

Contextualization of Hadith on the Recommendation of Marriage and Its Relevance to the Legal Age of Marriage in Indonesia

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Abstract: Determination of the age of marriage in Indonesia from 19 years for men and 16 years for women to 19 years for men and women is considered contrary to Islamic law, especially the hadith advising marriage. This study aims to confirm that the hadith advocating marriage has a connection with setting the age limit for marriage in Indonesia. This research is qualitative research using the approach to understanding the hadith, namely by understanding the meaning of the hadith about the recommendation to marry, then it is analyzed using a statutory approach, namely (statute approach) and other approaches. The data were obtained from hadith books, applicable laws in Indonesia, and other data such as journals and other articles related to this paper. The results of the research explain that the hadith advocating marriage is relevant to the age limit for marriage in Indonesia. The hadith advising youth to marry means youth between the ages of 16 and 30. The word *ba'ah* (able) in the hadith is understood by scholars as the ability to perform *jima'* (sexual intercourse) and the cost of marriage. The ability to have sexual intercourse is interpreted in a broad sense, namely being able to have sex and bear the consequences of that sexual relationship (to have children). Being able to afford a wedding is interpreted as the economic ability of the family and those related to the family economy. If it is related to the age that is "able," according to this hadith in Indonesian culture, are those who have graduated from high school, that is, at least 19 years old.

Keywords: *Hadith; Recommendation for Marriage; Age of Marriage; Indonesia.*

Abstrak: Penetapan usia menikah di Indonesia dari usia laki-laki 19 tahun dan perempuan 16 tahun menjadi laki-laki dan perempuan 19 tahun dianggap bertentangan dengan hukum Islam, terutama hadis anjuran menikah. Penelitian ini bertujuan untuk menegaskan bahwa hadis anjuran menikah mempunyai kaitan dengan menetapkan batas usia menikah di Indonesia. Penelitian ini adalah penelitian kualitatif dengan menggunakan pendekatan pemahaman hadis yakni dengan memahami makna hadis tentang anjuran menikah, selanjutnya dianalisis dengan pendekatan perundang-undangan yakni (*statute approach*) dan pendekatan lainnya. Data diperoleh dari kitab-kitab hadis, perundang-undangan yang berlaku di Indonesia, dan data lain seperti jurnal, artikel lain yang berkaitan dengan tulisan ini. Hasil penelitian menjelaskan bahwa hadis anjuran menikah memiliki relevansi dengan batas usia menikah di Indonesia. Hadis tentang anjuran menikah kepada pemuda maksudnya adalah pemuda dalam rentang usia 16 sampai 30 tahun. Sedangkan lafaz *ba'ah* (mampu) dalam hadis dipahami oleh para ulama adalah kemampuan untuk melakukan *jima'* (hubungan seksual) dan biaya pernikahan. Kemampuan hubungan seksual dimaknai dengan arti luas yaitu mampu melakukan seksual dan menanggung akibat dari hubungan seksual tersebut (mempunyai keturunan). Mampu membiayai pernikahan dimaknai dengan kemampuan ekonomi keluarga dan yang berhubungan dengan ekonomi keluarga. Bila dihubungkan dengan usia yang "mampu" menurut hadis tersebut dalam budaya Indonesia adalah mereka yang sudah tamat sekolah menengah atas yaitu minimal 19 tahun.

Kata kunci: *Hadis; Anjuran Menikah; Usia Menikah; Indonesia.*

INTRODUCTION

The Nash Qur'an and hadith do not specify the minimum age at which a person can marry. The Qur'an specifies that the limit of marriage when it is mature indicates the maturity of the soul.¹ determining the maturity of marriage age is increasingly important,² to maintain the continuity of marriage,³ because it influences the success of the household. People who have matured physically and mentally may not necessarily be able to cultivate and establish a perfect home, let alone young people who have yet to develop. Without maturity, problems that arise in the household will be addressed with emotion. The key to a successful marriage requires maturity in terms of physical, mental, and emotional prospective husbands and prospective wives who will or want to hold a wedding.⁴

The Prophet SAW has mentioned that the advice to marry applies to anyone because it is hoped that by marrying, Muslims can perfect half of their religion and abstain from immoral acts. By carrying out marriage, one can better protect themselves and their honor.⁵ This Islamic exhortation to marry is shown to anyone who already has the ability. Ability here can be interpreted in two ways, namely being able to materially and spiritually so that those who have been able to marry are encouraged to be able to guard themselves against actions contrary to religious law. But nowadays, many marry at an early age based on the Qur'an and hadith, as if making Islam a legitimate to encourage marriage at an early age without regard to ability; there is even a writing that explains that the raising of the Age of marriage in Indonesia to 19 years is not by the hadith of the Prophet who recommends marriage, so this will cause a lot of adultery. If viewed contextually, the hadith does not mean so. This paper will explain the hadith advice for marriage and its relevance to the age limit for marriage in Indonesia as stipulated in Law number 16 of 2019 concerning amendments to Law number 1 of 1974 concerning marriage; in paragraph 1 of Law number 16 of 2019 it is stated that the

¹ Rafiah Septarini STIS Hidayatullah Balikpapan, 'Jurnal Ulumul Syar'i, Juni 2019', *Jurnal Ulumul Syar'i*, 8.1 (2019) <<https://ejournal.stishid.ac.id/index.php/uls/article/download/68/44/186>>. 50

² Surmiati Ali, 'Perkawinan Usia Muda Di Indonesia Dalam Perspektif Negara Dan Agama Serta Permasalahannya', *Jurnal Legislasi Indonesia*, 5.10 (2015), 1-28 <<https://ejournal.peraturan.go.id/index.php/jli/article/view/405/0>>.m6

³ Aditya Risky Dwinanda, Anisa Catur Wijayanti, and Kusuma Estu Werdani, 'Hubungan Antara Pendidikan Ibu Dan Pengetahuan Responden Dengan Pernikahan Usia Dini', *Jurnal Kesehatan Masyarakat Andalas*, 10.1 (2017), 76 <<https://doi.org/10.24893/jkma.v10i1.166>>. 77

⁴ Dewi Iriani, Analisa Terhadap Batasan Minimal Usia Pernikahan Dalam Uu. N0.1 Tahun 1974, *Jurnal Justitia Islamica*, Vol.12/No.1/Jan—Jun,2015, 135

⁵ In Tanshurullah, 'Hadis Anjuran Menikah Kepada Pemuda (Menela'ah Hadis Dari Perspektif Psikolog)', *Skripsi*, UIN Syarif (2019), 50–51.1

age limit for marriage for men and women is each 19 years which, In the previous rules, the Age for women to marry was set at 16 and men at 19.

Previous studies on the age limit for marriage in Indonesia have been conducted by many researchers, including the *first* study on the importance of setting the Age of marriage. This study explains the importance of the age limit for marriage for adolescents from various aspects, including Vide Bahtera Dinastiti and Susanti Tria Jaya⁶, and Mardiana Dwi Puspitasari, Sri Lilestina Nasution and Chairunnisa Murniati (2021).⁷ The *second* study is the Age of marriage according to regulations in Indonesia. This study explains the rules for determining the Age of marriage in Indonesia and its amendments. This study was represented by Riska Yunitasari and B. Rini Heryanti (2021).⁸ The *third* study, Age of Marriage, according to Islamic law. This study describes the rules of marriage according to Islamic law, both from the Qur'an and hadith and the opinions of scholars. Among them was research by Abdul Gaffar, M. Ali Rusdi, Akbar Akbar,⁹ Winceh Herlena, and Muh. Muads Hasri,¹⁰ Faishol Jamil,¹¹ and Pitrotussaadah and Mimin Mintarsih.¹² This research combines the three studies above, namely the study of Nash (Al-Qur'an and Hadith), Indonesian positive law, and its relation to the benefits of the established law.

This study delves into hadith about the advice to marry, understood from the book of hadith from hadith scholars. Furthermore, this understanding is synchronized with the prevailing laws and regulations in Indonesia, specifically Law number 16 of 2019 concerning amendments to Law number 1 of 1974 concerning marriage as legislation in force in Indonesia. Furthermore, the cause of

⁶ Vide Bahtera Dinastiti and Susanti Tria Jaya, 'Peningkatan Pengetahuan Tentang Pendewasaan Usia Perkawinan Dan Hak-Hak Reproduksi Bagi Remaja Di Desa Ringinpitu Kecamatan Plemahan Kabupaten Kediri', *Journal of Community Engagement in Health*, 3.2 (2020), 233-38 <<https://doi.org/10.30994/jceh.v3i2.71>>. 233.

⁷ Mardiana Dwi Puspitasari, Sri Lilestina Nasution, and Chairunnisa Murniati, 'Determinan Perencanaan Pendewasaan Usia Perkawinan Pada Remaja 10-19 Tahun Di Indonesia: Analisis SKAP KKBPK Tahun 2019', *Jurnal Keluarga Berencana*, 6.02 (2021), 21-34 <<https://ejurnal.bkkbn.go.id/kkb/article/view/82/47>>. 21.

⁸ B Rini Heryanti and Batas Usia, 'Implementasi Perubahan Kebijakan The Implementation Of Policy Changed Related To', 6.April (2021), 120-43. 141.

⁹ Abdul Gaffar, M Ali Rusdi, and Akbar Akbar, 'Kedewasaan Usia Perkawinan Perspektif Hadis Nabi Muhammad Dengan Pendekatan Interkoneksi Masalah', *Al-Manahij: Jurnal Kajian Hukum Islam*, 15.1 (2021), 83-98 <<https://doi.org/10.24090/mnh.v15i1.3731>>.84

¹⁰ Winceh Herlena and Muhammad Muads Hasri, 'Tafsir Qs. An-Nur 24:32 Tentang Anjuran Menikah (Studi Analisis Hermeneutika Ma'na Cum Maghza)', *Jurnal Tafseer*, 9.1 (2021), 122-38 <<https://doi.org/10.24252/jt.v9i1.30989>>. 205.

¹¹ Faishol Jamil, 'Pembaharuan Batas Usia Perkawinan Dalam Undang- Undang Nomor 16 Tahun 2019 Perspektif Maqâshid Al- Syari'ah', 5.2 (2021), 1-15.1

¹² Mimin Mintarsih and Pirotu Ssa'adah, 'Batas Usia Minimal Perkawinan Menurut Perspektif Hukum Positif Di Indonesia Dan Hukum Islam', *Muttaqien; Indonesian Journal of Multidisciplinary Islamic Studies*, 1.1 (2020), 74-84 <<https://doi.org/10.52593/mtq.01.1.05>>. 74.

the change was traced from various sources. Another source that is no less important is data from multiple expert opinions on the importance of determining the Age of marriage, aspects of health, economics, sociology, and others. Among them are journals on reproductive health, sociology journals, family economics, and family welfare. The collected data is analyzed by qualitative analysis. The analysis was conducted after presenting primary data sources from hadith and legislation. Analysis of the content or contextual meaning of hadith from various opinions of scholars, especially scholars of hadith and fiqh. The data is linked to the sociological conditions of Indonesian culture and other aspects of the progressive application of law or mashallah for the people.

This research explains that Islamic law, especially hadith, is dynamic and contextual. Understanding the hadith only textually will narrow the mind to the meaning of Islamic law. That Islamic law was revealed for the benefit of the Ummah. Neglecting early marriage for teenagers brings Prosperity to them, especially for women and children born. So, the law that brings recognition to the Ummah differs from Islamic law. For the discussion to be more measurable and directed, the author focuses this research on the study "Contextualization of hadith advice for marriage and its relevance to the age limit for marriage in Indonesia." The results of this research are expected to provide theoretical and practical benefits. Theoretically, this research is expected to enrich the treasures of science. At the same time, practically, it can be applied in providing understanding to the public so as not to misunderstand the hadith of the recommendation for marriage, which is only understood from textual and then ignores the contextual hadith.

DISCUSSION

Position and Meaning of Hadith Advice for Marriage

Prophet Muhammad is a role model for Muslims in all areas of life because he is an Apostle who brought the Sharia of Allah to humanity. What was said, done and stipulated by the Prophet SAW became a legal provision for his people, even though it became the second source of law after the Qur'an called hadith.¹³ The position of hadith as the second source of direction after the Qur'an can be seen from the validity of hadith as a source of law, which is meant by the validity hadith (*hujjiyah-al-hadis*), is the condition of hadith that must be used as a validity or legal basis (*al-dalil al-syar'i*), because there are postulates that show it, then in terms of position (*al-manzilah*) and the function of hadith to the Qur'an is as an

¹³ M.Fatikhun, 'Implementasi Hadits Tentang Pernikahan Usia Anak Dikaitkan dengan Tujuan Syari'at Pernikahan,' *Jurnal Kajian Keislaman*, 10 (2022).25

explanation of the Qur'an,¹⁴ because the Qur'an will be difficult to understand without using hadith.¹⁵ So that the two become an integral whole.¹⁶ As the second source of law after the Qur'an, the hadith is a legal provision that Muslims should carry out in all aspects of good life, worship, social, economic, and marriage.¹⁷

Marriage is a behaviour of the Prophets practised as an example for the people, in addition to guidance and human needs. So, in the case of marriage, there should be the intention of following in the footsteps of the Prophet SAW, having children, guarding the genitals and honour against despicable deeds, and maintaining diversity in general.¹⁸ The hadith that is used as the basis for the advice to marry in this paper is the hadith exhortation to marry narrated by Imam Bukhari. Imam Bukhari narrated this hadith from Umar bin Hafsh, from his father, from Al A'Masy, from Ibrahim, from Alqamah, and from Abdullah. The Ibrahim in question is An-nakha'i. This sanad is the most shahih sanad¹⁹ hence the hadith recommending marriage is as follows:

حَدَّثَنَا عُمَرُ بْنُ حَفْصٍ حَدَّثَنَا أَبِي حَدَّثَنَا الْأَعْمَشُ قَالَ حَدَّثَنِي إِبْرَاهِيمُ عَنْ عَلْقَمَةَ قَالَ كُنْتُ مَعَ عَبْدِ اللَّهِ فَلَقِيَهُ عُثْمَانُ بِيَمِي فَقَالَ يَا أَبَا عَبْدِ الرَّحْمَنِ إِنَّ لِي إِلَيْكَ حَاجَةً فَخَلَوْا فَقَالَ عُثْمَانُ هَلْ لَكَ يَا أَبَا عَبْدِ الرَّحْمَنِ فِي أَنْ نَزُوجَكَ بِكُرًا تُدَكِّرُكَ مَا كُنْتُ تَعْهَدُ فَلَمَّا رَأَى عَبْدُ اللَّهِ أَنْ لَيْسَ لَهُ حَاجَةٌ إِلَى هَذَا أَشَارَ إِلَيَّ فَقَالَ يَا عَلْقَمَةُ فَانْتَهَيْتُ إِلَيْهِ وَهُوَ يَقُولُ أَمَا لَئِنْ قُلْتَ ذَلِكَ لَقَدْ قَالَ لَنَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَا مَعْشَرَ الشَّبَابِ مَنْ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ

"Has told us Umar bin Hafsh Has told us my father Has told us Al A'masy he said; Having told me, Ibrahim of Alqamah, he said; I was with Abdullah, and Uthman met him in Mina. Uthman said, "O Abu Abdur-Rahman, I have a hajat for you." So, the two talked one-on-one. Uthman asked, "Do you, O Abu Abdur-Rahman, we marry a girl who will remind you what you are doing?" So when Abdullah saw that he had no desire for this, he beckoned to me, saying, "O 'Alqamah." So I immediately headed towards him. He said, "If you say that, then surely the Prophet (peace and blessings of Allaah be upon him) has said

¹⁴ Abdul Wahab Syakhrani and Hidayah Hidayah, 'Kedudukan Hadist Dalam Pembentukan Hukum', *MUSHAF JOURNAL: Jurnal Ilmu Al Quran Dan Hadis*, 3.1 (2022), 24–31 <<https://doi.org/10.54443/mushaf.v3i1.85>>. 26.

¹⁵ Muhamad Ali and Didik H, 'Peran Hadits Sebagai Sumber Ajaran Agama, Dalil-Dalil Kehujjahan Hadits Dan Fungsi Hadits Terhadap Alquran the Role of Hadis As Religion Doctrine Resource, Evidence Proof of Hadis and Hadis Function To Alquran', *Jurnal Pendidikan Dan Studi Islam*, 5.1 (2019), 125–32, 127. <<https://doi.org/10.5281/zenodo.3551298>>. 127.

¹⁶ Tasbih, 'Kedudukan Dan Fungsi Hadis Sebagai Sumber Hukum Islam Tasbih', *Al-Fikr*, 14 (2010), 331–41. 331.

¹⁷ M.Fatikhun. 25.

¹⁸ Firman Arifandi, 'Serial Hadist Pernikahan 1: Anjuran Menikah Dan Mencari Pasangan', *Rumah Fiqih Publishing*, 2018, 20.12

¹⁹ Ibnu Hajar Al-Asqalani, *Fathul Baari Penjelasan Kitab Shahih Bukhari*. 15.

to us: "O young men, whoever among you has the ability, let him marry, and whoever is not able, let him fast because it will be more able to ease his turmoil." (HR. Bukhari-4677).²⁰

The meaning of *ya ma'syara ash-shabaab* (O young men). The word '*ma'syara*' is a group and can be used as a trait for everything. As for '*syabbab*', the plural form of the word '*syabbab*', sometimes the plural forms are *shababah* and *syubban*. According to Al-Azhari, there is no word with the pattern of *faa'il* whose plural follows the pattern of *fu'aal* other than this word. The basic meaning of the word *Shabab* is movement and spirit. This name is used for people who have reached puberty until reaching the age of 30 years, according to Shafi'i scholars.²¹

Al-Qurthubi said in the book *al-Mufhim* quoted from Fathul Baari, "A person is said to be 'hadith' (teenager) until reaching the age of 16 years. Then it is called '*shaabb* (youth) until it reaches the age of 32 years, after which it is called 'kahl (old man). Similar to Al-Zamakhshari's statement about '*Shabab* (youth), that is, from puberty to the age of 32 years. According to Ibn Syas Al-Maliki in the book *al-Jawahir*, a person's age is called youth up to 40 years. An-Nawawi said, "The most correct and chosen opinion is that a man is called a young man from puberty to close to 30."²²

Manis tatha'a minkumul baa'ah (Whoever among you is able *al baa'ah*). The commandment in this hadith is specific to young people because the urge to marry is generally more in them than in their parents. However, this is still true for parents as long as the cause is still in them. (*al baa'ah*) is sometimes read as '*al bah*' and '*al baa'a*' and '*al baahah*'. It is said that when read long, it means the ability to win marriage costs, and when read without a long mark, it means the ability to have intercourse.²³ An-Nawawi said there are two opinions about the meaning of *al baa'ah*, the first of which is to perform *jima'* (intercourse). So the meaning of the hadith is that whoever among you can perform *jima'* (intercourse) and is ready to bear the cost of marriage should marry. Whoever is not able to do *jima'* because he is not prepared to pay the cost of living wants to fast to refuse his martyrdom and prevent the adverse effects of his semen. So based on this, the recommendation to marry is addressed to young people in the peak period of desire for women. The second opinion says '*al baa'ah* means the cost of marriage. He is named after something of a consequence, so the meaning of the hadith is that whoever among

²⁰ Lidwa Pusaka i-Software, 'Lidwa Pusaka I-Software - Kitab 9 Imam Hadist'.

²¹ Al-Asqalani. 19.

²² Al-Asqalani. 20.

²³ Al-Asqalani. 20.

you can bear the cost of the wedding, let him marry, and whoever cannot, then let him fast to resist his impulse.²⁴

It is understood that the meaning of *ba'ah* (able) in the hadith is being able to have marital relations in a broad sense, namely being able to have sexual relations and the consequences of sexual relations. The result of sexual intercourse is having offspring. This means that couples who marry can conceive and maintain the health and well-being of the pregnancy to give birth to a quality generation.

Thus, from the hadith of Ibn Mas'ud narrated by Al-Qamah, several things must be underlined, namely the meaning of '*Shabaab*' and the meaning of *al-baah*. These two meanings must be understood contextually. '*Shabaab*' refers to youth; this meaning is used for people who have reached puberty aged 16 to 30 years old. At the same time, *al-baah* is interpreted as being able to do *jima'* or bear the cost of marriage. The commandment in this hadith is recommended or reserved for young people because the youth are more numerous or have a bigger drive and desire to marry. So it can be interpreted that those who fall into the category of *al-Shabab* in the hadith are not just any youth, in the sense that young people who specifically meet specific criteria²⁵ namely around 16 to 30 years old, must be able. Able in the sense of doing *jima'* or bearing the cost of marriage, namely from an economic point of view.

Age Limit for Marriage According to Fiqh Scholars

Basically, Islamic law does not regulate the age limit for marriage; there is no religious provision about the minimum and maximum age for weddings, which is assumed to provide leeway for humanity to regulate it.²⁶ Islam only requires marriage for a person who has reached puberty. This means that children who have reached puberty are considered adults and allowed to be married off by their parents,²⁷ in religious traditions and fiqh, a person's development from children to adults (*aqil baligh*) becomes an issue in itself. Wet dreams mark adolescence for boys and girls; it is characterized by menstruation or menstruation.²⁸ Therefore, the *Fuqaha* put the age limit as one of the determinants of puberty age.²⁹ Determining the age limit for someone to marry is an important issue because,

²⁴ Al-Asqalani. 21.

²⁵ Ahmad Farid Mawardi Sufyan, 'Analisis Kritis Makna " Al-Syabab Dan Istitha'ah Pada Hadits Anjuran Menikah', *Jurnal Penelitian Dan Pemikiran Keislaman*, 4. 315

²⁶ Mintarsih and Ssa'adah. 81

²⁷ Aristoni Aristoni, Undang Perkawinan, and Umur Pernikahan, 'Kebijakan Hukum Perubahan Batasan Minimal Umur Legal Policy To Change the Minimum Age Limits Of', 4.1 (2021), 393-413 . 394-400

²⁸ Muhammad Saleh Ridwan and I Pendahuluan, 'Perkawinan Di Bawah Umur (Dini)', *Al-Qadau Peradilan Dan Hukum Keluarga Islam*, 2 (2015), 15-30 <<https://journal.uin-alauddin.ac.id/index.php/al-qadau/article/view/2632>>. 18

²⁹ Nur Ihdatul Musyarafa dan Subehan Malik, "", *Jurnal Ilmiah Mahasiswa Perbandingan Madzab*, 1 (2020).707

with this age limit, a person is considered ready for his body and soul to settle down.³⁰

As the concept of maturity developed³¹, the age limit for marriage became a debate among scholars. Scholars determine the age limit for marriage in terms of a person's maturity, both male and female.³² The Shafiyya and Hanabilah groups stipulate that the adulthood of a child begins at the age of 15 years³³, Imam Maliki sets the age of 18 years for both men and women³⁴, while according to Imam Abu Hanifah maturity comes at the age of 19 or 18 years for men and 17 for women.³⁵ The differences between the imams of the madzab regarding the age of puberty are strongly influenced by the environment and culture in which they live. Imam Abu Hanifah lives in Kufa, (Iraq), Imam Malik lives in the city of Medina, Imam Shafi'i lives in various places ranging from Medina, Baghdad, and Hejaz to Egypt, while Imam Ahmad lives in Baghdad.³⁶

Looking at the differing opinions of scholars about the limit of adulthood, it can be understood that the age of marriage is not prescribed in the Qur'an or hadith, and neither explicitly explains what age a person is allowed to marry. The Qur'an sets limits on the permissibility of marriage when you are an adult with an indication of the maturity of the soul and have experienced wet dreams for men and menstrual bleeding for women.³⁷ Although the statement of fiqh does not explicitly reveal the age limit for marriage, it can be seen that fuqaha, in identifying the age of puberty, is oriented towards efforts to achieve benefits that align with Islamic law's objectives.³⁸ The absence of a definite determination of the age of marriage in Islamic law should be placed as a space for mujtahids to *ijtihad*, by the conditions of society and the situation of the times, provided that the *ijtihad* does not contradict the will of the Shari'a universally.³⁹

³⁰ Mughniatul Ilma, 'Regulasi Dispensasi Dalam Penguatan Aturan Batas Usia Kawin Bagi Anak Pasca Lahirnya UU No. 16 Tahun 2019', *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, 2.2 (2020), 133-66 <<https://doi.org/10.37680/almanhaj.v2i2.478>>. 139

³¹ Aristoni, Perkawinan, and Pernikahan. 400

³² Rafiah Septarini STIS Hidayatullah Balikpapan. 54

³³ Ahmad Shodikin, 'Pandangan Hukum Islam dan Hukum Nasional Tentang Batas Usia Perkawinan', *Jurnal Mahkamah*, 9 (2015). 117.

³⁴ Defanti Putri Utami, 'Minimum Age of Marriage in Indonesia Perspective of Islamic Law , Positive Law and Medical Views', *Al- ' A Dalah : Jurnal Syariah Dan Hukum Islam*, 6.2 (2021), 185-205. 192.

³⁵ Fitri Yanni Dewi Siregar and Jaka Kelana, 'Kesetaraan Batas Usia Perkawinan Di Indonesia Dari Perspektif Hukum Islam', *Mahakim: Journal of Islamic Family Law*, 5.1 (2021), 1-10 <<https://doi.org/10.30762/mh.v5i1.2416>>. 5.

³⁶ Nur Ihdatul Musyarrafa dan Subehan Malik, 'No Title', *Jurnal Ilmiah Mahasiswa Perbandingan Madzab*, 1 (2020). 719.

³⁷ Rafiah Septarini STIS Hidayatullah Balikpapan. 50.

³⁸ Ahmad Ropei and others, 'Asy-Syari ' Ah', 23.1 (2021). 15.

³⁹ Ropei and others. 16.

Age Limit for Marriage in Indonesia

The age limit for marriage in Indonesia is regulated in law number 1 of 1974 concerning marriage contained in Article 7, paragraph 1, which reads, "Marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years".⁴⁰ However, the development of the times caused changes due to circumstances, conditions, places, and habits. Law number 1 of 1974 Article 7 paragraph 1 was replaced by Law number 16 of 2019 concerning the age limit for marriage based on the decision of the Constitutional Court No. 22/PUU-XV/2017 concerning the age limit for marriage, so Law number 16 of 2019 concerning amendments to Law number 1 of 1974 concerning marriage which reads the article becomes "marriage Only permitted if the man and woman have reached the age of 19 (nineteen) years".⁴¹

This change was motivated by a lawsuit against Article 7, paragraph 1 of Law Number 1 of 1974 concerning marriage, which stipulates the age of marriage for women at 16 years. The petitioner feels aggrieved by Article 7, paragraph 1 of Law 1 of 1974 concerning marriage.⁴² In addition, the petitioner's lawsuit is also supported by various medical data that assess that the marriage age of 16 years for women can no longer be maintained. Because of the development of the medical world, women who are still 16 years old are very vulnerable to the risk of health problems when undergoing marriage, both in the context of marital sexual relations and during the process of pregnancy and childbirth.⁴³

The following author describes the medical reasons stated in the Constitutional Court decision Number 22/PUU-XV/2017 concerning the age limit for marriage, which prohibits the birth of law number 16 of 2019 concerning amendments to law number 1 of 1974 concerning marriage, especially article 7 paragraph 1 concerning the age limit for marriage. "That health risks, especially reproductive health, are the most prominent considerations of child age practice, from expert testimony that no one states that marriage at the age of 16 years is an ideal marriage in terms of health, even experts agree that the pregnancy of mothers under the age of 16 years is a pregnancy with high health risks, according to dr. Fransisca Handy, there are at least five health consequences of pregnancy under the age of 18 years, namely: (1) maternal mental health, (2) infectious diseases, (3) pregnancy disorders (4) childbirth problems (5) health of babies born later, this opinion is also supported by the expert opinion of Julianto

⁴⁰ *Basic Law on Marriage Along with Special Marriage Regulations for Members of the Armed Forces, Police, Prosecutor's Office Employees, and Civil Servants*, 2007. 4

⁴¹ *Law Number 16 of 2019 Concerning the Amendment to Law Number 1 of 1974 Concerning Marriage*

⁴² Mahkamah Konstitusi, *Putusan Nomor 22/PUU-XV/2017*, 2017.

⁴³ Konstitusi. 20.

Witjaksono who said that mothers who give birth at the age of 19 years are three to seven times more likely to die than those over the age of 19 years.⁴⁴

This is because reproductive development is up to the first menstruation, and after the first menstruation or menarche⁴⁵ the average age in Indonesia is 12 years. This is still followed by optimal pelvic growth. After menarche, three to four years later, the development of the long bone will stop so that a girl will reach her optimal height due to the closure of the growth plate, but not so with the pelvic bone. The pelvic bone will continue to grow to get the optimal volume for pregnancy and childbirth, and this generally only occurs at the age of 18 to 19 years; so it is clear that the first menstruation is not a sign of optimal readiness for reproduction because growth continues for the next seven years⁴⁶

In addition, child marriage with early pregnancy under the age of 18 years is very high risk for the mother because the mother is in a period of growth that still requires nutrition, while the fetus she contains also involves food, so there is competition for food and nutrition between mother and fetus with other risks are:

- a. Potensi premature birth
- b. Baby congenital disabilities
- c. Baby born with low weight/less weight
- d. Mothers at risk of anaemia (lack of blood)
- e. Mothers are prone to bleeding during labour
- f. Mothers easily eclampsia (seizures in pregnant women)
- g. Increased incidence of depression in mothers due to unstable psychological development
- h. Increase maternal mortality
- i. Epidemiologic studies of cervical cancer show that the risk increases more than 10x when the number of sex partners is 6/more, when the first sex is performed at the age of under 15 years
- j. The younger a woman has her first child, the more susceptible she is to cervical cancer
- k. Risk of infectious diseases
- l. Reproductive organs are not fully developed

⁴⁴ Konstitusi. 20.

⁴⁵ It is the first menstruation experienced by women, which is physically characterized by the discharge of blood from the vagina due to the decay of the endometrial layer. Menarche occurs in the mid-pubertal period or usually occurs 6 months after reaching the peak of the growth spurt. Hormones that affect the age of menarche are estrogen and progesterone. Estrogen functions to regulate the menstrual cycle, while progesterone affects the uterus, which can reduce contradictions during the menstrual cycle. The age of menarche varies from 10-16 years old, but the age of menarche can be said to be normal if it occurs at the age of 12-14 years. (Priharyanti Wulandari, Dwi Nur Aini, dan Suprapti Wiji Astuti, Faktor-faktor yang berhubungan dengan Menarche Siswi di SMPN 31 Semarang, *Jurnal Keperawatan*, 6(2), 117.

⁴⁶ Konstitusi. 20.

If concluded from various views of medical and health experts, at least women who are still children during pregnancy and childbirth will be at high risk of experiencing:

- a. The risk of competition between the fetus conceived and the mother in improving nutrition, especially also in the fight for oxygen for the child, this is at risk up to death and the risk for the mother is eclampsia, bleeding and death.
- b. The risk of *developing preeclampsia* is *hypertension* or high blood pressure in pregnancy.
- c. The potential for *obstetric fistula* that causes *psychosocial problems* is very long because of the leakage between the bladder and the uterus. So that *fistula sufferers* will not be able to control urination.
- d. The risk of breastfeeding failure, which will lead to the risk of various diseases in the mother, such as breast cancer, ovarian cancer, uterine cancer and at least four other *degenerative* diseases, such as *diabetes mellitus*, *hypertension*, *coronary heart disease*, and *osteoporosis*.
- e. The risk of postpartum birth canal damage includes the formation of holes in the vagina, possibly the upside down of the uterus, and postpartum depression that can increase in 25 to 50% of pregnancies.
- f. 60% of mothers younger than 19 were also higher in having a baby who died before the baby was 1 year old. If the baby survives the first year, it is 28% more likely to die before reaching age 5.⁴⁷

In addition to the risks mentioned above, according to UNICEF data, women who give birth at the age of 15-19 years are twice as likely to die as women who give birth at the age of over 20 years. Babies born to mothers under the age of 20 have a 50% higher risk of dying at birth and tend to be born with low birth weight and other long-lasting health risks.⁴⁸

Furthermore, in terms of education, men aged 19 have received the right to school until high school, while women, when allowed to marry, are 16 years old, meaning they only arrive at junior high school education. In turn, they are not equal in education, contrary to Article 27 of the 1945 Constitution: "That all Indonesian people are equal in law and legislation".⁴⁹ When the position in education between men and women is not equal, it creates gaps in life, which in turn leads to discrimination in various forms that lead to multiple forms of domestic violence.

⁴⁷ Konstitusi. 21-22

⁴⁸ Konstitusi. 21.

⁴⁹ Majelis Permusyawaratan Republik Indonesia, *Undang-Undang Dasar Republik Indonesia Tahun 1945* (Jakarta: Sekretarian Jenderal MPR RI, 2015). 14.

These risks are one of the medical data stated in the copy of the Constitutional Court decision number 22 / PUU-XV / 2017, plus the provisions in Article 7 paragraph 1 of Law number 1 of 1974 concerning marriage, which is considered to cause legal position and discrimination against girls in the right to education,⁵⁰ this is then the background of consideration in law number 16 of 2019 which reads, "caused to avoid underage marriage which can have a negative impact on child growth and development and will lead to non-fulfillment of children's basic rights such as the right to protection from violence and discrimination, children's civil rights, health rights, education rights and children's social rights and as an implementation or decision of the Constitutional Court of the Republic of Indonesia Number 22 / PUU-XV / 2017, need to implement amendments to the provisions of Law Number 1 of 1974 concerning Marriage." The provisions of article 7 paragraph 1 are amended to read as follows: *Marriage is only permitted when the man and woman have reached 19 (nineteen) years.*⁵¹

Sociologically, 19-year-olds are considered socially mature. The age of 19 is the minimum limit to finish high school; those who have graduated from high school in Indonesia can already be socially responsible. The habit of Indonesian people is that after graduating from high school, they will look for jobs; college is only done for those who have enough economy, even for those who are less able if they want to continue college is their own child's effort to find the cost. This is the cause of 19 years in Indonesia, which is the age that is eligible for marriage. Generally, the government uses maturity as an essential principle in establishing marriage laws as favourable laws that all citizens must obey.⁵²

Meaning of Hadith Advice for Marriage and Age in Indonesia

The hadith exhorting marriage is relevant to the age limit for marriage in Indonesia. This can be analyzed by the meaning of hadith, which is not only applied textually but also contextually hadith, namely by not only relying on age alone by ignoring ability. This means that marriage is recommended for young men who, in the opinion of scholars on the meaning of the hadith, represent youth, ranging in age from 16 to 30 years. However, this is not just a recommendation for young people, but for young people who are capable. So, the meaning of "able", according to scholars, is that there are two opinions. The first opinion, meant by being competent, is being able to do *jima'* (husband and wife relationship), while the second opinion, called "capable", is being able to finance

⁵⁰ Konstitusi. 22.

⁵¹ State Gazette of the Republic of Indonesia 2019, *Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan*, 2019. 1-2.

⁵² Mintarsih and Ssa'adah. 80.

and bear the cost of marriage.⁵³ This means that it is recommended to marry young men. Still, young people with specific criteria are not just any young man⁵⁴ who is only based on age alone but must be able in terms of physical, mental and material.

So, if it is related to the age limit for marriage in Indonesia, which sets the age of marriage at 19 years each for men and women, based on law number 16 of 2019 concerning amendments to law number 1 of 1974 concerning previous marriage, setting the marriage age for women at 16 years and 19 years for which men, this change is motivated by the decision of the Constitutional Court of the Republic of Indonesia Number 22/PUU-XV/2017, This decision was inspired by a lawsuit against Article 7, paragraph 1 of Law Number 1 of 1974, which stipulates the age of marriage for women 16 years and men 19 years. This article violates the applicant's constitutional rights,⁵⁵ so a *judicial review* of this article is requested, as long as the phrase is 16 (sixteen) years.⁵⁶

The most crucial reason for this ruling is that changes must be made concerning medical matters. A woman at the age of 16 does not have the ability to be married, especially in carrying out husband and wife obligations. So, if forced, it will cause various adverse effects that threaten life and even death. Some of the negative impacts that will occur if marriage is carried out at the age of 16 years or under 18 years are that it will cause various kinds of diseases that attack physically and mentally and a greater risk of maternal and infant death. This is also supported by growing research that underage marriage for women has various impacts in the health sector, both in terms of anatomy, the child's body that is not ready for the process of conceiving or giving birth, so that there can be a risk of complications such as obstetric fistula⁵⁷ Not infrequently, labour at an early age leads to death due to physical conditions that are not mature enough for childbirth.⁵⁸

The hadith, which is the second source in Islamic law after the Qur'an, certainly will not legitimize marriage or encourage marriage to give rise to many mudharat. The hadith exhortation to marry itself emphasizes that the advice is only to "young men" who are "capable" in the sense that if they are unable, there is

⁵³ Al-Asqalani.

⁵⁴ Sufyan. 315.

⁵⁵ Konstitusi. 12.

⁵⁶ Konstitusi. 14.

⁵⁷ Abnormal connection between the rectum and vagina causes include injury during childbirth, cancer, radiation therapy, and surgical complications.

⁵⁸ Xavier Nugraha, Risdiana Izzaty, and Annida Aqiila Putri, 'Rekonstruksi Batas Usia Minimal Perkawinan Sebagai Bentuk Perlindungan Hukum Terhadap Perempuan (Analisa Putusan MK No. 22/Puu-Xv/2017)', *Lex Scientia Law Review*, 3.1 (2019), 40-54 <<https://journal.unnes.ac.id/sju/index.php/lslr/article/view/30727/13413>>. 44.

no advice to marry because if they are not able and are forced to be able then what arises is *mudra*. So based on this, the determination of the age limit for marriage in Indonesia, one of the main reasons caused by medical impacts due to the non-fulfilment of the meaning of being able to generate many adverse effects, further strengthens the position of hadith as a source of Islamic law and the truth of the words of the Prophet SAW that, in every provision there must be great wisdom in it and on the other hand, the hadith recommending marriage is relevant to the age limit for marriage in Indonesia, where the age limit for marriage is the area of *ijtihad*, which also occurs in the difference in the determination of the age limit for marriage by *fiqh* scholars, so if in the Indonesian context, the age of 19 years is considered capable in carrying out the obligations of husband and wife, then this has fulfilled the meaning of *syabbab* (youth) and *ba'ah* (able) contained in the hadith recommending marriage.

Thus, the hadith of the Prophet regarding the advice to marry must be understood both textually and contextually, and the text should not be cut only until it is recommended to match. Textual and contextual understanding is needed by looking at the development of progressive religious thought to give birth to religious interaction that can answer contextual needs, especially those concerning age limits in marriage.⁵⁹ So, it is right to understand the commandment of the recommendation to marry because the proposal to marry does not mean freeing children to marry at a young age. After all, it can cause the effects of underage marriage.⁶⁰

Although it raises pros and cons that are feared to increase the number of adultery quo, ting from the words of Quraish Shihab, "marrying at a young age to avoid adultery is tantamount to treating illness with disease, because marrying at a young age can result in diseases that are worse than adultery itself, this is of course due to the adverse effects of marriage at a young age starting from the birth of uneducated children to the occurrence of early divorce as well."⁶¹ So, there is no contradiction in this matter because the purpose of establishing a law is to achieve benefit both in this world and in the hereafter.

Regarding the issue of marriage, Islam encourages more guarantees to the success of marriage; what is requested is the maturity of both parties in leading a family life so that there is mutual take and give in increasing devotion.⁶² In line with this, as expressed by Soemiyati, quoted from Aristoni, "that age in marriage

⁵⁹ Aristoni, Perkawinan, and Pernikahan. 401.

⁶⁰ Fera Erawati and Ashif Az Zafi, 'Korelasi Batas Usia Pernikahan Dalam Islam Dengan UU Pernikahan', *Tarbawy: Jurnal Pendidikan Islam*, 6.2 (2019), 104–12.109

⁶¹ [Nikah Muda karena Takut Zina, Quraish Shihab: "Itu Bukan Solusi" \(theasianparent.com\)](https://theasianparent.com) diakses tanggal 25 Agustus 2023 pukul 15.24 WIB.

⁶² Nur Ihdatul Musyarrafa dan Subehan Malik.

is crucial for realizing the purpose of marriage. Therefore, a husband and wife must have the maturity of body and soul so that the purpose of marriage can be realized.”⁶³ Furthermore, the limit of one's maturity must be in a measurable and transparent form, so the determination of the age of ability and maturity of marriage is 19 years for men and women in Indonesia, which is in line with the meaning of hadith.

CONCLUSION

This article shows that the meaning of the hadith about the advice to marry includes the rule of limiting the age of marriage. This meaning is understood from two keywords, the first *syabbab* (youth) and the second, *ba'ah* (able). Both purposes have several interpretations by scholars. Scholars give the age range for youth, which is 16 to 30 years. At the same time, lafaz *ba'ah* (able) in the hadith understood by scholars is the ability to perform *jima'* (sexual intercourse) and or the cost of marriage. The power of sexual intercourse is interpreted with a broad meaning, namely being able to perform sexually and bear the consequences of sexual intercourse (having offspring). Able to pay the cost of obtaining quality offspring. It means having enough economy. From the word youth, it is implied that the youth age starts from 16 years to 30 years. Regarding ability, it means a person's economic, social, mental, and spiritual condition. So contextually, in Indonesia, the capable youth is considered a 19-year-old. In the end, this research supports the regulation of setting the age limit for marriage to avoid the negative aspects of early marriag.

This study examines the contextual meaning of the hadith regarding the recommendation to marry and its contribution to the marriage rules set by Indonesia, then the study of the importance of the Qur'an regarding the command to marry. This study has not touched on the philosophical significance of the commandment to marry from the Qur'an and hadith multidisciplinary and interdisciplinary perspectives. This means that many aspects still need solutions related to the recommendation for marriage and its relationship with the age limit for marriage in positive law. This research must be carried out to produce new rules in family law in Indonesia based on the current conditions of millennial society so that it can produce quality resources and *sakinah* households to realise a prosperous nation.

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⁶³ Aristoni, Perkawinan, and Pernikahan. 401.

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