

Legal Aspects Of Parents Who Forcibly Marry Children As Collateral For Debts And Receivables (Case Study In Timor-Leste)

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ABSTRACT

Forced marriage to girls as collateral for debts and receivables carried out by parents in Timor-Leste is a major problem that is considered against human rights and legal norms in Timor-Leste. The practice of forced marriage not only violates human rights, but also contradicts various national and international legal regulations. The forced marriage is carried out by some parents in Timor-Leste because of several main factors and legal aspects of parents who have forcibly married their daughter's children as collateral for debts and receivables in Timor-Leste. This study discusses two main problems, namely First, what are the factors of forced marriage of girls as collateral for debts and receivables in Timor-Leste?; Second, what are the legal aspects of the act of forcibly marrying girls as collateral for debts and receivables in Timor-Leste? The method used in this study is a sociological juridical legal approach, empirical law research with a legal research approach that examines law which is conceptualized as actual behavior which involves interviews with related parties such as victims, families, and law enforcement. The results of this study conclude that: First, this forced marriage is carried out with several factors of parents who forcibly marry girls as collateral for debts and receivables. Second, the Legal Aspect that arises from the act of forcibly marrying girls as collateral for debts and receivables committed by parents in Timor-Leste.

Keywords: Forced marriage; Legal aspects; international human rights; perspective

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Introduction

Village head elections are a form of democracy that is very important at the local level. Villages have a very vital role in organizing community-related governance, so the quality of village leadership determines the success of development at the village level. (Tokan & Ola, 2020). The village head acts as a driving force for development, public services, and resource management in the village. Therefore, village head elections must be conducted democratically, based on the principles of fairness and transparency (Johnston, 2020).

The economic shortage in developing countries such as Timor-Leste can be explained as a situation in which most of the population faces limitations in their financial resources. Poverty in developing countries is characterized by unequal wealth distribution and high unemployment rates or low-income jobs. In this context, a large number of individuals or groups of people in developing countries experience limited access to education, decent housing, and health services. Poverty in developing countries reflects a serious challenge in achieving equality and well-being. In the midst of difficult economic conditions, many children, especially women, are encouraged to get married at a very young age as a form of solution to overcome family economic difficulties. Debts and receivables that make girls as collateral are one of the financial mechanisms used to provide financial protection for families to meet their daily needs. In the Constitution of RDTL Artigu 30° (1) explains the protection of Human Rights which reads: "*Ema hotu-hotu iha direitu ba liberdade, seguransa no integridade ba nia an rasik*" in the language of Indonesia reads: "Everyone has the right for freedom, security and personal integrity" (Niner, 2015).

However, on several occasions found in Timor Leste itself, there are still many girls who are used as collateral for their parents' debts and receivables, which started from providing financial assistance to the victim's parents to just open a business or play stocks with large enough interest so that the victim's parents could not pay and handed over their children to marry.

Based on the elaboration of this background, it is considered important to re-discuss the legal aspects of parents who forcibly marry girls as collateral for debts and receivables. Therefore, the researcher is interested in studying and researching more deeply about individual companies with the title "**Legal Aspects of Parents Who Forcibly Marry Girls as Collateral for Debts and Receivables (Case Study in Timor-Leste).**"

METHODS

The research method used by the researcher is a sociological juridical law approach, empirical law research (*emperial law research*) is also called sociological legal research, is a legal research that examines the law which is conceptualized as actual behavior, Sociological legal research is a legal research method that seeks to see the law in a real sense or it can be said to see and research how the law works in society. This research was conducted in **Rede Feto** in Dili, Timor Leste

DISCUSSION AND RESULT

A. Overview of the Research Location

Timor-Leste is a sovereign country with a democratic republic system of government. Base on its history, Timor-Leste was once a former Portuguese colony and the 27th Province of the Republic of Indonesia. In the course of time, Timor-Leste became an independent country with the official name of the Democratic Republic of Timor-Leste or República Democrática de Timor-Leste (in Portuguese) and adhered

to a semi-presidential leadership system with the main task being carried out by a prime minister.

1. Geographical Location

Geographically, the island of Timor in general and Timor-Leste in particular is located between two large continents, namely Asia and Australia. This very strategic position has a very interesting political and socio-cultural impact, even special for the inhabitants of the area. In general, the island of Timor stretches between 123° 25 ' - 127° East Longitude and between 8° 17 10° ' South Latitude. In particular, the Timor-Leste region is located between the North bordering the Wetar Strait, the East with the Maluku Sea, the South with the Timor Sea, and the West with East Nusa Tenggara (NTT) (Arifin & Mashdurohatun, 2020).

Broad region Timor-Leste be 14,609,375 Km² with details: (a) Timor-Leste land: 13,670,000 Km² (b) territory Ambeno (Oecusse): 378,125 km² (c) Atauro Island (North) Dili City: 125,000 km² (d) Jaco Island (at the tip of Timor-Leste): 11,250 km (Guérin, 2014).

Judging from the topography, the Timor-Leste region mostly consists of mountainous areas with a very varied stretch from West to East. These stretches seem to be cut off so that they form a very deep abyss. The ravines are fed by innumerable large rivers and tributaries. In addition, the mountain range which is 2900 meters high forms steep, chastic and scary cliffs.

In detail, the topographic conditions of Timor-Leste can be seen as follows: along the North coast of the Dili region there is a narrow plain located between towering and steep mountains. In some places and its surroundings, there are mountains that seem to appear directly from the sea. In the East and Southeast of the city of Dili, there are layers of mountains that rise to the mountains of Ramelau and Kablaque (Kablaki). While on the South coast, there is a long row of mountains; Some are high, some are low and others are vast plains that have the potential for rice field business.

In the western part, near the border with West Timor, stretches the vast Nunura plain from Maliana in the North to the mouth of the Loes River. To the East, there are hills that overlap each other. In terms of soil quality, the Timor-Leste region contains more lime, coral, dense and sandy clay. Only a few are classified as volcanic soils. This is influenced by the existence of the Timor-Leste region including the tropics between 26°-32°C.

Regarding rainfall; the northern part to Baucau, the rainy season falls from November to April of the following year. May and October are transitional periods, June to September is the dry season with quite low air temperatures. In the East and South ends, the rainy season falls from mid-December to the end of April of the following year. May is the dry season and the rainy season starts again from June to August.

Regarding the air temperature. The situation and climatic conditions in Timor-Leste are often influenced by the Australian continent. If it is winter in Australia, sometimes the air temperature in Timor-Leste drops to 18°C. Likewise, if it

is summer in Australia, the temperature in coastal areas becomes high, even though the Timor-Leste area is in the rainy season. A peculiarity in the Timor-Leste region is that there is a quite striking temperature difference between mountainous areas and coastal areas. The sea waves on the north coast are generally calm throughout the year, in contrast to the south coast which is almost always very undulating, especially in the westerly wind season (Missbach, 2016)mi.

2. Language

In terms of language, Timor-Leste has a variety of regional languages, in addition to Tetum as the national language. Of the various regional languages spoken in Timor-Leste, linguists argue that there are three regional languages that are used as a means of oral communication between populations. The three regional languages are Makasae

(Baucau and Viqueque), Fataluco (Lautem), and Bunak language in the Bobonaro, Fatululik, Zumalai areas. These three languages are classified as pre-Austronesian languages. In addition to the languages above, there are some residents who use Tetum Terik, Mambei, Galole and Tokodede. These four languages are languages of the Austronesian language family. Because some of the population of Timor-Leste is also part of the result of marriage between the Malay Deutro population and Malonesia.

1. Cultural Environment

The people of Timor-Leste, like society in general, live in a certain cultural environment. The Timor-Leste people also have their own culture, be it language or dialect, oral literature, mythological stories, songs, sanjak-sanjak, foklor, customs and customs (barlake, estilus, koremetan). Tais is a sacred traditional garment that is only used by important people such as liurai (king) and in important ceremonies. The Timor-Leste tais is basically a fabric that is processed by a traditional loom and not a machine, the tool is called soru/songket in the Tetun language. With the weaving process, it finally became tais with various motifs that showed the culture or identity of each region in Timor Leste. Woven tais can be divided into two, namely tais feto (female) and tais mane (male). In the current development, tais is not only as a traditional clothing of the Timor-Leste people, but also as one of the cultural heritages that should be maintained and developed to promote (Beban, 2025).

Rede Feto Timor-Leste is the place where the author conducts his research, Rede Feto itself was built on its constituents – 18 women's organizations from all over the country. The organization was founded on March 10, 2000, during the first National Women's Congress. The organization seeks to work from a member empowerment framework to strengthen the organizational capacity and advocacy of member organizations to enable them to make an impact in advancing the status of women and their participation in the national development process.

Second, Rede Feto seeks to advocate and uphold [women 's rights](#) and advance gender issues. The Rede Feto office itself is located on Rua AV street. Mozinho de Albuquerque ex Compound Obrigado Barack Caicoli, Dili Timor Leste, Dili, Timor-Leste, Timor-Leste (Antriyandarti et al., 2024).

3. Factors Causing Forced Marriage of Girls as Collateral for Debts and Receivables.

According to Komnas Perempuan, forced marriage tends to target women and contains elements of *bullying* and gender-based violence because the bride-to-be will be forcibly married, causing physical, psychological, and sexual suffering for women.

Marriage for Timorese is an act that unites two elements, namely; First, the bride and groom unite to create a new human being. Second, the descendants of the wife taker and the wife giver unite to create mutual benefits in the ceremony.

The implementation of marriage in Timor Leste. Based on customary law, in Timor Leste customary marriage, the procedure is not much different from other country customs, namely: an introduction (*koñesimentu*), preparation stage (*preparasaun*), marriage proposal (*tama husu*), negotiation, engagement (*troka prenda*), first and second dowry handover ceremony, marriage ceremony, marriage purpose for the people of Timor Leste itself. So that the implementation of marriage in Timor Leste still depends on traditional ceremonies because it has strong ancestral values (will also be blessed by the deceased ancestors) so that the marriage will be eternal and will only end in death (meaning only death will be able to separate) (Navigating et al., n.d.).

a. Cultural Factors

Cultural factors are the most dominant factor driving forced marriage in Timor-Leste, with a percentage of 45%. This shows that patriarchal cultural norms and traditions, cultural values about early marriage, stigma of pregnancy out of wedlock, lack of awareness of women's rights, and weak law enforcement are the main factors contributing to forced marriage.

1) Patriarchal System

Timor-Leste society generally has a patriarchal structure, in which men hold a dominant role in family and community. Important decisions, including child marriage, are often taken by the father or the head of the family without considering the daughter's wishes or consent.

2) Traditional Roles

Traditional roles that place women as domestic guardians and men as breadwinners reinforce the practice of forced marriage to ensure that women immediately fulfill their domestic roles.

3) Barlake Traditional Practices

Barlake is a traditional dowry system in Timor-Leste where the male family gives property or money to the female family as a condition of marriage. This practice often encourages early marriage because families may see it as a way to gain wealth or economic stability.

4) Lack of Education and Awareness

a. Primary Education

The low level of education among girls makes them more vulnerable to forced marriage due to a lack of knowledge and awareness about their rights.

b. Legal Awareness

Many families are unaware of or understand the legal implications of forced marriage and their children's rights under national and international law (Brown & Garlick, 2023).

b. Economic Factors

Economic factors also play an important role, with a percentage of 40%. Poverty, lack of economic opportunity, and economic dependence of women and girls make them more vulnerable to forced marriage.

1) Poverty

Poverty is a major problem in East Timor, with the national poverty rate reaching around 40%. Poor families may view marriage as a way to reduce the financial burden by finding a partner who can help support the family. This can lead young women to marry much older or unwanted men.

2) Lack of Economic Opportunity Limited economic opportunity,

Especially for women, it can cause them to be trapped in a cycle of poverty. Marriage is seen as a way to get out of poverty by getting financial security from the husband or family.

3) Debt Burden

Tradition belly high (marriage dowry) in Timor Leste can be a heavy financial burden for the man's family. This can encourage them to find a bride who is willing to marry them for a lower fee, even if they have to.

4) Dependence on the Family In the culture of East Timor,

Girls usually stay with their families until they get married. This can make them financially and emotionally dependent on their families, and more vulnerable to pressure to marry as the family desires.

5) Lack of Access to Education Lack of access to

Education can limit women's opportunities for employment and financial independence. This makes them more vulnerable to exploitation and forced marriage (Picchioni et al., 2025).

c. Miscellaneous Factors

Other factors contributing to forced marriage in Timor-Leste include factors such as domestic violence, lack of access to education, and gender discrimination.

1) Weak Law Enforcement in Timor Leste

It prohibits forced marriage, but enforcement is still weak. The lack of investigation and prosecution of forced marriage cases causes violators to feel escaped and not prevented from committing these acts.

2) Lack of Awareness

Many people in East Timor, especially in rural areas, still do not understand that forced marriage is a violation of human rights. Lack of information and education on this issue can lead to forced marriages continuing to occur.

3) Gender Inequality Gender inequality

in Timor Leste, where women have more limited access to education, employment, and decision-making, making them more vulnerable to coercion and control (MADURA, n.d.).

On several occasions encountered by researchers in Timor-Leste, cultural and economic factors are still related because the *modus operandi* used by forced marriage perpetrators is quite diverse, such as:

1. Giving excessive loan money so that the victim cannot afford to return the money.
2. Inviting cooperation as a business partner but operational costs delegated excessively to the victim's family.
3. Perpetrators of forced marriage may be abusing cultural values and religious beliefs to justify their actions. They can say that forced marriage is an obligation or a form of filial piety to family and ancestors.

The perpetrator generally kidnaps women and forces their families to agree to marry the girl as an effort to avoid disgrace or as a substitute for dowry (*folin*).

B. Legal Aspects of the Act of Forced Marriage of Children as Collateral for Debts and Receivables in Timor-Leste.

Village head elections are one of the important elements in a village government system that prioritizes democratic principles. As part of the democratic system in Indonesia, village head elections aim to elect leaders who will lead and manage the village government. This election gives every village citizen the right to choose a candidate for village head who they consider most capable of realizing the welfare and progress of the village. (Ahzam & Hariri, 2024).

According to the Código Civil (KUHPerdata) Timor-Leste Artigo 118° (Menors) "*É menor quem não tiver ainda completado dezassete anos de idade*" in Indonesian of the Timor-Leste Civil Code article 118 (Children) "*A minor is anyone who has not reached the age of seventeen years*" (Rumble, 2007).

Timor Leste itself does not have a law regulating marriage itself, but the Constitution of the RDTL of 2002 Artigu 39 ° Versiculo 1 "*Estado protege uma-kain nu'udar baze cellular iha sosiedade no nu'udar kondisaun ne'ebe di'ak ba ema idaidak hodi dezentolve an*" in Indonesian "*The state protects the family as the cellular foundation of society and as a good forum for the individual to develop himself*" only legalizing or legalizing the marriage, so that marriage in Timor Leste still depends on the marriage customs that exist in an area, where almost all communities place the issue of marriage as a family affair and the community follows their respective customs in addition to containing rules with whom a person can marry (Hayden, 2016). So with this in matters related to forced marriage Timor-Leste still using international conventions, Timor-Leste itself has also formed an organization called "REDE FETO TIMOR-LESTE" or "Timor-Leste Women's Network".

Rede Feto Timor-Leste is a Non-Governmental Organization that works to advocate for the rights of women and vulnerable groups through the creation of activities in rural and urban communities.

Rede Feto Timor-Leste itself is one of the good choices for protection and the empowerment of the people of Timor-Leste, especially for women and children, as Rede Feto Timor-Leste is now one of the most effective organizations in Timor-Leste and to report on all acts of forced marriage and the oppression of the rights of women and children (Lundahl et al., 2019).

a) Violation of Marriage Law

According to Yudha Bhakti, Ardhiwisastra focuses on family law issues and children's rights. He emphasized that child marriage and forced marriage violate the basic principles of family law that prioritize the welfare and rights of children. He advocated for stricter law enforcement and public education to change the social norms that support the practice.

The Marriage Law of Timor Leste sets the minimum age of marriage at 17 years. Marriage under the minimum age is considered null and void. Child forced marriage falls under the category of marriage under the minimum age.

The Constitution of Timor-Leste guarantees the basic rights of all its citizens, including the right to personal freedom, security, and physical integrity. Articles 18 and 19. The Constitution protects the rights of children, including the right to be free from exploitation and treatment that degrades human dignity.

b) Violation Child Protection Law

According to Harkristut Harkrisnowo, an expert in criminal law and human rights, stated that violations of child protection laws include various forms of violence, exploitation, and neglect that violate children's basic rights. He emphasized the importance of firm and consistent law enforcement to protect children from various forms of abuse.

The East Timor Child Protection Law prohibits all forms of violence against children, including forced marriage. Forced marriage is considered a form of child exploitation and abuse. Victims of forced marriage are entitled to protection and rehabilitation, but there is still a practice of forced marriage based on the customs embraced by the Timor-Leste people.

c) Violation of the Convention on the Rights of the Child

According to Michael Freeman, he emphasized the importance of cultural understanding in the context of child rights violations. He argued that while *the Convention on the Rights of the Child* (CRC) provides a universal framework, its practical application must take into account local cultural contexts to more effectively protect children's rights.

Timor Leste has ratified the Convention on the Rights of the Child, which requires the state to protect children from all forms violence and exploitation. Forced marriage is a violation of Articles 3, 19, and 36 of the Convention on the Rights of the Child. That is:

Article 3

"All actions and decisions concerning a child must be made on the basis of the child's best interests."

Article 19

"Parents or legal guardians are jointly responsible for raising children, and all of these parties need to always consider the best interests of the child. The government needs to help by providing services to support parents and guardians, especially if they are working."

Article 36

"Every child has the right to be protected from exploitation in any form that harms him"¹⁷

From the presentation of the Convention on the Rights of the Child above, it is clear that the practice of forced marriage in Timor-Leste violates the rules that have been ratified by Timor-Leste itself, which has been a reference so far.

d) Criminal Law Violations

The Criminal Code of Timor Leste regulates the crime of human trafficking, including child trafficking for the purpose of marriage. The act of forcibly marrying a child as collateral for debts and receivables can be categorized as a child trafficking crime. As explained in the Codigo Penal (Kuhap) Timor-Leste Artigo 177 Versiculo 2 Abuzu seksuál ba menôr "*Se maka pratika aktu seksuál relevante ho labarik ne'ebé seidauk iha tinan 14 sei hetan pena prizaun tinan 5 too tinan 15*"¹ or in Indonesian it is explained by the Criminal Code of Timor-Leste Article 177 paragraph 2 related to Sexual abuse of minors: "*If committing a sexual act relevant to a child under the age of 14 years will be sentenced to imprisonment for 5 to 15 years*"

With several modus operandi related to forced marriage in Timor-Leste, Rede Feto Timor-Leste has its own procedure to follow up on the case with the Procedure owned by Rede Feto Timor-Leste where the procedure is. According to the statement of Mrs. Pascuela Aida M. Exposto as the director of Rede Feto Timor-Leste that: "*We will process according to procedures, they can come to tell their complaints, then we will analyze first, then we will ask the complainant about the continuation of the case, whether it will be resolved legally or resolved familial.*"²

In the settlement of the case in Rede Feto Timor-Leste, which is well described in the form of a chart that explains in detail and in a good way to make it easier to understand and easy to understand. Rede Feto has conducted a lot of counseling to the community in cities and villages to conduct counseling about the dangers of forced marriage and explain about violence Sexual experience experienced by children and Women.

Therefore, the author intends to make a chart of the procedure for resolving cases in Rede Feto Timor-Leste as an alternative so that it is easy to understand and understand the stages of the procedure, the chart was obtained by the author after conducting an interview with Mrs. Pascuela Aida M. Exposto as a resource person.

¹ See Codigo Penal Artigo 177 Versiculo

² Interview, Pascuela Aida Exposto, Dili Timor-Leste, March 5, 2024

CONCLUSION

Based on the results of the analysis that has been carried out, the conclusion of this study is that forced marriage to girls as collateral for debts and receivables carried out by parents in Timor-Leste is a major problem that is considered to be against Human Rights and legal norms in Timor-Leste. This practice of forced marriage not only violates human rights, but also contrary to various national and international legal regulations. The forced marriage is carried out by some parents in Timor-Leste because of several main factors and legal aspects of parents who have forcibly married their daughter's children as collateral for debts and receivables in Timor-Leste.

According to Komnas Perempuan, forced marriage tends to target women and conceive Elements *Bullying* and gender-based violence because the bride-to-be will be forcibly married, causing physical, psychological, and sexual suffering for women.

Based on the above presentation, the following suggestions can be drawn:

1. Provide economic empowerment programs for poor families, such as skills training and business capital assistance, to reduce dependence on debt and receivables practices so that forced marriage occurs for girls.
2. Strengthen laws governing marriage by falsifying provisions that explicitly prohibit forced marriage and establishing strict sanctions and swift action on cases of forced marriage.

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