

# Age Limit for Marriage in Indonesia from The Perspective of Maqashid Sharia

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**Abstract:** *The age of marriage regulated in the Law states that the age allowed for marriage is 19 years for both men and women. In the current context, this age is considered quite ideal. However it will raise problems if the marriage is done too young, especially health problems. Other factors can be in the form of psychological problems, education, economy and others. This study uses a qualitative method of library research with a Systematic Literature Review (SLR) approach. This approach is used for various research procedures that are systematic by examining and reviewing the literature. The theory used as an analytical knife is the maqashid syari'ah theory, and at the end of the analysis this study uses deductive logic thinking. The results of the study show that the age limit for marriage in Indonesia is regulated in Law no. 6 of 2019 in article 7 paragraph (1). When viewed from the perspective of maqasid al-shari'ah, the most important thing in terms of the age limit of marriage is benefit associated with al-kulliyatu al-khamsah, when viewed from the*

five main elements of *maqasid al-shari'ah*, then *hifdh nasl* is not only about caring for offspring, not merely obtaining offspring from a legal marriage relationship, but maintaining these offspring as healthy and quality offspring.

**Keywords:** Marriage, Age Limit for Marriage, Maqashid Sharia.

## A. Introduction

Marriage is a legal act that has legal consequences,<sup>1</sup> one of the legal consequences of marriage is that the husband must meet the needs of his wife in the form of providing maintenance.<sup>2</sup> Since there is a marriage contract between a man and a woman so that there is a relationship of rights and obligations between the two parties, then everything that is the obligation of the second party automatically becomes the right of the first party, and vice versa.

Marriage in Islam has been regulated extensively in the Qur'an and the Hadith of the Prophet, both in general principles and in terms of its implementation. The madhhab scholars have tried to describe the marriage rules and describe them in fiqh books. Fiqh itself is the understanding of fiqh experts which combine sacred texts with real situations at hand.<sup>3</sup> Therefore, it is not surprising that there are many differences of opinion between the Imams of the madhhab.<sup>4</sup>

Even though they have different views, in general the scholars agree that the purpose of marriage is to form a happy, harmonious,

<sup>1</sup> Bing Waluyo, "Sahnya Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Jurnal Media Komunikasi Pendidikan Pancasila Dan Varganegaraan* 2, no. 1 (April 14, 2020): 193–199, <https://doi.org/10.23887/jmppkn.v2i1.135>; See also A. Kumedi Jafar, Moh Mukri, and Is Susanto, "Reconstruction of Marriage Age Limit According To Law Number 16 Year 2019 about Marriage," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 1S (September 30, 2021): 1–8.

<sup>2</sup> Sudarsono, *Hukum Perkawinan Nasional* (Jakarta: Purba Cipta, 1994), 6; See also Haris Hidayatulloh, "Hak dan Kewajiban Suami Istri dalam al-Qur'an," *Jurnal Hukum Keluarga Islam* 4, no. 2 (2019): 143–165.

<sup>3</sup> Abu Yasid, *Logika Ushul Fiqh* (Yogyakarta: IRCiSoD, 2019), 17; See also Muhyar Fanani, *Fiqh Madani ; Konstruksi Hukum Islam di Dunia Modern* (Yogyakarta: Lkis Pelang Aksara, 2009), 2–3.

<sup>4</sup> Holilur Rohman, "Batas Usia Ideal Pernikahan Perspektif Maqasid Shari'ah," *Journal of Islamic Studies and Humanities* 1, no. 1 (April 28, 2017): 67, <https://doi.org/10.21580/jish.11.1374>.

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and full of love and affection family.<sup>5</sup> To achieve this noble goal, fiqh experts formulate terms and conditions for marriage according to their respective views. However, there is no agreement and clarity regarding the ideal age limit for marriage. If there is, it is only limited to providing requirements that both prospective bride and groom must be adults.<sup>6</sup>

The maturity of the bride and groom in marriage is not found in the texts of the Qur'an and the Hadith of the Prophet, the two sources of Islamic teachings do not provide clear and firm boundaries regarding the minimum age for a person to be able to carry out a marriage, there is no definite age limit. So that the age limit of the bride and groom in marriage is included in the area of ijtihad. Scholars have different views on this matter.<sup>7</sup> The maturity factor limits age. This is an important factor leading to marriage.<sup>8</sup>

The minimum age for marriage in Indonesia previously referred to Article 7 paragraph (1) of Law Number 1 Year 1974 concerning Marriage which states that marriage is only permitted if the man is 19 (nineteen) years old and the woman is 16 (six) years old, but later after Law Number 16 of 2019 was passed, the Law on Amendments to Law Number 1 Year 1974, the legal age for marriage for women was from 16 years to 19 years.<sup>9</sup>

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<sup>5</sup> Ted L. Huston and Heidi Melz, "The Case for (Promoting) Marriage: The Oil Is in the Details," *Journal of Marriage and Family* 66, no. 4 (2004): 93–958, <https://doi.org/10.1111/j.0022-2445.2004.00064.x>; See also Abdul Wahid and M. Halilurrahman, "Keluarga Institusi Awal dalam Membentuk Masyarakat Berperadaban," *Cendekia: Jurnal Studi Keislaman* 5, no. 1 (2019): 103–118, <https://doi.org/10.37348/cendekia.v5i1.67>.

<sup>6</sup> Rohman, "Batas Usia Ideal Pernikahan Perspektif Maqasid Shariah," 67.

<sup>7</sup> Nur Ihdatul Musyarafa and Subehan Khalik, "Batas Usia Pernikahan dalam Islam; Analisis Ulama Mazhab Terhadap Batas Usia Nikah," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab dan Hukum* 1, no. 3 (2020): 717, <https://doi.org/10.24252/shautuna.v1i3.15465>; See also Yulia Fatma, "Batasan Usia Perkawinan dalam Hukum Keluarga Islam (Perbandingan Antar Negara Muslim: Turki, Pakistan, Maroko dan Indonesia)," *JURIS (Jurnal Ilmiah Syariah)* 18, no. 2 (December 30, 2019): 1135, <https://doi.org/10.31958/juris.v18i2.1670>.

<sup>8</sup> Moh. Idris Ramulyo, *Hukum Perkawinan Islam* (Jakarta: Sinar Grafika Offset, 1999), 6.

<sup>9</sup> Ahmad Rajafi, *Progres Hukum Keluarga Islam di Indonesia Pasca Reformasi (Dimensi Hukum Nasional - Fiqh Islam - Kearifan Lokal)* (Yogyakarta: CV. Istana Agency, 2020), 225; Sofyan A. P. Kau, *Isu-Isu Aktual Kontemporer Fiqh Keluarga* (Malang: Intelgensia Media (Kelompok Penerbit Intrans Publishing), 2021), 88.

The government's policy to set a minimum age for marriage certainly goes through a process and various considerations.<sup>10</sup> To achieve the goal of an ideal marriage, the couple who wants to carry it out must have physical or material preparation and spiritual (psychological) maturity. For every prospective bride and groom, for a young man, the age of entering marriage and family life generally focuses on physical maturity and mental maturity, as well as the ability to take responsibility as a husband in the family.<sup>11</sup>

In contrast to the provisions in force in Indonesia, Islam does not have definite limitations regarding the age limit for marriage for men and women,<sup>12</sup> however, Islamic legal theory can be used to determine and formulate marriage age limits based on a universal, integral, and comprehensive understanding, the theory of Maqasid shariah. The Maqashid sharia theory is a theory of the application of Islamic law by not only referring to the texts in the Qur'an and Hadith to form a law, but also looking at various other sides such as the intent and purpose of enforcing the law.<sup>13</sup>

Maqashid shariah can be interpreted with the meanings (understanding) desired by the shari'a in establishing the laws adopted by the scholars through the texts contained in the Qur'an and hadith".<sup>14</sup> Maqashid sharia is the objectives of the sharia and the secrets intended by Allah in every law of entire law. The essence of the goal of sharia is to realize benefit for humans and eliminate harm, while *mabadi'* (basic point) is to pay attention to basic Islamic values.

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<sup>10</sup> Nanda Sukma Melati, "Perkawinan Usia Muda di Indonesia dalam Perspektif Negara Dan Agama Serta Perubahannya," *Nomos: Jurnal Penelitian Ilmu Hukum* 1, no. 3 (May 28, 2021): 106–66, <https://doi.org/10.56393/nomos.v1i3.575>.

<sup>11</sup> Mardi Candra, *Pembaruan Hukum Dispensasi Kawin dalam Sistem Hukum di Indonesia* (Jakarta: Prenadamedia, 2021), 15.

<sup>12</sup> San Hadi, "Putusan MK No.22 /PUU-XV /2017 Tentang Permohonan Judicial Review Pasal 75 ayat (1) UU No. 1 Tahun 1974 Tentang Usia Perkawinan dalam Perspektif Masalah," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 11, no. 2 (December 11, 2018): 174–183, <https://doi.org/10.14421/ahwal.2018.11206>; See also Rini Heryanti, "Implementasi Perubahan Kebijakan Batas Usia Perkawinan," *Jurnal Ius Constituendum* 6, no. 1 (April 2, 2021): 120–143, <https://doi.org/10.26623/jic.v6i1.3190>.

<sup>13</sup> Mohammad Hashim Kamali, *Maqasid Al-Shariah Made Simple* (London - Washington: International Institute of Islamic Thought (IIIT), 2008), 1–2.

<sup>14</sup> Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London - Washington: International Institute of Islamic Thought (IIIT), 2008), 2.

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Referring<sup>22</sup> to the opinion above, although there is no direct explanation in the Qur'an and Hadith regarding the age limit for marriage, the maqashid sharia theory has the ability to achieve the aims and objectives of the sharia so that it can formulate an ideal age limit for carrying out marriage. This marriage age limit is of course taking into account various aspects in achieving the goal of marriage itself. This is the background to the importance of the ideal age limit for marriage in Indonesia after the provisions for the age limit for marriage that apply in Indonesia have changed.

This study is a follow-up study regarding the age limit for marriage after the enactment of Law Number 16 of 2019 through an objective maqasid shariah perspective with the aim of obtaining elements of novelty in the same discussion. Several previous studies, Yulia Fatma's research, examined the age limit for marriage in several Muslim countries. The results of the study show that in setting age limits each country differs in determining the age at which children may marry. This can be based on the different schools of thought held by that country or seen from the social conditions of that country.<sup>15</sup> Riska Yunitasari conducted the same study with the<sup>65</sup> focus of the study "Dynamics of Renewal of Marriage Age Limit". The results of her study show that the indecisiveness of the law in determining the age limit for marriage has implications for its implementation in society. Moreover, the religious beliefs adopted by the people are also not strictly defined.<sup>73</sup> Another research is that of Pitrotus Sa'adah and Mimin Mintarsih. The results of the study are that the legal age limit for marriage according to the perspective of positive punishment in Indonesia is 19 years and this applies to both men and women. The age limit for marriage according to the perspective of Islamic law does not have provisions that provide a minimum age limit, but in Islamic law it is only emphasized for those who have reached the age of puberty.<sup>17</sup>

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<sup>15</sup> Fatma, "Batasan Usia Perkawinan dalam Hukum Keluarga Islam (Perbandingan Antar Negara Muslim: Turki, Pak<sup>27</sup>n, Maroko dan Indonesia)".

<sup>16</sup> Riska Yunitasari Yunitasari, "Dinamika Pembaharuan Batas Usia Perkawinan (Analisis Batas Umur Melaksanakan Pernikahan dalam Hukum Nasional Indonesia)," *Doktrina: Journal of Law* 3, no. 1 (June 30, 2020): 9–21.

<sup>17</sup> Pitrotus Sa'adah and Mimin Mintarsih, "Batas Usia Minimal Perkawinan Menurut Perspektif Hukum Positif di Indonesia dan Hukum Islam," *Muttaqien; Indonesian Journal of Multidisciplinary Islamic Studies* 1, no. 1 (June 30, 2020): 74–84.

This article uses a qualitative method of library research with a *Systematic Literature Review* (SLR) approach. This approach is used for various research procedures that are systematic by examining<sup>48</sup> and reviewing the literature. Systematic procedures are used to collect data, evaluate data feasibility, analyze and interpret relevant data then present the results obtained.<sup>18</sup> The theory used as an analytical knife is the *maqashid syari'ah* theory, and at the end of the analysis it uses deductive logic thinking.<sup>19</sup>

## B. Age Limit for Marriage in Islam

The Qur'an concretely does not specify an age limit for those who will get married. Limits are only given based on the qualities that must be carried by them as in the letter an-Nisa 'verse 6 which means: "*Make trial of orphans until they reach the age of marriage; if then ye find sound judgment in them, release their property to them...*".

The meaning of "already old enough to marry" in the Qur'an Surah an-Nisa above is after the desire to settle down has arisen, and is ready to become a husband and lead a family.<sup>20</sup> This will not be able to run perfectly, if he has not been able to take care of wealth. Based on these general provisions, fuqaha and jurists agreed to stipulate that a person is held accountable for his actions and has the freedom to determine his life after he is old enough (*baligh*). *Baligh* means until or clear: children who have reached a certain age where it becomes clear to them all the affairs or problems they face. Their mind has been able to consider what is good and what is bad.<sup>21</sup> The

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<sup>18</sup> Entot Suhartono, "Systematic Literatur Review (SLR): Metode, Manfaat, dan Tantangan Learning Analytics dengan Metode Data Mining di Dunia Pendidikan Tinggi," *Jurnal Ilmiah Infokam* 13, no. 1 (April 3, 2017): 54, <https://doi.org/10.53845/infokam.v13i1.123>.

<sup>19</sup> Farid, *Fenomenologi: Dalam Penelitian Ilmu Sosial* (Jakarta: Prenada Media, 2018), 305.

<sup>20</sup> M. Quraish Shihab, *Tafsir Al-Misbah; Pesan, Kesan Dan Keserasian Al-Qur'an*, Jilid 2 (Jakarta: Lentera Hati, 2010), 421; See also Syaiful Amin, Akmal Adicahya, and Hafidzul Aetam, *Problematika Hukum Keluarga Islam: Mewujudkan Akses Keadilan di Indonesia Timur* (Malang: Inteligencia Media (kelompok Penerbit Intrans), 2013), 70.

<sup>21</sup> M. Abdul Mujiieb, *Kamus Istilah Fiqih* (Jakarta: Pustaka Firdaus, 1994), 35.

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*baligh* period is the maturity period of one's life. Signs of maturity are when men have released semen and when they have menstruated blood or have become pregnant for women.

The legal age of puberty can vary from person to person, due to differences in environment, geography and so on. Juridically, the initial legal age is when a person is 12 years old for boys and 9 years old for girls.<sup>22</sup> Meanwhile, among the scholars there is a difference of opinion. According to Imam Abu Hanifah that is after a person reaches the age of 18 for men and has reached the age of 17 for women.<sup>23</sup> Meanwhile, according to most scholars<sup>54</sup> including some Hanafiyah scholars, that is if someone has reached the age of 15 years for both boys and girls.<sup>24</sup> In general, that's when the development of one's intellectual abilities is deep enough to know between good and bad and between what is beneficial and what is detrimental, so that one can already know the consequences that arise from the actions one has committed.

Imam Maliki, Syafi'i and Hambali stated that the growth of armpit hairs is proof of someone's puberty.<sup>25</sup> They state that the age of *baligh* for boys and girls is fifteen years. Meanwhile, Hanafi priests reject armpit hair as evidence of someone's *baligh*, because armpit hair is no different from other hair on the body.<sup>26</sup> Imam Hanafi stipulates that the maximum age of *baligh* for boys is eighteen years

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<sup>22</sup> Haris Hidayatulloh and Miftakhul Janah, "Dispensasi Nikah di Bawah Umur dalam Hukum Islam," *Jurnal Hukum Keluarga Islam* 5, no. 1 (September 27, 2020): 34–61; See also Masna Yunita and Anisa Nabila Az'zahra, "Faktor Penyebab Pernikahan Dini," *Saker* 39 *Jurnal Hukum Keluarga* 6, no. 1 (2021): 12–24.

<sup>23</sup> Aziza<sup>39</sup> Mohd and Nadhilah A. Kadir, "Minimum Age Of Marriage Under Islamic Law And The Islamic Family Law (Federal Territories) Act 1984: A Preliminary Study On The Ideal Age Of Marriage In Malaysia," *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilization (ISTAC)* 24, no. 2 (December 25, 2019): 239–266; See also Candra, *Pembaruan Hukum Dispensasi Kawin dalam Sistem Hukum di Indonesia*, 51. 88

<sup>24</sup> Abd-Arrahman Al-Jaziri, *Kitab Alfiqh Ala Madzahib Ala Arbaah* (Beirut: Dar al Kutub<sup>41</sup> Ilmiyah, 2003), 313–314.

<sup>25</sup> Muhammad Jawad Mughniyah, *Al-Fiqh 'Ala al-Madzahib al-Khamsah*, Penerjemah<sup>17</sup> Asykur A.B, dkk. (Beirut: Dar al-Jawad, 2015), 254.

<sup>17</sup> <sup>26</sup> Try Sa'adurrahman HM Kafrawi, Kurniati Kurniati, and Nur Taufiq Sanusi, "Tinjauan Hukum Islam dan Hukum Nasional Terhadap Pemberian Dispensasi Nikah Pada Pengadilan Agama Maros," *Jurnal Diskursus Islam* 6, no. 2 (August 30, 2018): 326–342, <https://doi.org/10.24252/jdi.v6i2.6786>.



and the minimum age is twelve years, while the maximum age of *baligh* for girls is seventeen years and the minimum is nine years.<sup>27</sup>

The Book of *Fathul Mu'in* explains that the age of *baligh* is after reaching the exact limit of 15 years with two fair witnesses, or after releasing semen or menstrual blood. The possibility of experiencing these two things is after the perfect age of 9 years. Besides that, the growth of thick genital hair requires cutting and the presence of underarm hair that grows thickly.<sup>28</sup>

The opinions of the scholars mentioned above are the characteristics of puberty which are only related to sexual maturity marking the beginning of maturity. If maturity refers to all stages of maturity, then puberty is only related to sexual maturity. A person's maturity will greatly determine the lifestyle and sense of responsibility in the household to face a life full of problems that he never faced when the person was not married. Maturity is also one of the elements that encourage the formation of a *sakinah, mawaddah wa rahmah* family. Because of the importance of the institution of marriage, someone who is going to carry out a marriage must have mature preparations in all fields. This preparation is related to one's maturity, there is no doubt, and life today is more difficult than in ancient times. The arrival of *ihtilam* is often not in line with our minds being mature enough so that we have thinking maturity. Due to that, it is mandatory for us to hold in determining a child who is old enough to be mentally mature, not from the number of ages and physical (body) signs.

### C. Marriage Age Limit in Positive Law

67 A person's maturity cannot be measured physically, but maturity has a broader meaning which includes mental, emotional, social and physical maturity.<sup>29</sup> Setting boundaries for adulthood is used to denote a stage of development between childhood and adulthood. In

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<sup>27</sup> Direktorat Jendral Pembinaan Kelembagaan Agama Islam Departemen Agama, *Ilmu Fiqh* (Jakarta: Departemen Agama RI, 1987), 2–3.

<sup>28</sup> Taha Mansor, *Fathul Mu'in* (Yogyakarta: Menara Kudus, 2006), 232–233.

<sup>29</sup> Elizabeth B. Hurlock, *Psikologi Perkembangan; Suatu Pendekatan Sepanjang Masa*, Penerj. Istiwiidayanti dan Soedjarwo (Jakarta: Erlangga, 1980), 206.

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general, experts use the age range of 12 to 21 years to determine maturity. This time range is usually divided into three: ages 12 to 15 years, ages 15 to 18 years, and ages 18-21 years.<sup>30</sup>

Maturity has an important role, especially in the context of marriage, because maturity can effect the life and success of a household. Even though someone has reached maturity both mentally and physically, it does not guarantee that they have the ability to build and maintain a household. This is especially true for those who are young, as it is not the right time for them to enter into the bonds of marriage. They may not yet have the capacity to face and solve problems that arise in household life. Therefore, maturity is very important in the context of marriage.<sup>31</sup>

The provisions in Article 7 paragraph (1) of Law Number 16 of 2019 that marriage is only permitted if a man and a woman have reached the age of 19 (nineteen) years. This provision has just been revised, whereas previously according to the same article of Law Number 1 Year 1974 that marriage is only permitted if the man has reached the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen) years. Basically, in general, maturity is used as an important principle by the government in establishing marriage law as a positive law that must be obeyed by all citizens.

In addition, to revise in determining the age limit for getting married also requires quite a long time, which is around 45 years. This is done with several considerations, one of which is stated in the preamble to Law Number 16 of 2019, marriage a young age has a negative impact on the development of children and will lead to non-fulfillment of children's basic rights such as the right to protection from violence and discrimination, civil rights children, health rights, education rights, and children's social rights. The next affirmation is contained in the previous article, article 6 paragraph (1) of Law Number 1 of 1974 "to enter into a marriage, a person who has not

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<sup>30</sup> Desmita, *Psikologi Perkembangan* (Bandung: Remaja Rosdakarya, 2008), 190.

<sup>31</sup> Sri Rahmawati, "Batas Usia Minimal Pernikahan (Studi Komparatif Hukum Islam Dan Hukum Positif)," *Syakhsia : Jurnal Hukum Perdata Islam* 21, no. 1 (August 11, 2020): 93, <https://doi.org/10.37035/syakhsia.v22i1.2918>.

reached the age of 21 (twenty one) years must obtain permission from both parents".<sup>85</sup>

Although the minimum age limit for entering into a marriage according to the law is 19 years old, this article stipulates that those who have not reached the age of 21 years must obtain permission<sup>61</sup> from both parents. When associated with Desmita's opinion that the age of 18-21 years is not yet included in the adult category but is still classified as the late adolescent stage,<sup>32</sup> this could have been used as a consideration in establishing Article 6 paragraph (1) in this law. Parental consent for those who have not reached the age of 21 is by filling in the N4 (Certificate of Parents) which has been prepared by the Office of Religious Affairs (KUA).<sup>33</sup>

#### D. The Age Limit for Marriage in Indonesia According to the Maqashid Sharia Perspective

*Maqashid al-Syari'ah* is the goal, value, and benefits to be achieved from the guidance of shariah both globally and in detail.<sup>34</sup> *Maqasid al-Syari'ah* is a number of good goals pursued by Islamic Shari'ah by allowing or prohibiting something. *Maqasid al-Syari'ah* also means a number of divine purposes and moral concepts that underlie the process of *al-tash'ri' al-amali* (compilation of law based on Islamic sharia).<sup>35</sup> The essence of *maqashid al-shari'ah* suggests that in terms of substance *maqashid al-shari'ah* is benefit. Benefit in God's *taklif* can take two forms: in the essential form, the direct benefit of the meaning of causality and in the *majazi* form, the form is the cause that leads to benefit.

*Maqashid syari'ah* has the first aspect for the implementation of sharia by Allah SWT. The essence or initial goal of implementing Shari'a is to realize the benefit<sup>74</sup> of all mankind. This is as Imam Al-Syatibi explained that human benefit can be achieved if the five main

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<sup>32</sup> Desmita, *Psikologi Perkembangan*, 190.

<sup>33</sup> Muhammad Fauzinudin Faiz, *Kamus Kontemporer Mahasantri 3 Bahasa* (Surabaya: Irfan, 2012), 100.

<sup>34</sup> Ahmad al-Raisuni, *Al-Fikru al-Maqasidi Qawa'iduhu Wa Fawa'iduhu* (Rabat: Dar al-Baida', 1999), 13.

<sup>35</sup> Jasser Auda, *Maqāsid Al-Sharī'ah: A Beginner's Guide* (London - Washington: International Institute of Islamic Thought (IIIT), 2008), 4-5.

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elements of human life can be realized and maintained, religion, soul, mind, lineage, and wealth.<sup>36</sup> Likewise al-Ghazali mentions the term *maqashid* as *mashalih al-khams*. This meaning gives the understanding that every law must be based on the goal of giving benefit to People in this world and in the hereafter. The five main elements are: *hifdh al-din*, *hifdh al-nafs*, *hifdh al-'aql*, *hifdh al-nasl*, and *hifdh al-mal*.<sup>37</sup>

### 1. *Hifdh al-Din* (Maintaining Religion)

This right is not only to maintain the sanctity of religion, but also to build places of worship and create patterns of healthy relations in practicing religion both with fellow religions and with other religions.<sup>38</sup> In the case of marriage, guarding religion is manifested in the responsibility of a husband in fostering his household in terms of providing education on faith, worship and morals. The husband must pay attention to the people closest to him, especially his wife and children related to learning about religion. This is important to maintain the quality of their religion for goodness of living in the future both in this world and in the hereafter.<sup>39</sup>

Related to maturing the age of marriage, this also helps in the maintenance of religion. Couples, who are immature, have not been able to be responsible for their family. A person's maturity can be realized if the mindset, feelings and behavior have matured. Characteristics of a person's maturity can be seen including self-image and a more realistic attitude, facing more mature problems or feeling calm when faced with a problem and so on. Someone who has not been able to be responsible for him will find it more difficult to be responsible for his family. This is what is feared that someone who is not yet an adult will neglect his family in teaching religion. Another

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<sup>36</sup> F. 46 *Kamus Kontemporer Mahasantri 3 Bahasa*, 105.

<sup>37</sup> Toseef Azid, Murniati Mukhlisin, and Othman Altwijry, *Wealth Management and Investment in Islamic Settings: Opportunities and Challenges* (Singapore: Springer Nature, 2022), 122; See also Maszlee Malik, *Foundations of Islamic Governance: A Southeast Asian Perspective* (London and New York: Taylor & Francis, 2014), 108.

<sup>38</sup> Jamaluddin 'Atiyyah, *Nahwa Taf'il Maqasid Shari'ah* (Dar al-Fikr, 2001), 149.

<sup>39</sup> 'Atiyyah, 149.

factor that can damage *hifd al-din* is when a young couple gives birth to a premature baby which results in functional brain disorders in the child. Couples who marry at a young age have the potential to give birth to babies with disabilities, premature or other birth problems. When a child's growth and development is disrupted, the absorption process of education is automatically disrupted. Included in the process of giving religious teachings which also means it will interfere with the maintenance of him.

## 2. *Hifdh al-Nafs* (Maintaining Soul)

The right to live or protect the soul is not just a tool for self-defense. This right should be directed at creating a better quality of life for oneself and society.<sup>40</sup> The right to life must be oriented towards improving the quality of human life as a whole, not partially. Marriages carried out at a young age, especially teenagers, have an impact on their reproductive health. The process of pregnancy and birth at a young age contributes to increasing mortality. Pregnant teenagers often experience complications such as premature delivery, low birth weight, and prenatal death, *preeclampsia*, sexually transmitted diseases, malnutrition, high blood pressure, and placental abruption. Pregnancy to childbirth is a very heavy series of reproductive processes that must be borne by women.<sup>41</sup> Pregnant teenagers are often not aware of the reproductive health problems they are experiencing, so they put themselves and their babies at risk, disease, and even death.<sup>42</sup> Pregnancy is also a confusing time for teenagers. With the existence of threats that result in the death of mothers and babies, this will also damage or threaten the maintenance of life.

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<sup>40</sup> Ridwan Jamal, "Maqashid Al-Syari'ah Dan Relevansinya Dalam Konteks Kinian," *Jurnal Ilmiah Al-Syir'ah* 8, no. 1 (June 22, 2016): 8, <https://doi.org/10.30984/as.v8i1.34>.

<sup>41</sup> Evra Willya, "Hak-Hak Reproduksi Dalam Pandangan Islam," *Marwah: Jurnal Perempuan, Agama Dan Jender* 11, no. 1 (June 2, 2012): 1-18, <https://doi.org/10.24014/marwah.v11i1.497>.

<sup>42</sup> Hasyim Hasanah, "Pemahaman Kesehatan Reproduksi Bagi Perempuan: Sebuah Strategi Mencegah Berbagai Resiko Masalah Reproduksi Remaja," *Marwah: Jurnal Studi Gender* 11, no. 2 (April 12, 2016): 229-252, <https://doi.org/10.21580/sa.v11i2.1456>.

### **3. *Hifdh al-'Aql* (Maintaining Reason)**

*Hifdh 'Aql* is *haq al-ta'lim* (right to education). Respecting reason does not mean simply maintaining the ability of reason not to go crazy or get drunk.<sup>43</sup> The orientation of guarding the mind is the fulfillment of intellectual rights for every individual in society. Included in this is the theft of someone's copyright, works and creations. Protecting against this is included in the category of protecting reason, guaranteeing security for intellectual works such as keeping the brain and nerves safe while at the same time staying away from anything that damages the brain, both from intoxicants and damage as well as treating diseases related to the soul and mind. Besides that, taking care of something related to providing education related to faith and worship is also included in the maintenance of reason.<sup>44</sup>

Associated with the concept of marriage, husband and wife are mutually responsible for providing education to their children and themselves. This is also related to the maintenance of religion in which the provision of education includes teachings about religion. For couples who marry at a young age, the potential for failure of education for both. The impact of marriage at a young age, especially teenagers, is the interruption of their educational path. They will focus on taking care of their household without thinking about continuing their education to a higher level. Low education will certainly have implications for a person's lack of knowledge. This means that the lack of knowledge will take away the opportunity to develop the potential of their minds and knowledge. In managing the household also need knowledge and skills in managing family life. This will also affect the couple in educating their offspring.<sup>45</sup> If in managing household life the husband or wife is incompetent or lacks knowledge, it will also disrupt stability in the family.

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<sup>43</sup> Hikmatullah and Mohammad Hifni, *Hukum Islam dalam Formulasi Hukum Indonesia* (Serang: Penerbit A-Empat, 2021), 100.

<sup>44</sup> Syah, *Nahwa Taf'il Maqasid Shari'ah*, 2001, 149.

<sup>45</sup> Kurdi Fadal, "Pernikahan Di Bawah Umur Perspektif Maqashid Al-Qur'an," *Jurnal Hukum Islam* 14, no. 1 (June 12, 2016): 65–92, <https://doi.org/10.28918/jhi.v0i0.673>.

#### 4. *Hifdh al-Nasl* (Preserving Offspring)

*Hifdh al-Nasl* means guarding the offspring. In order to maintain the sustainability of the ummah, it is necessary to have rules relating to the continuity or existence of life. As a creature that is trusted by Allah SWT to be the caliph on earth, it is necessary for humans to realize that population is very necessary. The maintenance of offspring is directly related to the field of marriage since the purpose of marriage itself is to produce offspring. The Prophet Muhammad encouraged his people to choose fertile potential partners because this included the purpose of marriage.<sup>46</sup> Taking care of offspring means take a man as a husband as well as a father and take a woman as a wife as well as a mother. Child marriage at a young age or before the age of maturity will only achieve some of the goals of marriage, while other goals tend to be neglected.<sup>47</sup> Biological function can be achieved in marriage at a young age because it can avoid forbidden acts (adultery) or the birth of offspring (as a form of *hifdh al-nasl*). However, other goals are prone to problems if psychological maturity and other skills are not owned by a partner.

Furthermore, related to the impact of reproduction will give birth to various problems in premature pregnancies and maternal and fetal death. It will also threaten the existence in soul maintenance. Another thing related to the maturity of reason is that marriage done at a young age will have an impact on a person's maturity.<sup>48</sup> Someone who is immature is also not able to manage household problems that come to him. If these problems are not able to be addressed with a mature mind, then what happen is the frequent dispute between them? Disputes that cannot be addressed with a calm mind will result in divorce. The truth is, marriage is at risk of giving birth to various

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<sup>46</sup> Arisman, *Menuju Gerbang Pernikahan* (Indonesia: Guepedia, 2020), 57.

<sup>47</sup> Abdul Aziz, "Reinterpretasi Perkawinan Usia Anak-Anak: Menafsir Ulang Teks-Teks Keagamaan Tentang Perkawinan Anak," *Al Ashriyyah* 5, no. 2 (October 21, 2019): 169–43 <https://doi.org/10.53038/alashriyyah.v5i2.97>.

<sup>48</sup> Fauziatu Shufiyah, "Pernikahan Dini Menurut Hadis Dan Dampaknya," *Jurnal Living Hadis* 3, no. 1 (May 8, 2018): 47–70, <https://doi.org/10.14421/livinghadis.2017.1.1.43>. See also Habibah Nurul Umah, "Fenomena Pernikahan Dini di Indonesia," *Jurnal Al-Wasith: Jurnal Studi Hukum Islam* 5, no. 2 (2020): 107–125, <https://doi.org/10.52802/wst.v5i2.11>.

problems in the family that can uproot the noble values which are the main mission of the Qur'an.

### **5. *Hifdh al-Mal* (Maintaining Property)**

*Hifdz mal* can also be called *haq al-mal* (right to work). This is not only interpreted as an effort to protect property from interference by other people. This right can also be interpreted as a person's right to obtain property in a lawful way, to work broadly, this right empowers a person to provide work for others. Therefore, everyone can enjoy property rights in their own life and obtain an adequate quality of life. Husband and wife can take care of property, if the husband goes to work, then the wife can take care of property, and vice versa.

Marriage at an immature age has many health implications, especially for mothers and babies. Among these effects, children can be born deformed and even die. From this, according to the author, the program is very useful for protecting the offspring of married couples. This is also part of *hifdz al-nasl* including treating future illnesses caused by young marriages. As stated by Jamaluddin 'Atiyah, marriage has multiple goals for example taking care of offspring, starting a *sakinah* family, maintaining good family relationships, and managing the financial aspects of the family. In marriage, Islam is an entry point for the birth of new rules related to economic aspects, such as the husband's obligation to give money to his wife to prove that he is a serious and responsible man. The husband also has an obligation to provide subsistence for his wife and children. This also includes wages for divorced wives, nursing mothers, inheritance laws, wills and other matters relating to the financial aspects of the family.<sup>49</sup>

Planning Maturity in Marriage, not only preparing partners who are more reproductively, socially, and psychologically mature. However, getting married at the ideal age also prepares the candidate to be financially mature. Due to the young age of their marriage, the couple had many financial problems. This is also related to the low

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<sup>49</sup> 'Atiyah, *Nahwa Taf'il Maqasid Shari'ah*, 2001, 149–150.



level of education. Early marriage has an impact on low levels of education, also in the economic sector. This means that less educated people have fewer opportunities to work and earn money. This will have implications for economic problems.

On the basis of this *maslahah mursalah*, it is justified for the government to prohibit young marriage and to make an age limit for men and women who will marry as stated in Law no. 16 of 2019 which states that for the benefit of the family and household, marriage may only be carried out by <sup>28</sup>pective brides who have reached the age specified in Article 7 of Law Number 16 of 2019, that marriage is only permitted if a man and a woman have reached the age of 19.

Among the five maintenance of human existence according to Islam, *hifdz nasl* which is a guarantee of offspring is directly related to marriage. There are several views that *hifdz nasl* can also be called *hifdz usroh*. One of the goals of building a family is to multiply offspring. Through a legal marriage, a legitimate Islamic generation will be born. Therefore Islam strictly prohibits his servant from committing adultery. So the purity and sanctity of the blood of a halal partner will continue to be passed on to future generations of Islam. Islamic guarantees for families are not only capable of giving birth to families whose marriages are legal according to the country or religion in particular. This maintenance can also be developed into caring for quality offspring, who are educated according to the Islamic religion. So that it can become a quality generation for the future.

## E. Conclusion

The legal age limit for marriage <sup>37</sup> in Indonesia is regulated in Law no. 6 of 2019 that marriage is only permitted if the man and woman have reached the age of 19. This arrangement aims to prevent divorce at a young age and avoid unhealthy offspring. In terms of *maqasid al-shari'ah*, the most important thing in terms of the age limit of marriage is the benefit associated with *al-kulliyatu al-khamsah* when viewed from the five main elements of *maqasid al-shari'ah* including *hifdz diin*, *hifdz nafs*, *hifdz 'aql* and *hifdz mal*. Basically, *hifdh nasl* is

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not only about caring for offspring. In a sense, it is not just obtaining offspring from a legal marriage relationship, but also maintaining these offspring as healthy and quality offspring.

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