of the Parisada Hindu Dharma (PHDI) Kabupaten Badung, 1986), the validity of a Hindu marriage is determined by the presence of <i>panyangsakara</i> with <i>biuta</i> witnesses and <i>penjaksi</i> (witness) from <i>prajuri adat</i> (<i>adat</i> leader) as elements from <i>manusa saksi</i> . This is what is often referred to as <i>tri upasaksi</i> in the marriage ceremony (<i>samskara wiyahuta</i>);	A2(1) A6 A7 A8 A9 Marriage Law 1974 A330 Civil Code (KUHPerdata) A56(2) Law No. 23 2006 juncto Law No. 24 2013	Decisions (<i>Keputusan-keputusan dan Ketetapan-ketetapan</i>) of the Parisada Hindu Dharma (PHDI) Kabupaten Badung, 1986)

APPENDIX 3. LIST OF SEX CRIME CASES

Case	Decision	Defendant	Victim	Pacaran	Information	Reason	State law cited	Adat/religious law cited
A	six months imprisonment with one year of probation	18-year-old boy Hindu high school student	18-year-old high school student	yes	The girl is five months pregnant. She did not want to marry the boy as she already had another boyfriend. Now she is married to another person, and has given birth to her baby.	Because of her pregnancy, the girl had to marry and become a housewife, and consequently, she cannot enjoy her childhood with her peers.	A81(2) Law No. 23 of 2002 A14(1), A22(1) KUHAP A29(1) Law no.3 of 1997 A143(2), A193(1), A222(1) KUHAP	religious norm to not have sexual intercourse outside of the husband/ wife relationship was violated
B	one year of imprisonment and three months of vocational training	16-year-old boy Islam private working Junior high school graduate	13-year-old (the act started when she was 9 years old)	no	The defendant masturbated onto the victim and put his penis into her mouth and butt. The victim and the defendant were in the same foster care facility.	The victim and her family do not condemn the defendant. The defendant himself has experienced sexual harassment at the age of 7. The defendant's action against the victim occurred not only once but continued over 3-4 years.	A82 Law No.23 of 2002 A64(1), A289 KUHAP A6(2) UU No.48 of 2009 A193(1) KUHAP	'religious norm' and 'norm in community': the sexual act is only for legally (sah) married adults
C	one year of imprisonment and three months of vocational training	17-year-and-9 month-old boy Hindu no job elementary school graduate	13-year-old girl	yes	The defendant started sexual intercourse while watching TV with the victim in his dorm.	The defendant lured the victim into sexual intercourse with deception and lies, knowing that the victim was younger than 16 years old and could not yet be married.	A81(2) Law No.23 of 2002 A6(2) Law No.48 of 2009 A193 KUHAP A71(3) Law No.11 of 2012 A287(1), A289 KUHAP	

Case	Decision	Defendant	Victim	Pacaran	Information	Reason	State law cited	Adalt/religious law cited
D 4/Pid.Sus. Anak/2016/ PN Dps	two years of imprisonment and three months of vocational training	16-year-and-10-month-old boy Islam technician vocational school student	16-year-and-5-month-old girl	yes	When the victim was reluctant to start sexual intercourse, the defendant convinced her by promising to take responsibility and saying that he wanted sex as proof of her love towards him. The defendant sent SMS messages, including "just come to my room", "let's play", and "come on".	The defendant caused shame on the victim among her community and school. He damaged her future. His action disturbed society. The defendant is still young, and he can still reflect on his actions and continue his education. Peace has been made between the families of the victim and the defendant. The victim's family has forgiven the defendant's act.	A81(2) Law No.23 of 2002 A332(1) Law No.11 of 2012 Law No.8 of 1981	
E 7/Pid.Sus. Anak/2014/ PN Dps	two years of imprisonment and three months of vocational training	17-year-old boy Hindu student	16-year-old girl	yes	The defendant invited the victim to his room ("if you do not come in, I will not take you back home") and started sexual intercourse. When the victim said, "it hurts", the defendant immediately took out his penis, but the victim was bleeding. The boy told the girl "do not tell anybody. Do not tell your parents that we slept together. Tell them we just took walks." It is a 'suka sama suka' case. The boy invited the girl to his room because he heard from his friend that she was not a virgin. Pregnancy test: negative.	Though intercourse was based on mutual willingness and without compulsion, the action of the defendant negatively impacted the victim amidst her community. The victim's reputation was tainted. She is scorned by the surrounding community as she is not a virgin. This has resulted in prolonged shame on both the victim and her extended family. The defendant's act is not a good example for other children. His act has caused trauma and shame on the victim among her communities and schools. His act damaged the victim's future. His act disturbed society.	A81(2) Law No.23 of 2002 A193(1) KUHAP A6(2) Law No.48 of 2009 A71(3) Law No.11 of 2012	sexual intercourse without legal marriage (sah) is against the 'norm of decency' and 'legal norms' that damage the reputation of the girl even if it was suka-sama-suka

Case	Decision	Defendant	Victim	Pacaran	Information	Reason	State law cited	Adat/religious law cited
F	32/Pid.Sus. Anak/2016/ PN Dps one year of imprisonment with two years of probation	16-year-old boy Hindu vocational school student	14-year-old girl	yes	The defendant and the victim were in the same SMK. The victim first refused to have intercourse, but the boy threatened not to take her home if she refused. She was afraid of not being able to go home, so she accepted. After the act, the boy sat down and did not take her home. One hour later, he said, "I want it again". The girl replied, "I do not want it", but the boy insisted "yes one more time. Then you can go home directly after."	The defendant's act is not a good example for other children. His act has caused trauma and <i>shame</i> for the <i>victim</i> among her communities and her schools. His act damaged the victim's future. His act disturbed society.	A 332(1) KUHP A 193(1) KUHP A1(1), A81(1) Law No.23 of 2002 A6(2) Law No.48 of 2009 A71(3) Law No.11 of 2012	
G	1042/Pid. Sus. Anak/2013/ PN Dps three years and four months of imprisonment and a fine of Rp. 60.000.000	18-year-old boy Islam private worker	14-year-old girl	yes	The girl first refused to have sex because of a fear of pregnancy, but the boy insisted and convinced her by telling her that he would take responsibility and marry her if she became pregnant. Pregnancy test: negative.	The defendant's act damaged the victim's future.	A81(2) Law No.23 of 2002 A1(1) Law No.3 of 1997 A22(4), A193(1), A222(1) KUHP A332(1) KUHP	

Curriculum Vitae

Hoko Horii was born in Osaka, Japan on 19 July 1990. She completed primary education in Hyogo in 2003, and secondary education in Osaka in 2009. In 2009, she moved to Tokyo to study law at Keio University, where she obtained a Bachelor of Laws (LL.B.) in 2013. During her study in Tokyo, she was involved in several extra-curricular activities, both in Japan and abroad.

In 2010, she stayed in Jakarta, Indonesia for an internship at Fauna&Flora International. While helping the organization's activity on environmental awareness-raising programs, she organized workshops on environmental conservation and exhibition on the Minamata disease. After returning to Japan, she initiated the WorldWideMinamata project and was engaged in advocacy and awareness-raising on mercury-related diseases due to industrial pollution. In relation to the project, she participated in UNEP Intergovernmental Negotiating Conferences on Mercury Treaty, Chiba, Japan & Nairobi, Kenya. In 2011-2012, she studied as an exchange student at Leiden Law School. Besides the study, she worked as an internship at Van Vollenhoven Institute for a research project on the commoditization of an alternative bio flue crop in Indonesia. In 2012, after returning to Tokyo, she did an internship at the Japanese Ministry of Justice, for a project on development of civil law in Laos. In the same year during the summer, she stayed in Yangon, Myanmar, to work at Mulodo Inc., for their project on local business development.

On 18 April 2013, she gave birth to her daughter, Michi. She continued to follow her academic passion by enrolling in a Master's program "Cross-Border Legal Institution Design" at Nagoya University, funded by the Japanese government's program for Leading Graduate Schools. During the study, she was a research assistant at the Center for Asian Legal Exchange. She also worked at Dreamrunway Salon and Spa, in Cebu, Philippine, for a local development project. For her master thesis, she conducted fieldwork in West Java, Indonesia, in 2014 and 2015. In 2015, she obtained a Master of Laws (LL.M.) from Nagoya University.

In March 2016, she returned to Leiden University, to work as a PhD researcher at Van Vollenhoven Institute for Law, Governance and Society (VVI) and Royal Netherlands Institute of Southeast Asian and Caribbean Studies (KITLV) under supervision of prof. dr. A.W. Bedner and prof. dr. G.A. van Klinken. In 2016 and 2017, she conducted fieldwork in Bali, where she stayed with her daughter.

In the range of books published by the Meijers Research Institute and Graduate School of Leiden Law School, Leiden University, the following titles were published in 2019 and 2020:

- MI-316 R. Zandvliet, *Trade, Investment and Labour: Interactions in International Law*, (diss. Leiden), Amsterdam: Ipskamp Printing 2019
- MI-317 M. de Jong-de Kruijf, *Legitimiteit en rechtswaarborgen bij gesloten plaatsingen van kinderen. De externe rechtspositie van kinderen in gesloten jeugdhulp gezien vanuit kinder- en mensenrechten*, (diss. Leiden), Den Haag: Boom juridisch 2019, ISBN 978 94 6290 600 6
- MI-318 R.J.W. van Eijk, *Web Privacy Measurement in Real-Time Bidding Systems. A Graph-Based Approach to RTB system classification*, Amsterdam: Ipskamp Printing 2018, ISBN 978 94 028 1323 4
- MI-319 M.P. Sombroek-van Doorm, *Medisch beroepsgeheim en de zorgplicht van de arts bij kindermishandeling in de rechtsverhouding tussen arts, kind en ouders*, (diss. Leiden), Den Haag: Boom juridisch 2019, ISBN 978 94 6236 906 1
- MI-320 Y. Tan, *The Rome Statute as Evidence of Customary International Law*, (diss. Leiden), Amsterdam: Ipskamp Printing 2019
- MI-321 T. van der Linden, *Aanvullend Verrijktingsrecht*, (diss. Leiden), Den Haag: Boom juridisch 2019, ISBN 978 94 6290 678 5, e-ISBN 978 94 6274 544 5
- MI-322 L.B. Louwerse, *The EU's Conceptualisation of the Rule of Law in its External Relations. Case studies on development cooperation and enlargement*, (diss. Leiden), Amsterdam: Ipskamp Printing 2019
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- MI-332 M. Wensveen, *Eigen haard is goud waard? Een studie naar de woonsituatie, het verhuisgedrag en recidive van (ex-)gedetineerden*, (diss. Leiden), Amsterdam: Ipskamp Printing 2019, ISBN 978 94 0281 780 5
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