



Fiqh Analysis of the Age Limit for Marriage and Its Implications for Children's Welfare

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Abstract:

Child marriage is a phenomenon that still occurs in Indonesia, with various complex social, health and legal implications. This research aims to investigate the views of jurisprudence regarding the age limit for marriage and its impact on children's welfare. Through a study of classical and contemporary fiqh literature, as well as an analysis of Islamic law regarding the minimum age for marriage, this research reveals various perspectives of ulama regarding underage marriage and its implications for the welfare of children. Empirical data from UNICEF and WHO shows the significant negative impact of child marriage on children's physical and mental health, education and economic future. In the context of Islamic law, it is found that a revision of traditional views is necessary to ensure better protection of children's rights. The research results emphasize the importance of a more holistic and contextual approach in the interpretation of Islamic law to prohibit



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underage marriage and encourage policies that are more protective of children. It is hoped that this research can provide a strong basis for more effective policy advocacy in protecting children's rights in Indonesia.

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Introduction

Underage marriage is a phenomenon that is still widespread in various parts of the world, including in Indonesia.

This practice has broad and complex impacts, including social, health and legal aspects. According to data from the Central Statistics Agency (BPS), in 2021, around 11.2% of total marriages in Indonesia involve children under the age of 18. This figure shows that although there have been various efforts to reduce the rate of early marriage, this practice remains a big challenge for the government and society. Factors such as poverty, lack of education, and strong cultural norms are often the main drivers of child marriage. For example, in some areas, child marriage is considered a solution to reduce the economic burden on families or as a way to protect girls from social risks. The impact of underage marriage is not only felt in the short term but also has serious long-term consequences. Children who marry underage are vulnerable to experiencing various health problems, including complications from pregnancy and childbirth, which according to WHO are the main causes of death for adolescent girls in developing countries. In addition, they are also at high risk of experiencing domestic violence and experiencing significant psychological distress. Legally, underage marriage often violates the provisions stipulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, which requires a minimum age of 19 years to marry. However, there is still a legal loophole that allows dispensation of the marriage age with court permission, which is often exploited to legitimize child marriages. Religious evidence also emphasizes the importance of protecting children, as in the Qur'an surah An-Nisa' verse 9: "And let those who fear Allah leave behind them weak children, they worry about (the welfare of) Therefore, let them fear Allah and let them speak the right words." This verse underlines the obligation to ensure the welfare of children, including in the context of protection from the detrimental practice of early marriage.

In the context of Islamic law, underage marriage is also a topic of serious debate. Although some traditional views in jurisprudence allow marriage at a very young age, developments

in contemporary thought require a revision of this view. For example, in some schools of thought, the age of puberty which marks readiness for marriage can occur at a very early age. However, this view does not take into account aspects of child welfare as a whole. In the Shafi'i School, for example, a girl's marriage can be arranged by her guardian when she reaches the age of nine or even younger if she has reached puberty. However, along with the growing understanding of children's rights and the negative impact of early marriage, many contemporary ulama are calling for a higher minimum age for marriage. One of the main reasons is to protect children from significant health and psychological risks, as shown by a World Health Organization (WHO) study, which states that children married under the age of 18 are at higher risk of health complications, including death. mother and baby. Furthermore, this change in view is supported by the principles in Maqashid al-Shariah, which emphasizes the protection of the five main objectives of sharia, namely religion, soul, mind, lineage and property. Protection of life and offspring requires that children are not trapped in underage marriages that can endanger their physical and mental well-being. Some contemporary scholars, such as Sheikh Yusuf al-Qaradawi, argue that marriage should not only be seen from formal legal aspects, but also from the mental and emotional readiness of the child. Research conducted by UNICEF also supports this view, showing that child marriage often leads to dropping out of school, economic dependency, and limitations in children's personal development. Therefore, the revision of the fiqh view on the age limit for marriage is not only important from the perspective of Islamic law but is also in line with global efforts to protect the rights of children and ensure their optimal development.

Based on religious postulates, the importance of protecting children is clearly reflected in Islamic teachings. Rasulullah SAW said: "Whoever does not love our small children

and does not know the rights of our parents, then he is not among us." (HR. Ahmad and Tirmidhi). This hadith emphasizes the importance of protecting and caring for children. This is also reflected in the Qur'an which states, "And do not kill your children for fear of poverty. We are the ones who provide sustenance to them and also to you" (QS. Al-An'am: 151). This verse underlines the obligation to safeguard the welfare of children, including from harmful practices such as underage marriage. Protection of children in Islam does not only involve physical aspects, but also includes psychological, educational and overall welfare aspects. Apart from religious arguments, empirical data also shows that underage marriage has a significant negative impact on children's welfare. A study from UNICEF (2020) shows that girls who marry before the age of 18 are more likely to experience domestic violence, dropping out of school, and health problems, including pregnancy and childbirth complications. This data is reinforced by a report from WHO (2018) which states that teenage pregnancy significantly increases the risk of maternal and infant mortality. In this context, the fiqh view that allows marriage at an early age needs to be revised to take into account these empirical findings, in order to ensure that Islamic law truly protects the rights and welfare of children. A more holistic and contextual approach in understanding religious postulates can provide a stronger basis for prohibiting child marriage and encouraging more comprehensive child protection.

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also to you" (QS. Al-An'am: 151). This verse underlines the obligation to safeguard the welfare of children, including from harmful practices such as underage marriage.

This view is supported by a number of studies showing that underage marriage has a significant negative impact on children's physical and mental health. According to a report from UNICEF, children who marry at an early age are more susceptible to health complications such as early pregnancy and premature birth, which can endanger the lives of mother and child. In addition, early marriage also often hinders girls' access to education, which has a direct impact on their future economic opportunities. A study by Plan International found that women who married before the age of 18 were 50% less likely to complete secondary education compared to those who married after the age of 18. Thus, protecting children from underage marriage is not only a moral and religious obligation but also an important step in improving their quality of life and overall well-being. In the context of Islamic law, the importance of protecting children is clearly reflected in Islamic teachings. Rasulullah SAW said: "Whoever does not love our small children and does not know the rights of our parents, then he is not among us." (HR. Ahmad and Tirmidhi). This hadith emphasizes the importance of protecting and caring for children. Apart from that, the Qur'an also states, "And do not kill your children for fear of poverty. We are the ones who provide sustenance to them and also to you" (QS. Al-An'am: 151). This verse underlines the obligation to safeguard the welfare of children, including from harmful practices such as underage marriage. These principles show that child protection is an integral part of Islamic values, which must be considered in every aspect of life, including marriage.

From a fiqh perspective, several contemporary scholars such as Yusuf Al-Qaradawi and Ahmad Syafii Maarif argue that the age limit for marriage must be adjusted to the health, education and welfare conditions of children. Al-Qaradawi, in

his work "Fiqh of Muslim Minorities," emphasizes the importance of prioritizing *maslahat* (public good) and avoiding *mafsadat* (harm) in determining legal policies. This approach is supported by *Maqasid al-Shariah* (goals of sharia), which places the protection of life, mind and offspring as the main goal of Islamic law. A study conducted by UNICEF in 2020 showed that child marriage significantly increases the risk of health complications, such as maternal and infant mortality, and reduces girls' educational opportunities. This data strengthens the argument that a revision of the traditional *fiqh* view regarding marriage age is an important step to protect the welfare of children in accordance with the principles of *Maqasid al-Shariah*.

Methods

This research uses a qualitative approach with literature review and document analysis methods. Data was collected through an in-depth study of classical and contemporary jurisprudence literature relating to marriage age limits. Apart from that, this research also analyzed legal documents, including Supreme Court Regulation Number 5 of 2019 and various *ulama* fatwas regarding underage marriage. Secondary data from UNICEF and WHO is used to strengthen the analysis regarding the negative impact of child marriage on children's health and welfare. In-depth interviews with Islamic law experts and health practitioners were also conducted to gain a more comprehensive perspective.

Data analysis was carried out using a descriptive-analytical approach, where the results of literature reviews and interviews were compiled systematically to identify jurisprudential views regarding the age limit for marriage and its implications for children's welfare. Data from secondary sources is integrated to provide a holistic picture of the impact of child marriage. These findings are then compared with the views

of ulama and existing legal policies to provide policy recommendations that are more protective of children's rights.

Results and Discussion

Classical Fiqh Views on Marriage Age

The classical fiqh view regarding marriage age is heavily influenced by the concept of baligh, which is an indicator of maturity in Islamic law. In the Hanafi school of thought, for example, a girl is considered to be mature when she reaches the age of nine, while in the Shafi'i school of thought, the age of puberty can be younger depending on physical signs of maturity. This view is based on the interpretation of hadiths and traditions that existed at the time of the Prophet Muhammad SAW, where the age of marriage was often lower than today's standards. Analysis of classical literature shows that most ulama at that time allowed early marriage with the aim of maintaining honor and protecting girls. However, this view does not fully pay attention to aspects of children's overall welfare, especially in the context of their physical and mental health, as well as their educational rights. According to a study by UNICEF in 2020, child marriage significantly increases the risk of health complications, such as maternal and infant mortality, as well as mental health problems such as depression and trauma. These data suggest that early marriage carries serious consequences that classical scholars may not have fully considered.

In a social context, early marriage often results in the interruption of education for girls. A report from the Indonesian Central Statistics Agency (BPS) in 2021 revealed that 11.2% of marriages in Indonesia involved children under the age of 18. From this figure, the majority of girls who marry early do not continue their education. This results in low opportunities to improve the quality of life and contribute economically in the future. Losing access to education not only impacts individuals but also communities and society as a whole. In addition, classical jurisprudence studies tend not to take into account the social and health developments of modern society. In this context, traditional views need to be re-evaluated by taking into account the principles of Maqasid al-Shariah, namely the objectives of sharia which include the protection of life, reason, lineage,

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property and religion. Protection of life and offspring, in this case, must be prioritized to ensure that marriage practices do not harm children. For example, Yusuf Al-Qaradawi and Ahmad Syafii Maarif emphasized the importance of considering the overall welfare of children in determining legal policies regarding marriage age. This analysis shows that the classical fiqh view on marriage age must be adapted to the current context and reality. By considering empirical data and the principles of Maqasid al-Shariah, we can revise traditional views to ensure that Islamic legal policies protect the rights and welfare of children. Therefore, a more holistic and contemporary approach is needed in setting marriage age limits that are in line with current developments and the need for child protection.

Contemporary Fiqh Views on Marriage Age

In an analysis of contemporary fiqh views regarding marriage age, it was found that many modern scholars proposed revisions to the traditional view. Scholars such as Yusuf Al-Qaradawi and Ahmad Syafii Maarif argue that Islamic law must consider *maslahat* (public good) and avoid *mafsadat* (harm). Al-Qaradawi, for example, in his work "Fiqh of Muslim Minorities," emphasized that legal enactment must be based on the principle of benefit that protects the welfare of individuals and society. This approach leads to setting a higher marriage age to protect children's physical, mental and social health. This approach is in line with Maqasid al-Shariah (goals of sharia), which places the protection of life, mind and offspring as the main goal of Islamic law. In the context of underage marriage, this view emphasizes that marriage should be avoided if it risks causing harm or danger to children. Data from UNICEF shows that child marriage significantly increases the risk of health complications such as maternal and infant mortality. According to a 2020 UNICEF report, girls who marry before the age of 18 are more likely to experience complications during pregnancy and childbirth, as well as having low birth weight babies, compared to those who marry after the age of 18.

In an analysis of data collected from various contemporary fiqh literature, it was found that modern ulama are increasingly advocating for setting a higher minimum age for marriage. For example, research conducted by the Central Statistics Agency (BPS) in 2021 shows that around 11.2% of total marriages in Indonesia involve children under the age of 18. This data strengthens the argument that setting a higher marriage age is necessary to reduce the number of underage marriages

and protect children's rights. Ulama such as Ahmad Syafii Maarif emphasize the importance of education and children's development as the main reason for postponing marriage until a more mature age. Contemporary fiqh views also consider educational and economic aspects. Children who marry at an early age often miss out on opportunities to further their education, which negatively impacts their future economic opportunities. A study by the World Bank in 2018 showed that each additional year of education for girls can increase their earnings in adulthood by 10-20%. Thus, the views of contemporary ulama who support setting a higher age limit for marriage are not only based on health aspects, but also on the importance of education and the economic well-being of children. In conclusion, contemporary fiqh views regarding marriage age emphasize the importance of considering benefits and avoiding mafsadat. The principles of Maqasid al-Shariah provide a strong basis for establishing more protective policies towards children. With empirical data showing the health, educational, and economic risks of child marriage, this view offers a more holistic and sustainable solution. It is hoped that setting a higher minimum age for marriage will provide better protection for children, in accordance with Islamic principles and international standards.

Health Implications of Child Marriage

Analysis of the health impacts of child marriage shows that this practice has serious consequences for children's physical and mental health. Data from UNICEF (2020) reveals that early marriage increases the risk of health complications during pregnancy and childbirth. Girls who marry before the age of 18 are more susceptible to health problems such as preeclampsia, postpartum hemorrhage and maternal death. These statistics show that early marriage is a significant risk factor that requires serious attention from policymakers and society. Furthermore, data from the National Population and Family Planning Agency (BKKBN) shows that teenagers who marry underage have lower levels of access to adequate reproductive health services. The lack of sexual and reproductive health education among young women who marry early exacerbates this situation. They often do not receive enough information about contraception and prenatal care, resulting in high rates of unintended pregnancies and pregnancy-

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related complications. These results reinforce the need for more comprehensive educational interventions and health services for adolescents.

Qualitative analysis of interviews with medical personnel in several regions in Indonesia shows that girls who marry underage often face stigma and discrimination when accessing health services. They are often considered physically and emotionally unprepared to face pregnancy and childbirth. Medical personnel reported that many of them showed signs of depression and anxiety, which not only affected their mental well-being but also had a negative impact on fetal development. These conclusions suggest that early marriage has a detrimental impact on girls' mental health, which requires special attention in public health policies. Research also shows that early marriage has a long-term impact on girls' health. Longitudinal studies conducted by the International Center for Research on Women (ICRW) show that women who marry underage have a higher risk of suffering from chronic diseases such as diabetes and hypertension later in life. The stress factors faced by teenagers who marry early, including economic pressure and heavy household responsibilities, contribute to this health condition. These data emphasize the importance of a holistic approach in addressing the health impacts of early marriage, which includes psychosocial and economic support for those affected. Based on data analysis and findings from various studies, it is clear that child marriage carries serious and lasting health implications for girls. To overcome this problem, holistic and coordinated interventions are needed from various sectors, including health, education and law. Stricter policies regarding marriage age limits, increasing access to reproductive health services, and more comprehensive education on sexual and reproductive health are crucial steps. With a more comprehensive and protective approach, it is hoped that the number of child marriages can be reduced and the welfare of girls can be significantly improved.

The Impact of Child Marriage on Education

Child marriage has a significant impact on children's educational opportunities, especially girls. Based on data from UNICEF, girls who marry before the age of 18 are three times more likely to drop out of school compared to girls who marry after the age of 18. These data suggest that child marriage

disrupts girls' educational continuity, which in turn reduces their opportunities to obtain adequate education and the skills needed to compete in the labor market. This research also found that child marriage has a negative impact on the quality of education that girls can receive. The results of the analysis show that girls who marry at an early age tend not to continue their education to a higher level. This is due to the household responsibilities and roles as wives and mothers that they must carry out after marriage. As a result, they lose the opportunity to develop their academic and intellectual potential optimally. Apart from that, underage marriage also has an impact on access to education. Girls who marry at an early age often do not receive adequate support from their families to continue their education. Families tend to prioritize married daughters' domestic roles over their education. Based on interviews with several respondents, it was revealed that many girls had to stop going to school because they had to take care of the household and care for their children.

The negative impact of child marriage on girls' education is also visible in their lower levels of academic achievement. Data shows that girls who marry at an early age tend to have lower academic achievement compared to girls who do not marry at an early age. This is caused by a lack of time and support for studying, as well as the burden of household responsibilities that they have to bear. For example, a study in Indonesia shows that on average girls who marry underage only complete education up to junior high school level, while those who marry after the age of 18 are more likely to complete education up to high school level or even college. Finally, the long-term impact of child marriage on girls' education is devastating. Girls who marry underage lose the opportunity to develop a good career and contribute productively to society. They tend to be trapped in a cycle of poverty due to lack of adequate education and skills. Therefore, it is important to implement strict and protective policies towards children to prevent child marriage and ensure

that every child has full access to quality education. Overall, child marriage has a detrimental impact on girls' education, both in the short and long term. Therefore, efforts to prevent underage marriage must be a priority in public policy to ensure that every child has the same opportunity to achieve education and a better future. It is hoped that the integration of contemporary jurisprudential views that are more protective of children can provide a strong basis for policy advocacy that better protects girls' educational rights.

Legal Protection of Children in Islam: Fiqh Perspective and Implementation

In Islamic teachings, child protection is one of the fundamental principles that is widely recognized. As stated in the hadith of Rasulullah SAW, "Whoever does not love our small children and does not know the rights of our parents, then he is not among us" (HR. Ahmad and Tirmidhi), the importance of caring for and protecting children is emphasized. This hadith emphasizes that love and attention towards children is part of a person's Islamic identity. Apart from that, the Al-Qur'an verse in QS. Al-An'am: 151 states, "And do not kill your children for fear of poverty. We are the ones who provide sustenance to them and also to you." This verse emphasizes the obligation of Muslims to look after the welfare of children, including protecting them from harmful practices such as underage marriage. Analysis of fiqh literature shows that there are differences in views between classical scholars and contemporary scholars regarding the age limit for marriage. Classical scholars tend to allow marriage at a very young age, in accordance with the provisions of puberty. However, contemporary scholars, such as Yusuf Al-Qaradawi, argue that *maslahat* (public good) and *mafsadat* (harm) must be the main consideration in determining the law. In this context, protection of children's welfare becomes very important. This approach is supported by the concept of *Maqasid al-Shariah*, which places the protection of life, mind and descendants as the main goal of Islamic law. Thus, contemporary views place

greater emphasis on the need to set higher marriage age limits to protect children from health and social risks.

An empirical study conducted by UNICEF in 2020 shows that child marriage has a significant negative impact on girls' health. This data shows an increased risk of health complications, such as maternal and infant deaths, as well as mental health problems due to too much pressure and responsibility at a very young age. This finding is in line with research results showing that girls who marry at a young age are more likely to drop out of school, which has a negative impact on their future economic opportunities. This shows that legal protection of children in the context of marriage is essential to ensure their long-term health and well-being. In the study of Islamic law, the principles of child protection are also reflected in fatwas and the opinions of contemporary ulama. For example, the Indonesian Ulema Council (MUI) has issued a fatwa recommending that the minimum age of marriage for women be 18 years, in accordance with national legal provisions. This fatwa aims to protect children from the negative impacts of early marriage and ensure they receive adequate education before entering married life. The implementation of this fatwa in various regions shows increasing awareness of the importance of child protection in Islamic law. In order to increase legal protection for children and reduce the number of underage marriages, there needs to be collaboration between the government, ulama and society. The government needs to tighten regulations and ensure effective implementation of the law, while ulama and religious figures need to continue to educate the public about the importance of child protection in Islamic teachings. Society must also play an active role in protecting children from the practice of early marriage and supporting them to get a proper education. Thus, this collective effort can create a safer and more supportive environment for

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children, in accordance with the principles of child protection in Islam.

Policy Recommendations for Reducing Child Marriage Rates

This research shows that the protection of children in the context of underage marriage requires a more modern and protective legal approach. Based on analysis of contemporary fiqh literature and interviews with ulama, it was found that protecting the welfare of children must be a top priority in establishing legal policies. For example, Yusuf Al-Qaradawi and Ahmad Syafii Maarif proposed that the minimum age for marriage should be adjusted to the child's overall health, education and welfare conditions. This is supported by the Maqasid al-Shariah principle which emphasizes the importance of protecting the soul, mind and offspring. Analysis of data from UNICEF in 2020 shows that child marriage increases the risk of health complications such as maternal and infant deaths. In Indonesia, data from BPS in 2021 noted that around 11.2% of total marriages involved children under the age of 18. This data shows that the rate of early marriage is still quite high and has a negative impact on children's health and welfare. Therefore, stricter legal policies regarding the minimum age of marriage are necessary to reduce this risk. In order to increase protection for children, this research recommends a revision of the traditional fiqh view regarding the age of marriage. The proposed policies include setting a higher minimum age for marriage, as well as education and counseling to the public regarding the negative impacts of early marriage. For example, the legal policies adopted by several Muslim countries such as Malaysia and Morocco, which set the minimum age of marriage at 18 years, can be used as a model for Indonesia to protect children's rights more effectively.

The importance of education and counseling cannot be ignored in efforts to reduce the number of underage marriages. Educational programs designed to increase public awareness about the negative impacts of early marriage, both from a health,

education and economic perspective, are urgently needed. This research found that these programs can be carried out through collaboration between the government, religious institutions and non-governmental organizations. Education based on Islamic teachings that emphasizes child protection can increase the effectiveness of the campaign. Based on the results of this research, it is clear that the protection of children in the context of underage marriage requires a comprehensive legal and educational approach. Setting a higher minimum age for marriage and outreach programs based on Islamic teachings regarding child welfare are important steps that can be taken. In addition, stricter supervision and law enforcement against violations of underage marriage are also needed. Thus, this research hopes to make a significant contribution in protecting children's rights and creating policies that are fairer and in accordance with Islamic principles and international standards.

Conclusion

This research reveals that traditional fiqh views regarding marriage age limits need to be revised to ensure better protection of children's welfare. Religious arguments and empirical data show that underage marriage has a significant negative impact on children's physical and mental health, education and economic future. Implementing laws that combine contemporary views on child protection with religious arguments could be an important step in reducing the practice of underage marriage in Indonesia.

The results of this research emphasize the importance of a more holistic and contextual approach in the interpretation of Islamic law regarding child marriage. By understanding the negative implications of child marriage and integrating empirical findings with progressive fiqh principles, Islamic family law policies can be adapted to provide better protection for children. It is hoped that this research can become the basis

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for more effective policy advocacy and make a significant contribution to efforts to protect children's rights in Indonesia.

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