

The Urgency of Maturity to Get Married and Its Relevance to Family Life Goals

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Abstract

This paper aims to explore aspects of the legitimacy of limiting the age of marriage from the perspective of *maqâshid al-syarî'ah*. Early marriage is regarded as highly common in Indonesia. According to data for 2020, 1 in 9 or almost 11% of Indonesian girls get married before becoming 18 years old. Through Law Number 16 of 2019 about Amendments to Law Number 1 of 1974 about Marriage, the government is trying to suppress the practice of early marriage through limiting the age of marriage to 19 years. Research methods are qualitative-explanative method, this paper attempts to analyze the texts and doctrines of fiqh scholars relating to the age of marriage and relate them to the purpose of marriage through the point of view of *maqâshid al-syarî'ah*. Through this method, it has been discovered that that marriage is a noble Islamic law and the only institution that legalizes sexual relations as a primary need (*daruri*) for human being in order to realize the maintenance of religion (*hifz al-dîn*) through the avoidance of the practice of adultery, as well as maintaining the sustainability of mankind (*hifz al-nas*). Considering that marriage is closely related to responsibilities, it can be concluded that arrangement 19 years as the ideal age for marriage is considered to be in line with the *maqâshid* of marriage. Carrying out underage marriages will cause *mafsadah*, because it has negatives effect on health, fertility and causes bad social impacts so that *maqâshid* marriage cannot be realized.

Keywords: Underage Marriage; Islamic Law; Marriage Age; *Maqâshid al-Syarî'ah*

Introduction

Getting married at the age of less than 19 is a reality that some Indonesian teenagers must confront. It is estimated that hundreds of thousands, if not millions, of Indonesian youth, marry before the age of 19. According to the United Nations Development Economic and Social Affairs (UNDESA) in 2010, Indonesia ranked 37th in the world in terms of the number of early marriages in 2007. At the ASEAN level, the rate of early marriage in Indonesia is the second highest after Cambodia. Furthermore, the number of abortions performed in Indonesia is believed to reach 2.3 million per year, with approximately 750,000 performed by teens.¹ In 2020, it was estimated that approximately 1 in 9 girls, or approximately 11% of Indonesian girls, were married before the age of 18, placing Indonesia among the top 10 countries in the world in terms of the number of girl brides.²

In a smaller geographic scope, the high number of underage marriages can be seen, for example, in the findings of Hesti Agustin's research in Ampalu Village, Dharmasraya Regency (West Sumatra), where he discovered that 54% of 103 adolescents out of a total of 3,435 residents married between the ages of 15 and 19, with a trend of increasing every year.³

Young marriages are more common in girls than in guys. According to data from the 2020 National Socioeconomic Survey (SUSENAS), 34.74 percent of women were married between the ages of 7 and 18, with 8.19 percent married between the ages of 7 and 15. Rural locations have a higher percentage of young marriages. According to the 2020 Inter-Census Population Survey (SUPAS), marriage is lower in urban regions than in rural areas for the 16-18 year age group. There is a significant discrepancy, with urban areas accounting for 5.28 percent and rural areas accounting for 11.88 percent. According to the findings of this study, young women in rural areas marry at a younger age than young women in urban areas.⁴

¹Hasan Bastomi, "Pernikahan Dini Dan Dampaknya (Tinjauan Batas Umur Perkawinan Menurut Hukum Islam Dan Hukum Perkawinan Indonesia)," *Pernikahan Dini Dan Dampaknya* 7, no. 2 (2016): 354–84, Depag.

²Cate Sumner, *Mengakhiri Pernikahan Anak Di Indonesia: Peran Pengadilan* (Melbourne: Center for Indonesian Law, Islam and Society The University of Melbourne, 2020), <https://www.unicef.org/indonesia/child-protection/stories/saying-no-child-marriage-indonesia>.

³Hesti Agustian, "Gambaran Kehidupan Pasangan Yang Menikah Di Usia Muda Di Kabupaten Dharmasraya," *SPEKTRUM: Jurnal Pendidikan Luar Sekolah (PLS)* 1, no. 1 (2013): 205, <https://doi.org/10.24036/spektrumpls.v1i1.1516>.

⁴Melinda Rahmawati and Heni Ani Nuraeni, "Peran Dispensasi Kawin Dalam Peningkatan Angka Pernikahan Dini Di Wilayah Kotamadya Jakarta Barat," *Al-Istinbath: Jurnal Hukum Islam* 6, no. 1 (2021): 1, <https://doi.org/10.29240/jhi.v6i1.1578>. Wulandari dan Sarwoprasodjo, "Pengaruh Status Ekonomi Keluarga Terhadap Motif Menikah Usia Dini," *Sodality: Jurnal Sosiologi Pedesaan* 02, no. 01 (2014): 53–62.

Underage marriage has several negative consequences. Socially, offenders of teenage marriages who are not psychologically prepared are subject to domestic violence. Research by Humanitarian Organizations released that as many as 44% of girls who married at an early age experienced high-frequency domestic violence (KDRT), and the remaining 56% of girls experienced low-frequency domestic violence. From the health aspect, early marriage also has an impact on the reproductive health of girls. Girls aged 10-14 years are 5 times more likely to die during pregnancy or childbirth than women aged 20 to 25 years. Meanwhile, children aged 15-19 years are twice as likely. Medically, underage marriages are at risk of bleeding, anemia, and complications during childbirth.⁵

The low age of marriage causes more things that are not in line with the mission and goals of marriage, such as creating peace in the household based on love. The goal of an eternal and harmonious household will be difficult to achieve if each of the bride and groom (husband and wife or one of them) is not yet mature physically and mentally. Maturity and stable personal integrity will be very influential in solving any problems that arise in dealing with domestic ups and downs.⁶ Aside from that, young marriage can exacerbate family breakups, household instability, and economic fragility, making it one of the reasons for divorce. Medically, the risk of early marriage is an unprepared means of reproduction, such as the risk of cervical cancer, uterine cancer, breast cancer, and a variety of other disorders that can jeopardize health.⁷

Various works on young marriage and the risks of young marriage to the health and lifespan of the household have been published, including;

First, a research entitled “*Pembatasan Usia Perkawinan (Tinjauan Undang-undang dan Maqashid asy-Syari’ah)* or Restrictions on the Age of Marriage (Review of Laws and Maqashid asy-Syari’ah)” (Elkhairati, 2018). The researcher concludes that the minimum age limit for marriage in the Law is intended for the benefit of the family in achieving the goal of marriage, namely *hifdz an-nasal* (caring for offspring).⁸

Second, a research entitled “*Pernikahan di Bawah Umur Akibat Hamil di Luar Nikah dan Dampak Psikologis Pada Anak di Desa Makrampai Kalimantan*

⁵Holilur Rohman, “Batas Usia Ideal Pernikahan Perspektif Maqasid Shariah,” *Journal of Islamic Studies and Humanities* 1, no. 1 (2017): 67–92, <https://doi.org/10.21580/jish.11.1374>.

⁶Sri Handayani Hanum, *Perkawinan Usia Belia* (Yogyakarta: Pusat Penelitian Kependudukan UGM dengan Ford Foundation, 1997), page. 178.

⁷Sita Aripurnami, *Perempuan Dan Pemberdayaan* (Jakarta: Program Studi Kajian Wanita UI, 1977), page. 65.

⁸Elkhairati Elkhairati, “Pembatasan Usia Perkawinan (Tinjauan Undang-Undang Dan Maqashid Asy-Syari’ah),” *Al-Istinbath: Jurnal Hukum Islam* 3, no. 1 (2018): 87, <https://doi.org/10.29240/jhi.v3i1.403>.

Barat” or “Underage Marriage Due to Pregnancy Out of Marriage and Psychological Impacts on Children in Makrampai Village, West Kalimantan” (Asman, 2019). The study concluded that underage marriages in Makrampai Village were prompted by parents' lack of attention to their biological children, causing their youngsters to engage in promiscuity and become pregnant, causing them to marry off. As a result, many of the area's easy marriage culprits suffer from sadness, anxiety or fear, and stress.⁹

Third, a research entitled “*Peran Dispensasi Kawin dalam Peningkatan Angka Pernikahan Dini di Wilayah Kotamadya Jakarta Barat*” or “The Role of Marriage Dispensation in Increasing the Rate of Early Marriage in the Municipality of West Jakarta” (Melinda Rahmawati dan Heni Ani Nuraeni, 2021). The researcher concluded that the marriage dispensation, which was used as an urgent last resort for the common good, is now an opportunity to legally legalize early marriage in the West Jakarta area.¹⁰

Fourth, the research entitled “*The Concept of Baligh Perspective of Fiqh and Positive Law*” (Ibnu Amin, Lendrawati, Faisal Efendi, Hertasmaldi 2022). The researcher concludes that the concept of baligh in fiqh is marked by *ibtilam* (nocturnal emission), which is when a man is 19 years old and menstruation is for a woman who is 15 years old. Whereas in the Indonesian Positive Law, adults are classified based on their designation, such as the age limit for marriage, which is 19 years for men and women, for population administration (KTP), driving licenses, and having political rights at the age of 17, for determining citizenship at the age of 18, to be recognized as labor at the age of 21 years.¹¹

This study shares issues and connections with prior studies, notably youthful marriage and household longevity. However, in terms of approach and framework, this study differs significantly from past investigations. A previous study has focused on the age restriction for puberty according to positive law and *fiqh*, as well as the influence of young marriage on health. A previous study within this state of mind has focused on the opinions of judges through judgments based on positive law. Meanwhile, the focus of this research is on determining maturity according to the *fuqaha'* and the importance of maturity to the aim of family life. Therefore, the output of the study will certainly be different from previous research based on the specifications of the theory and methodology used.

⁹Asman Asman, “Pernikahan Di Bawah Umur Akibat Hamil Di Luar Nikah Dan Dampak Psikologis Pada Anak Di Desa Makrampai Kalimantan Barat,” *Al-Istinbath: Jurnal Hukum Islam* 4, no. 1 (2019): 79, <https://doi.org/10.29240/jhi.v4i1.784>.

¹⁰Rahmawati and Nuraeni, “Peran Dispensasi Kawin Dalam Peningkatan Angka Pernikahan Dini Di Wilayah Kotamadya Jakarta Barat.”

¹¹Hertasmaldi Ibnu Amin, Lendrawati, Faisal Efendi, “The Concept of Baligh Perspective of Fiqh and Positive Law,” *Al-Istinbath* 7 (2022): 441–66.

Discussion

Suggestions for marriage

Marriage apart from being a religious order is also the only legitimate means of fulfilling sexual needs (*ibâhab watha'*) in Islam.¹² From this point of view, when a person gets married, at the same time he not only has the desire to carry out religious orders (shari'a) but also has the desire to fulfill his biological needs which naturally must be channeled.¹³

The marriage bond has serious consequences. In Q.S al-Nisa' (4): 21 it is expressed in the term *mîtsâqan ghalîẓa* (مِيثَاقًا غَلِيظًا), which means that the agreement is not an ordinary agreement, but very strong. The sanctity of this relationship was then adapted by positive law as in Law number 16 of 2019 concerning amendments to Law Number 1 of 1974 Chapter I Article 1 which states that marriage is an inner and outer bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on Belief in the One and Only God. To emphasize the sacredness. Furthermore, to strengthen this sacredness, Article 2 paragraph (1) of the Marriage Law then stipulates that marriage is valid if it is carried out according to the laws of each religion and belief, and Article 2 paragraph (2) confirms that each marriage is recorded according to the regulations current regulation.

Marriage is viewed by the majority of fiqh scholars as being legally advised (mandûb), and some even go so far as to state that it is required.¹⁴ There are numerous Koranic verses and Prophet SAW's hadiths that offer marriage advice.¹⁵ According to al-Qurthubi, when the Prophet learned that some of his companions had made a vow not to get married so they might devote their time to devotion, he condemned such a commitment and ordered them to get married.¹⁶

¹²al-Bujairami Sulaiman ibn Muhammad, *Hasyiyah Al-Bujairami 'ala Al-Khatib* (Beirut: Dar al Fikr, 1995).Juz. III, page. 356.

¹³Ahmad Atabik and Koridatul Mudhiiah, "Pernikahan Dan Hikmahnya Perspektif Hukum Islam," *Yudisia* 5, no. 2 (2014): 293–94.

¹⁴Muhammad bin Ahmad Ibn Rusyd, *Bidâyah Al-Mujtabid Wa Nihâyah Al-Muqtasbid* (Kairo: Dâr al-Hadits, 1982).Juz III, Page. 30

¹⁵Di antaranya seperti dapat dilihat dalam: Q.S al-Baqarah (2): 221, 223; Q.S al-Nisâ' (4): 1, 3, 6, 9, 21, 22; Q.S. al-Mâ'idah (5): 87; Q.S al-Nahl (16): 72; Q.S al-Nur (24): 32; Q.S al-Rum (30): 21; Q.S al-Fathir (35): 11; Q.S al-Zurriyat (51): 49; Q.S al-Thalaq ayat (65): 4, 6; Q.S al-Qiyamah (75): 39.

¹⁶Al-Qurthubi Muhammad bin Ahmad, *Al-Jâmi' Li Abkâm Al-Qur`ân* (Kairo: Dâr al-Kutub al-Mishriyyah, 1964).Juz. VI, page. 261

In various hadiths of the Prophet, there are many orders to get married and forbid singleness (*tabattul*).¹⁷ Marriage is also seen as perfection in one's religious spirituality. This is as confirmed in the hadith narrated by Anas bin Malik ra. where is Rasulullah SAW said:

إِذَا تَزَوَّجَ الْعَبْدُ فَقَدْ كَمَّلَ نَصْفَ الدِّينِ، فَلْيَتَّقِ اللَّهَ فِي الْبَاقِي¹⁸

Historical and Juridical Aspects Related to Marriage Age Limits

Looking back at human culture and historical changes, teenage marriage was hardly ever a problem in the past. Underage weddings occur often in every society, in every religion, in every nation, and among all social classes, including the nobility.

According to history, Mahatma Gandhi's father had asked his son, who was also 7 years old at the time, to marry a girl who was 7 years old. When their wedding party, which was hosted when both were 13 years old, took place, the two finally realized they were husband and wife. This kind of marriage procedure is still in use today. In the Indian state of Gandhi, it is still common practice to marry off underage girls.¹⁹ A traveler from the Arab nation Muhammad Tsâbit remarked that many temples in India show sexual behavior in reliefs and other decorations to help children comprehend taboo subjects like sexuality. The growth of this marriage is also connected to the traditional Indian ideology that holds children to be the saviors of deceased parents. Therefore, marriage must be hastened as soon as possible for someone to have children quickly. These children were referred to as "sons" in the old Indian language, which translates to "the savior" because it is the child who will save the parent who has passed away.²⁰

Similar practices are still prevalent, especially in Africa, in many underdeveloped nations. However, that does not imply that it is absent from developed nations. We just read about the Mormon group, a Christian group in the United States, where many girls are married off and engaged in polygamy before the age of 16, even though this practice is against the law in the modern-day fabled nation of Uncle Sam.²¹

¹⁷Ash Shan'ani mengatakan bahwa *tabattul* adalah enggan menikah karena memutuskan untuk sibuk beribadah pada Allah. Lihat: Muhammad bin Isma'il al-Amir Al-Shan'ani, *Subulus Salam Al-Muwashshilab Ila Bulughil Maram* (Kairo: Dâr al-Jauzi, n.d.).Juz VI, page. 10

¹⁸Ibn al Ibn al Al-Baihaqi Abu Bakar Ahmad al Husain, *Syu'ab Al-Iman* (Riyadh: Maktabah al-Rusd, 2003). Juz.VII, page. 341

¹⁹Majalah Kartini No. 2220, Juni 2008.

²⁰Shaqr Athiyah, *Mausû'ah Al-Ushrah Tahta Ri'ayab Al-Islâm* (Kairo: al-Dâr al-Mishriyyah li al-Kitâb, 1991).Juz I, hal 209

²¹Gatra, 17 April 2008.

It can be said that the modern world has succeeded in changing the paradigm of the marriage order, one of which is related to the age limit for marriage. Modern literacy then classifies the various levels of marriage. Bogue for example classifies marriage into four levels, namely; first, child marriage, for marriages under the age of 18; second, early marriage, for marriages aged 18-19 years; third, marriage at maturity, for marriages aged 20-21 years; fourth, late marriage, for marriages aged 22 years and thereafter.²²

Marc Hendry Frank stated that marriage should be performed by potential grooms between the ages of 25 and 30, and by women between the ages of 20 and 25, due to health concerns. Religious psychology experts believe that religious maturity does not emerge in men until the age of 25. This is vital since modern times demand that benefits be realised while avoiding harm, both in terms of health and social responsibility.²³

The age limit for marriage in Indonesia is set by Law Number 16 of 2019, which amends Law Number 1 of 1974 on marriage. The maturity of the prospective bride and groom is one of the principles adhered to by Law Number 16 of 2019 about Marriage, which is enforced with an age limit for marriage. Marriage is only permissible if both the male and female parties are at least 19 (nineteen) years old, according to Article 7 paragraph (1). Both men and women are presumed to have achieved the minimal age to marry with all the complications at that age.²⁴ Similar norms are supported by Minister of Home Affairs Instruction No. 27 of 1983 concerning the Age of Marriage in the Context of Supporting the Population and Family Planning Programme, which states that young marriages are marriages performed at the age of under 20 years for women and under 25 years for men. Marriage Age Maturity (PUP) is seen as optimal in terms of both physical and emotional development in preparation for family life.²⁵

Tracing the books of fiqh, the minimum age for marriage is rarely discovered in detail, implying that there is no clear age restriction when someone is considered mature to marry. However, fiqh books usually mention several terms related to marriage age, including *nikāḥ al-ṣaghīr* or *al-ṣaghīrah*, *nikāḥ al-kabīr* or *al-kabīrah*, and *al-ḥawāj al-mubakkir* (young marriage). *Ṣaghīr* or *ṣaghīrah*, literally means small, but what is meant here are men and women who

²²Donald J Bogue, *Principles of Demography* (New York: John Wiley and Sons, 1969).page. 316

²³Elkhairati, "Pembatasan Usia Perkawinan (Tinjauan Undang-Undang Dan Maqashid Asy-Syari'ah)."

²⁴Imam Subchi et al., "Legal Policy of Child Marriage In the Covid-19 Pandemic Period," *Samarah* 5, no. 2 (2021): 846–66, <https://doi.org/10.22373/sjhk.v5i2.10570>.

²⁵Ibnu Amin, Lendrawati, Faisal Efendi, "The Concept of Baligh Perspective of Fiqh and Positive Law."

have not reached puberty.²⁶ Thus, *nikāḥ al-ṣagḥīr* or *al-ṣagḥīrah* is the marriage of a man and a woman who has not reached puberty, the antonym of *nikāḥ al-kabīr* or *al-kabīrah*, namely the marriage of an adult man and a woman.

Alqur'an mentions that marriage is closely related to maturity (*bulūgh*), as stated in letter al-Nisā' (4) verse 6 with the expression "*balagḥū al-nikāḥ*" اِذَا بَلَغُوا النِّكَاحَ which means "*has reached the age of marriage*" and "*rusyd*" رُشْدًا which means "mature thinking". Word of Allah SWT in QS. al-Nisā' (4) verse 6;

وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ

The word *balagḥū al-nikāḥ*, in the verse above, is interpreted by scholars in various ways. Rasyid Ridha believes that *bulūgh al-nikāḥ* means the arrival of someone at the age to marry, that is until he has a dream as a sign that he has reached puberty/adulthood. That is, he has taklif with religious laws, both worship, muamalah, or *hudūd*. At this age, a person has been able to give birth to children and has been able to pass on offspring. While the word *rusyd* is interpreted as a person's ability to perform an act that will bring good and avoid evil. This is proof that his mind is perfect.²⁷

Ibn Kathir argues that *bulūgh al-nikāḥ* means "age enough" or intelligent. Baligh is marked by a dream that causes the discharge of gushing water (sperm).²⁸ He argues that the time limit for someone to get married is not limited to baligh, but is also determined by age or intelligence. In line with Rasyid Rida, Ibnu Katsir stated that the time limit for a person to get married was emphasized on *rusyd*, namely age, and intelligence, which were marked by physical characteristics such as dreams of intercourse (*ihtilām*) and menstruation.

Although a person's physical and mental maturity can be measured, it appears that the physical part is more emphasized in the Islamic idea. This can be seen in a person's legal burden (*taklif*), which is properly known as *amukallaf* (considered capable of bearing the legal burden).²⁹

Abū Ḥanīfah for example believes that the age of puberty for boys is 18 years and for women is 17 years. While Abū Yūsuf Muhammad bin Ḥasan and

²⁶Husein Muhammad, *Fiqh Perempuan* (Yogyakarta: LKiS, 2001).page. 67

²⁷Muhammad Rāsyid Ridhā, *Tafsir Al-Manār* (Kairo: Al-Manar, 2000).Juz. I, Page. 396-397.

²⁸Isma'il Ibn Umar Ibn Katsir, *Tafsir Ibn Katsir* (Kairo: Dār al-Kutub al-'Ilmiyyah, 1978).Juz IV, page. 453

²⁹Umar Said, *Hukum Islam Di Indonesia Tentang Perkawinan* (Surabaya: Cempaka, 2000).page. 62

al-Syāfī mention the age of 15 years, both for boys and girls.³⁰ This is based on the hadith narrated by al-Tabrānī from Abdullāh ibn Umar:

جَاءَ بِي أَبِي يَوْمَ أُخِذَ إِلَيَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَأَنَا ابْنُ أَرْبَعِ عَشْرَةَ، فَلَمْ يُجْزِنِي النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، ثُمَّ جَاءَ بِي يَوْمَ الْخُنْدَقِ وَأَنَا ابْنُ خَمْسِ عَشْرَةَ، فَفَرَضَ لِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. (رواه الطبراني)³¹

The incident of Abdullāh ibn 'Umar is used by the majority of scholars as an argument that 15 years is the age measure for adulthood and this size is the same for men and women, and at this age, men are also considered strong enough to join the struggle.

Imam Malik believes that the age of puberty for both men and women is 18 years, arguing that the stipulation of baligh according to syara' is a dream of having intercourse. Because, according to the law, dreams are no longer expected beyond the age of 18, and dreams typically occur between the ages of 15 and 18. As a result, it is decided that Baligh is 18 years old.³² Ibn Kathir and Imam Malik ruled that maturity was outwardly and his status as *amukallaq*.³³

In his remark, Hamka explained that *bulūg al-nikāh* denotes maturity, where maturity is determined by intelligence or intelligence rather than age. Because there are children who are immature in age but cognitively smart/smart, and others who are mature in age yet have immature (mature) thinking.³⁴

On the other hand, the majority of fiqh scholars believe that children who marry before reaching the age of marriage are legal, citing a hadith from 'Aisyah as follows.:

عَنْ عَائِشَةَ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَزَوَّجَهَا وَهِيَ بِنْتُ سِتِّ سِنِينَ وَأَدْخَلَتْ عَلَيْهِ وَهِيَ بِنْتُ تِسْعِ سِنِينَ. (رواه البخاري و مسلم)³⁵

Even though it is considered a shahīh hadith, the history³⁶ and substance³⁷ of the hadith above have been subjected to several objections and

³⁰Muhammad bin Ahmad al-Khatīb Al-Syarbini, *Mughnī Al-Mubtāj* (Damaskus: Dār al-Fikr, 1997).Juz II, page. 166

³¹Sulaiman bin Ahmad Al-Thabrani, *Al-Mu'jam Al-Kabīr* (Kairo: Maktabah Ibn Taimiyyah, 1983).Juz. XII, page. 259

³²Abd al-Qadir Audah, *Al-Tasyri' Al-Jinai Al-Islam Juz I* (Kairo: Dar al-Urubah, 1964).page. 603.

³³Akhdad Shodikin, "Pandangan Hukum Islam Dan Hukum Nasional Tentang Batas Usia Perkawinan," *Mahkamah: Jurnal Kajian Hukum Islam* 9, no. 1 (2015): 114–24, <http://www.syekhnuurjati.ac.id/jurnal/index.php/mahkamah/article/view/423>.

³⁴Hamka, *Tafsir Al-Azhar* (Jakarta: Pustaka Panji Masyarakat, 1984).Juz IV, page. 267

³⁵Abu Husayn Muslim bin al-Hajjaj al-Qusyairiy Al-Naysaburiy, *Shahih Muslim* (Beirut: Dar al-Kutub al-'Ilmiyah, 1992).

analyses, rendering it ineffective as a justification for the absence of a marital age limit. According to contemporary interpretation, the hadith mentioned above is merely *khabarīyah* in nature or simply news about the Prophet's marriage; it does not contain *khithāb* (order), either in the form of *khithāb al-thalab* (commandments that must be followed) or *khithāb al-tark* (prohibitions that must be abandoned). As a result, the age remark in the hadith above cannot be interpreted as a statement of the lowest age limit for marriage for both men and women.³⁸

The Prophet's marriage to Siti Aisyah had additional purposes, one of which was to provide Ab Bakar al-Shiddiq access to the Prophet's household.³⁹ Ibn Shubrumah said that the hadith event was an exception or specialty for the Prophet that could not apply to his people. Ibn Hajar al-'Asqalāni cites Ibn Syabramah's opinion in *Fath al-Bārī* that a guardian is not authorized to marry a young girl (underage) until she is an adult and her permission is sought.⁴⁰

Furthermore, the rationale for the absence of an age limit for couples who would marry may be consistent with Muslim ideas on the nature of marriage at the time, but this thinking may evolve in response to changing events and circumstances as human civilization progresses. Marriage was viewed historically not in terms of the legalization of sexual interactions, but rather in terms of its effect on the formation of relationships (*mu'āsyarah*). Thus the age limit for marriage includes the realm of *ijtihādī* which is still broad to be developed, making it possible to carry out a deeper understanding and study of issues related to the age limit for marriage, following the situation and developments of the times. Conceptually, *fiqh* and *ushūl fiqh* have recognized the method of interaction with reality (*at-ta'āmul ma'a al-wāqī'*) as stated in legal maxims such as; *al-'ādah mubakkamah* (customs as a source of law), or the well-known rule of *taghayyur al-abkām bi taghayyur al-aẓmān* (laws can change according to changing times), and so on. Rules like these provide several chances for jurists to practice *ijtihād* to produce a legal product that is valuable to a society based on where and when they live.

³⁶Ibn Hajar Al-'Asqalāni, *Tabdī' Al-Tabdī'īb* (Beirut: Dār al-Fikr, 1984).Juz. XI, page. 45, Bandingkan Syams al-Dīn Al-Dzahabi, *Mīzān Al-'Itidāl* (Beirut: Dar al-Ma'rifah, 1963).Page. 301

³⁷Ibn Hajar Al-'Asqalāni, *Al-Ishābah Fī Tamayyuz Al-Shahābah* (Beirut: Dar al Kutub al Ilmiyah, n.d.).Juz. VIII, page. 268.

³⁸Moh Ali Wafa, "Telaah Kritis Terhadap Perkawinan Usia Muda Menurut Hukum Islam," *Abkam: Jurnal Ilmu Syariah* 17, no. 2 (2017): 389–412, <https://doi.org/10.15408/AJIS.V17I2.6232>.

³⁹Amir Syarifudin, *Meretas Kebekuan Ijtihad* (Jakarta: Ciputat Press, 2006).page. 66 dan Hasbi Ash-Siddiqy, *Pengantar Hukum Islam*, II (Jakarta: Bulan Bintang, 1975). Page. 234

⁴⁰Ibn Hajar al Astqolani, "Fath Al Bari Bi Syarh Shahih Al Bukhari" (Beirut, Libanon: al Risalah al Alamiyah, n.d.).Juz. IX, page. 190

Maqashid Marriage and Its Relation to the Ideal Age of Marriage

Usamah al-Qahthâni et al. assert that marriage in Islam has at least three main objectives (maqâshid), namely achieving peace and happiness (al-sakan), obtaining offspring (al-tawalud) and maintaining self-purity (al-ta'afuf).⁴¹

In relation to determining the ideal age for marriage, these three goals can be described as follows:

1. *Al-Sakan*

Happiness and peace of life (al-sakan) within the framework of a harmonious household is the noble goal of marriage as stated in the word of Allah surah al-Rûm verse 21 which reads:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

The content of the verse above is in line with the norms asserted in Law number 16 of 2019 concerning amendments to Law Number 1 of 1974 chapter I article 1 that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of building a family (household) that is happy and eternal based on Belief in the One and Only God.

Calmness and harmony are closely related to the implementation of the things and responsibilities of each husband and wife. Thus, Rasulullah SAW gives advice on marriage by associating it with ability (al-bâ`ah). This is confirmed in the hadith

يَا مَعْشَرَ الشَّبَابِ مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتْرُجْ فَإِنَّهُ أَغْضُ لِلْبَصْرِ وَأَخْصَنُ لِلْفَرْجِ وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ. (رواه مسلم)⁴²

Fiqh scholars mention that there are times when marriage is not recommended, for example in conditions; first, someone who has no desire to get married, could be seen from his nature, or because he is sick, or because he is unable to provide a living even though in marriage there is an obligation to provide a dowry and a living. For this condition it is forbidden to marry; secondly, being busy with worship or studying knowledge so that it is feared that marriage could make him neglect it, even though from a financial point of view he is already able to get married. For the second condition, it is better not to get married because there are big benefits.⁴³

The description above illustrates that the recommendation to get married is closely related to the ability requirements, both physical and

⁴¹ Usâmah bin Sa'îd Al-Qahthâni, *Al-Fiqh Al-'Am* (Riyadh: Dâr al-Fadhilah, 2012). Juz. III, page. 281

⁴² Al-Naysaburiy, *Shahih Muslim*. Juz 4, page. 128, hadis 3464 dan 3466.

⁴³ Ali al-Syurbajiy Musthofa al-Khinn, Musthofa al-Bugho, *Al-Fiqhu Al-Manhajiy 'Alâ Madzhab Al-Imâm Asy Syafî'i* (Damaskus: Dâr al-Qalam, 1992). Juz. IV, page. 18-19

psychological readiness in order to carry out household responsibilities and duties. This ability in general can only be done by adults. On the other hand, Islam prohibits singleness (tabattul) unless there is a reason that is syar'i.

Another hadith indicates that marriage is closely related to responsibility, where a husband is responsible for providing for the family and the wife is responsible for running a good household. Rasulullah saw. said;

أَلَا كَلُّكُمْ رَاعٍ ، وَكَلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ ، فَالْأَمِيرُ الَّذِي عَلَى النَّاسِ رَاعٍ وَهُوَ مَسْئُولٌ عَنْ رَعِيَّتِهِ ، وَالرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ وَهُوَ مَسْئُولٌ عَنْهُمْ ، وَامْرَأَةُ الرَّجُلِ رَاعِيَةٌ عَلَى بَيْتِ بَعْلِهَا وَوَلَدِهِ وَهِيَ مَسْئُولَةٌ عَنْهُمْ ، وَالْعَبْدُ مَسْئُولٌ عَلَى مَالِ سَيِّدِهِ وَهُوَ مَسْئُولٌ عَنْهُ ، أَلَا وَكَلُّكُمْ رَاعٍ وَكَلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ⁴⁴

The implementation of responsibilities as in the hadith above can only be undertaken if the bride and groom are mature and mature in thinking and acting. In relation to other texts, Allah SWT stated:

وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَامًا. (سورة النساء: ٥)

The content of the verse above prohibits Muslims from handing over important matters, such as finances, power or family management to someone who is not yet an adult. While marriage is a big business that demands maturity more than just taking care of property, because of that the demands of maturity in marriage are certainly more priority.

The urgency of maturity is closely related to the concept of marriage as a lifetime commitment that requires mature mental, emotional and financial readiness. Maturity is a factor for his body's ability to appreciate and understand a partner. This means not only being able to see things from your own point of view, but also being able to understand your partner's perspective and being willing to work together to solve problems.⁴⁵

Moreover, considering that conflict in marriage is unavoidable. Therefore, maturity in marriage is needed so that husband and wife are able to manage conflict in a healthy and mature way, such as by good communication and joint problem solving. In order to prepare for marriage, it is important to develop maturity and the ability to face the challenges of living with a partner. This involves learning from experience, broadening one's horizons through reading and learning from the experiences of others.

Whereas, in the term of developmental psychology, it is explained that those under the age of 18 are an age that is not ready and immature to start a

⁴⁴ Abu Abdillah Muhammad bin Isma`il Al-Bukhariy, *Shahih Al-Bukhariy* (Beirut: Dar al-Fikr, 1992). page. 134.

⁴⁵ Asman, "Pernikahan Di Bawah Umur Akibat Hamil Di Luar Nikah Dan Dampak Psikologis Pada Anak Di Desa Makrampai Kalimantan Barat."

household, they are still under the protection of their parents.⁴⁶ According to Yūsuf Mūsa, the age of puberty is after a person is 21 years old. Before that age, prospective husband and wife need to prepare themselves as well as possible, so that at that age a person is mature physically, mentally perfect, and can be accepted as a member of society as a whole. This indicates that before they are 21 years old or to be precise, since they are 19 years old, the prospective husband and wife can already be given a number of tasks.⁴⁷

It is undeniable that underage marriage is often considered a way out of promiscuity, especially for young couples who have fallen into pregnancy outside of marriage, even though the child has not been able both materially and psychologically to have a good household.⁴⁸ However, the low age of marriage will cause things that are not in line with the mission and goals of marriage in creating peace in the household based on love. The goal of an eternal and harmonious household will be difficult to achieve if each of the bride and groom (husband and wife or one of them) is not yet mature physically and mentally. Maturity and stable personal integrity will be very influential in solving any problems that arise in the face of ups and downs at household.⁴⁹

Dealing with the results of research by Humanitarian Organizations on child protection, as many as 44% of girls who marry at an early age experience domestic violence (domestic violence) with a high frequency, on the other hand 56% of girls experience domestic violence at a low frequency. In addition to the high rate of Domestic Violence (KDRT), early marriage also has an impact on girls' reproductive health. Girls aged 10-14 years are 5 times more likely to die during pregnancy or childbirth than women aged 20 to 25 years. If the child is 15-19 years old, it is twice as likely. Are we willing if children are underage to risk their lives to give birth because they are not ready to go through the storms of the household. Medically, underage marriages are very risky because they are too young and prone to bleeding, anemia, and complications during childbirth.⁵⁰

Apart from that, young marriage can increase the form of family breakdown, household instability and economic vulnerability so that it can be one of the causes of divorce. Medically, the risk of marriage at a young age is the unprepared means of reproduction, such as the risk of cervical cancer, uterine cancer, breast cancer and many other diseases that can endanger health..⁵¹

⁴⁶ E. B. Hurlock, *Psikologi Perkembangan; Suatu Pendekatan Sepanjang Rentang Kehidupan*, Terj. Istiidayanti Dan Soedjarwo (Jakarta: Erlangga, 1999). page. 206-207.

⁴⁷ Ash-Siddiqy, *Pengantar Hukum Islam*. page. 240.

⁴⁸ Asman, "Pernikahan Di Bawah Umur Akibat Hamil Di Luar Nikah Dan Dampak Psikologis Pada Anak Di Desa Makrampai Kalimantan Barat."

⁴⁹ Sri Handayani Hanum, *Perkawinan Usia Belia*.

⁵⁰ Rohman, "Batas Usia Ideal Pernikahan Perspektif Maqasid Shariah."

⁵¹ Aripurnami, *Perempuan Dan Pemberdayaan*. page. 65.

Thus, psychological readiness is the main reason for postponing marriage. Psychological readiness is defined as individual readiness in carrying out the role of husband or wife, including knowledge of their respective duties in the household. Therefore psychological readiness is needed in entering married life so that the couple is ready and able to deal with various problems that arise in a wise way, not easily confused and hopeless. Couples who have good maturity tend to be better able to solve problems and deal with challenges in their relationship in a more constructive and effective way.

At the age of 20-24 years, a teenager starts early adulthood, where at this time adolescents are approaching a period of physical and emotional maturity. In addition, the younger the age of marriage, the lower the level of education achieved by adolescents or conversely, the lower the education of adolescents, the more likely they are to marry at a young age. In general, marriage at a young age has a causal relationship with poverty. Families with low economic conditions have a tendency to marry off their children at an early or young age. On the other hand, teenagers who marry at a young age often experience economic difficulties. The impact of marriage at a young age makes it difficult for families, communities and even countries to get out of poverty.⁵²

Alī Husayn Muḥammad Makkī al-Amīlī argues that marriage at a young age will affect the life of the couple, the family environment of each party and the social environment in which they live. The behavior of young couples is based on their strong thoughts and feelings, and wish for various pleasures after marriage. It turned out that they faced a lot of other realities that were very contrary to their previous experience, and caused a lot of preoccupation and anxiety.⁵³

Individuals who marry in their teens experience emotional changes due to a change in status from single to married. Although this change does not work properly. Marriage readiness is needed in building a marriage, because in a marriage a commitment is needed between husband and wife so that harmonious communication and coordination can be established in a household.⁵⁴

2. *Al-Tamâlud*

The aim of obtaining offspring is indicated by Allah in the Al-Qur'an Surah Al-Nahl verse 72 which reads:

⁵²Teguh Anshori, "Analisi Usia Ideal Perkawinan Maqasid Syari'ah," *Journal of Chemical Information and Modeling* 53, no. 9 (2019): 1689–99..

⁵³Ali Husain Muhammad Makki Al-'Amili, *Al-Tbalaq Khata'u Man* (Beirut: Muassasah al-Urwah al-Wutsqa al-Kasani, n.d.). Juz.VII, page. 49

⁵⁴Achmad Asrori, "Batas Usia Perkawinan Menurut Fukaha Dan Penerapannya Dalam Undang-," 1982.

وَاللَّهُ جَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُمْ مِنْ أَزْوَاجِكُمْ بَنِينَ وَحَفَدَةً وَرَزَقَكُمْ مِنَ الطَّيِّبَاتِ أَفَبِالْبَاطِلِ يُؤْمِنُونَ
وَيَنْعَمَتِ اللَّهُ لَهُمْ يَكْفُرُونَ

And Allah made for you a partner (husband or wife) from your own kind and made children and grandchildren for you from your partner, and gave you sustenance from good. Why do they believe in falsehood and deny Allah's favor?

Ibn al-Qayyim al-Jauziyyah (d. 751H) describes that sexual relations contained in marriage bonds have at least three main purposes (maqâshid ashliyyah), namely: First, protecting offspring (hifzh al-nasl) through sexual relations, so that human existence on this earth will always be maintained throughout the ages until the time determined by Allah swt. Second, secrete fluid (*sperm/cum*) which is dangerous if it remains stuck in the body. Ibn al-Qayyim cites the views of health experts who say that jima' is one of the activities to maintain health. Sperm that are stuck in the body will cause many physical and mental illnesses, such as anxiety (depression, anxiety), stress/crazy, epilepsy and so on. Therefore, once in a while the body will naturally expel it through wet dreams (*ibtilâm*). Third, channeling lust (*qadbâ` al-wathar*) and achieving delicacy and enjoyment (*nail al-ladzdzah wa al-tamattu'*).⁵⁵

The offspring to be achieved in marriage are not just legitimate offspring, but also of quality, both physically and mentally. Usually this can be realized if the marriage of both parents is also carried out in a quality manner, where both parents have mental readiness and maturity in educating children. Wrong parenting of immature parents will result in the emergence of weak offspring which is hinted at in the word of Allah SWT in sura al-Nisa (4): 9;

وَلْيَحْضِرَ الَّذِينَ لَوْ تَرَكَوْا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعْفًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا سَدِيدًا

Let the guardians be as concerned 'for the orphans' as they would if they were to 'die and' leave 'their own' helpless children behind. So let them be mindful of Allah and speak equitably.

This description at least indicates that if a marriage occurs in the teens it will cause immaturity in reproductive matters. This is caused by the immaturity of the sex organs of both male and female adolescents. Even though they can get pregnant and give birth, the children that are born are not of good quality, because the series of childbearing is caring for them. That is, maturity in marriage is very important to produce quality offspring as the realization of the purpose of marriage.

⁵⁵ Muhammad ibn al-Qayyim Al-Jauziyyah, *Zâd Al-Ma'ad Fi Hady Khair Al-'Ibad* (Beirut: Muassasah al-Risalah, 1994). Juz IV, hal 228.

3. *Al-Ta'afuf*

Marriage aims to maintain self-purity so as not to fall into despicable acts. Within the framework of marriage, religious maintenance (*hifzh al-dîn*) will be realized because someone who is married does not fall into the act of adultery, namely the channeling of sexual desires illegally. As a human *dharûri* need, marriage is the only institution that facilitates this need in an honorable and dignified manner. Therefore, some jurists state that marriage can become obligatory if a person is able to marry and is worried that he will fall into adultery if he does not marry immediately.⁵⁶

Through merely marriage can halal to do sexual relations. Sexual relations are a *wasîlah* for humans in order to realize some of the objectives of the Shari'a (*maqâshid syari'ah*), both primary (*maqâshid ašliyyah*) and secondary (*maqâshid tabi'ah*). As for *maqâshid ašliyyah*, what one wants to achieve includes safeguarding one's religion so that one does not fall into adultery (*hifz al-dîn*), maintaining the continuity of mankind (*hifz al-nasl*) and safeguarding the safety of the soul to avoid dangerous diseases (*hifz al-nafs*). Further, husband and wife sexual relations also have secondary goals (*maqâshid tabi'ah*) such as obtaining biological pleasure, increasing domestic intimacy and so on.⁵⁷

Islam views sexual relations as not just the distribution of biological needs which are devoid of value, but Islam views lawful sexual relations between husband and wife as a form of worship (*hifzh al-dîn*). Rasulullah saw. explained:

فِي بُضْعِ أَحَدِكُمْ صَدَقَةٌ قَالَ: قَالُوا: يَا رَسُولَ اللَّهِ، أَيَّانِي أَحَدُنَا شَهْوَتُهُ يَكُونُ لَهُ فِيهَا أَجْرٌ؟ قَالَ: أَرَأَيْتُمْ لَوْ وَضَعَهَا فِي الْحَرَامِ، أَكَانَ عَلَيْهِ فِيهَا وَزْرٌ؟ وَكَذَلِكَ إِذَا وَضَعَهَا فِي الْحَلَالِ، كَانَ لَهُ فِيهَا أَجْرٌ.⁵⁸

The hadith above contains the substance that sexual intercourse between husband and wife is worship as an argumentum a contrario to adultery. In other words, sexual relations are prescribed as a deterrent for humans from falling into adultery. This is one of the great *maqâshid* to be achieved from a marriage which includes the sexual activity of husband and wife. Fatimah Mernissi, an Islamic feminist from Morocco, calls this goal a protective device against adultery⁵⁹

⁵⁶ Sayyid Sâbiq, *Fiqh Al-Sunnah* (Beirut: Dâr al-Kitab al-'Arabi, 1977). Juz II, hal 15

⁵⁷ Zikri Darussamin, "Marital Rape Sebagai Alasan Perceraian Dalam Kajian Maqâshid Syari'ah," *Al-Ahwal* 12, no. 1 (2019): 84–98, <https://ejournal.uin-suka.ac.id/syariah/Ahwal/article/view/1727/1599>.

⁵⁸ Al-Naysaburiy, *Shahih Muslim.*, Juz. II, page. 697; Ahmad Ibn Hambal Al-Syaibani, *Musnad Ahmad Ibn Hambal* (Beirut: Muassasah al-Risalah, 2001). Juz. XXXV, page. 376.

⁵⁹ Fatima Mernissi, *Beyond The Veil; Male-Female Dynamics in Modern Muslim Society* (Bloomington: Indiana University Press, 1987). page. 59.

This aim will be difficult to achieve if sexual intercourse is carried out at a time when the reproductive organs in children are immature resulting in health problems in marriage, from sexual intercourse to childbirth and weaning. Both male and female sex organs reach their mature size in late adolescence, around the age of 21 or 22. Therefore, marriages carried out in their teens are not a healthy reproductive period, because the sex organs have not yet matured. Women in their teens are physiologically able to get pregnant and give birth, but at that age is actually medically and psychologically not mature enough to raise children.⁶⁰

Another negative impact on men and women who marry in their teens is that the median age at first marriage for women greatly affects the population situation, especially fertility. Fertility is the ability of a woman to give birth to a live baby. Women who marry at a young age will have a longer time span against the risk of getting pregnant, so that marrying at a young age also has an impact on the fertility rate in society. The younger the age of a person's marriage, the longer the reproductive fertile period will be spent in the marriage bond.⁶¹

Based on the description above, the determination of the minimum age for marriage as referred to in Article 7 verse (1) of Law Number 16 of 2019 above is in line with the concept of *mashlahah mursalah*, where a legal rule is formulated to bring benefit and reject badness.⁶² Holding a marriage at a young age can cause *mafsadah* which has bad consequences for the perpetrators of marriage, both physically, psychologically, health, mentally and socially.

Conclusion

Regarding to description above, it can be concluded that the institution of marriage in Islam is the only institution that legalizes sexual relations as a *dharuri* need for every human being which can only be carried out in a *halal* corridor. Within the framework of marriage, maintenance of religion (*hifz al-din*) will be realized due to someone who is married does not fall into adultery. Apart from that, marriage also maintains the continuity of humanity (*hifz al-nasl*) by the birth of children in marriage, besides being an institution where affection is expressed, biological pleasures are obtained and so on. In order to achieve these goals, the maturity factor, as well as physical and mental maturity before getting married is very important, because the marriage bond is closely related to responsibility. Carrying out underage marriages will cause *mafsadah* so that the expected *maqashid* of marriage cannot be realized. Underage marriages have a negative impact on health, fertility, and have negative social impacts such

⁶⁰ Mernissi, page. 206

⁶¹ Anshori, "Analisi Usia Ideal Perkawinan Maqasid Syari'ah.", page. 132

⁶² Abū Ishāk Al-Syāthibī, *Al-Muwāfaqat Fi Ushul Al-Syari'ah* (Beirut: Dār al-Ma'rifah, 1975). Volume III, page. 6

as being vulnerable to domestic violence to high divorce rates. Thus, the age limit of 19 years as the ideal age for marriage in Law Number 16 of 2018 is a step that is in line with the *maqashid* of marriage.

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