



Substantive Maturity In 'Āishah's Marriage



Article History

Submitted: 13-01-2021

Revised: 04-05-2021

Approved: 25-06-2021



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Abstract

This study aims to analyze the substantive maturity of Aishah's marriage, where based on the hadist of the Prophet, Aishah married the Prophet at the age of 6 years and started married at the age of 9 years. The information contained in the hadith is closely related to the issue of child marriage in the mainstream discourse of protecting children's rights, particularly the rules for limiting the age of marriage that have been implemented so far. The method used in analyzing the above problems is descriptive with an approach to the history of Islamic law. This study notes that 'Aishah marriage has fulfilled the substantive maturity element, both physically which is marked by reproductive readiness and non-physical with indicators of intellectual maturity. Besides that, the age of marriage 'Aishah is done by determining the element of purpose (*al-ḥadf*) in the form of maturity quality and the component of means (*al-wasīlah*) in the form of age. Thus, this element has significance for religious legality guarantees related to the rules for the age limit of marriage that apply in Muslim countries.

Keywords: Age, 'Āishah, Marriage, Substantive Maturity

URL: <http://e-journal.iainpekalongan.ac.id/index.php/Hikmatuna/article/view/3319>

DOI: <https://doi.org/10.28918/hikmatuna.v7i1.3319>

Penelitian ini bertujuan untuk menganalisa kedewasaan substantif perkawinan pada diri 'Āishah, dimana berdasarkan hadis Nabi dinyatakan bahwa 'Āishah menikah dengan Nabi pada usia 6 tahun dan mulai berumah tangga pada usia 9 tahun. Informasi yang terkandung dalam hadis, tentunya, berkaitan erat dengan isu perkawinan anak pada arus besar diskursus perlindungan hak-hak anak, khususnya aturan pembatasan usia perkawinan yang selama ini diterapkan. Metode yang digunakan dalam menganalisa persoalan di atas adalah deskriptif dengan pendekatan sejarah hukum Islam. Penelitian ini mencatat bahwa perkawinan 'Āishah telah memenuhi unsur kedewasaan substantif, baik secara fisik yang ditandai dengan kesiapan reproduksi maupun non-fisik dengan

indikator kematangan intelektualitas. Disamping itu, usia perkawinan 'Āishah dilakukan dengan cara menentukan unsur tujuan (*al-ḥadf*) berupa kualitas kedewasaan, dan unsur sarana (*al-wasīlah*) berupa usia. Demikian, unsur tersebut memiliki signifikansi terhadap adanya jaminan legalitas keagamaan terkait aturan batas usia perkawinan yang berlaku di negara-negara muslim.

Kata Kunci: *Usia, 'Āishah, Perkawinan, Kedewasaan Substantif*

A. INTRODUCTION

The issue of child marriage has become a part of the mainstream discourse on protecting children's rights, which began to receive international attention in the 1990s. The 1964 international convention "Consent to Marriage, Minimum Age for Marriage and Registration of Marriages" encouraged each participating country to issue laws and regulations governing the minimum age for marriage (Hanafi, 2011, p. 19). The 1989 international convention "International Convention the Right of the Child" express several rules, one of them is article 1 part 1 "For the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, the majority is attained earlier (Marilang, 2016, p. 8). Based on the two conventions, marriages under 18 years old are marriages carried out by those who have not reached the agreed age limit.

Marriage of minors is often interpreted as an action that has a direct result in the deprivation of children's rights, such as health, education, social, economic, and in many cases, gender relations (Hanafi, 2011, p. 33). One of the factors considered to be the cause of the perpetuation of the practice of child marriage is religious understanding, in addition to other factors (Gaib, 2020, p. 45). One of the understandings of spiritual norm that are used as legitimacy comes from the hadith about the Prophet's marriage with 'Āishah who was still six years old.

The marital history of 'Āishah then became an issue of strategic study by scholars. David Margoliouth (1858-1940) said that the behavior of the Prophet's marriage to 'Āishah as an *ill-assorted union* (1905, p. 234). Meanwhile, the results of the study of Ali, et al and Hanafi, shows that Muslim scholars themselves are divided into two groups in responding to the Prophet's marriage to 'Āishah: First, the group who doubts the information on 'Āishah's marriage age and tries to make corrections using historical facts (Hanafi, n.d.; Jaeni et al., 2015).

This category includes those who put the marriage as a form of *khuṣūsiyyah* (privilege) in the Prophet that his people should not imitate (Ibn Hazm, 2012, p. 459). Second, the group that still believes in the validity and authenticity of hadith information is on the defensive to maintain the sanctity of marriage; maintain legitimacy, and perpetuate the practice of child marriage (Marcoes & Sirimorok, 2016, p. 13).

In the last of 10 years, studies on child marriage have increased, such as Carolyn Baugh (2017) and Yusuf Hanafi (2011). In addition to Baugh and Hanafi, the study on

the legality of the age of marriage has also been carried out by M. Ali Rusdi (2016), as well as the relationship between marital fiqh and the Compilation of Islamic Law in Indonesia has been studied by Euis Nurlaelawati (2010). However, the study of the relationship between 'Aishah's marriage age and the issue of marital maturity has not explicitly been studied by researchers. The problem of marital maturity is broad. Therefore, this article focuses on examining the topic of 'Aishah's marriage age. The focus of the study is directed at the issue of the condition of 'Aishah's maturity during the marriage. The method used in this research is descriptive with a social history approach of Islamic law (Coulson, 1987).

B. DISCUSSION

1. Physical and Non-Physical Maturity in the Hadith of Marriage Age 'Aishah

The history of 'Aishah's marriage age with the Prophet is documented in several collections of classic hadith books. Among the editors of the hadith unit with the quality of the authentic transmission, it is presented in the hadith collection book.

حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ، حَدَّثَنَا سُفْيَانُ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا: أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَزَوَّجَهَا وَهِيَ بِنْتُ سِتِّ سِنِينَ، وَأُدْخِلَتْ عَلَيْهِ وَهِيَ بِنْتُ تِسْعٍ، وَمَكَتَتْ عِنْدَهُ تِسْعًا.

*"Told me Muhammad ibn Yusuf, told me Sufyan from Hishamm from his father ('Urwah ibn Zubayr) from 'Aishah, that the Prophet entered into a marriage contract with 'Aishah when she was a girl of 6 (six) years old. 'Aishah married the Prophet when she was a girl of 9 (nine) years and was beside the Prophet for 9 (nine) years."*¹

In line with the hadith information above, *Imam* Muslim also have a history of hadith containing direct statements from 'Aishah regarding age at the time of the marriage contract.

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا أَبُو مُعَاوِيَةَ، عَنْ هِشَامِ بْنِ عُرْوَةَ، ح وَحَدَّثَنَا ابْنُ نُمَيْرٍ، وَاللَّفْظُ لَهُ، حَدَّثَنَا عَبْدُ هُوَ ابْنُ سُلَيْمَانَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: تَزَوَّجَنِي النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَنَا بِنْتُ سِتِّ سِنِينَ، وَنَبَى بِي وَأَنَا بِنْتُ تِسْعٍ سِنِينَ.

*"Tell me Yahyā ibn Yahyā, tell me Abū Mu'āwiyah from Hishām ibn 'Urwah. Switch transmission lines. Narrated to me Ibn Numayr, and this editorial is his, told me 'Abdah i.e., Ibn Sulayman, from Hishām, from his father, from 'Aishah, he said: "The Prophet married me when I was a girl of 6 (six) years old and married to me when I was a 9 (nine) year old girl."*²

The hadith above informs that 'Aishah was married to the Prophet at the age of 6 (six) years and married the Prophet at 9 (nine) years. 'Aishah then lived in a household with the Prophet for 9 (nine) years. In other words, 'Aishah was left by the Prophet when he was 18 (eighteen) years old. In addition to the hadith, explains 'Aishah's age of

¹ Imam al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, hadis no 4840 (Bukhārī, 1987, p. 1973)

² Imam Muslim, *Ṣaḥīḥ Muslim*, hadis no 3545 (Abi Husain Muslim ibn Al-Hajjaj, Tth, p. 142) Substantive Maturity...(Moch. Nurcholis & Mohammad Fajrul Falah Afandi)

marriage when she was 6 (six) years old, several hadith units were found which describe 'Aishah's marriage age when she was 7 (seven) years old.

وَحَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ أَخْبَرَنَا عَبْدُ الرَّزَّاقِ أَخْبَرَنَا مَعْمَرٌ عَنِ الزُّهْرِيِّ عَنِ عُرْوَةَ عَنِ عَائِشَةَ أَنَّ النَّبِيَّ تَزَوَّجَهَا وَهِيَ بِنْتُ سَبْعِ سِنِينَ وَرَفَّتْ إِلَيْهِ وَهِيَ بِنْتُ تِسْعِ سِنِينَ وَلَعِبُهَا مَعَهَا وَمَاتَ عَنْهَا وَهِيَ بِنْتُ ثَمَانَ عَشْرَةَ.

*"Told me 'Abd ibn Humayd, told me 'Abd al-Razzāq, told me Ma'mar from al-Zuhr from 'Urwah from 'Āishah that the Prophet married 'Āishah when she was a girl of 7 (seven) years old and she began to be carried away to the Prophet when she was a 9 (nine) year old girl while still carrying a doll. The Prophet died leaving her when she was 18 (eighteen) years old."*³

The difference in information on 'Āishah's marriage age in the hadith above does not have significant meaning when faced to child marriage discourse. This is because both 6 (six) years and 7 (seven) years are under maturity. The marriage of 'Aishah took place in the city of Mecca after the death of Khadijah, two or three years before the Prophet moved to the city of Yathrib (Medina). 'Āishah started living with the Prophet in the month of Shawwal (Imam An-Nasa'I, 2010, p. 70) when she was 9 (nine) years old (Ḥanbal, 2001, p. 360) upon arrival in the city. When Prophet Muhammad came to the city of Medina, 'Āishah had lived in a village of the Harith ibn Khazraj family. When approached by the Prophet to be carried away, 'Āishah was playing on a swing with her peers, like a young girl (Mājah, n.d., p. 603).

Although Aishah married to the Prophet at a young age, 'Āishah overgrew as a woman like other Arab women. Munsef, one of the Western scholars, as conveyed by 'Āishah bint al-Shāfi', revealed the results of his observations after his visit around the Arabian peninsula by stating that Arab women look old when they reach the age of (20) twenty (Mājah, n.d., p. 122). Munsef's statement is also reinforced by al-Būṭī's finding that people living in hot climates mature faster than people living in tropical and cold temperatures (Būṭī, 2017, p. 39).

Physical maturity in the context of marriage is defined as the minimum readiness to have intercourse marked by having menstruated. Al-Būṭī stated that not a few women in the African and Arabian peninsulas experienced menstruation at the age of nine years, in contrast to women in Central Asia or Europe where women with 14 (fourteen) years of age had not experienced menstruation (Būṭī, 2017, p. 40). Long before al-Būṭī, al-Shāfi'ī using the inductive method (*istiqrā'*), concluded that the minimum age for menstruation is 9 (nine) years. Al-Shāfi'ī's findings are based on data on the minimum age for

³ Imam Muslim, *Ṣaḥīḥ Muslim*, hadis no 3545 (Abi Husain Muslim ibn Al-Hajjaj, Tth)

menstruation for women in the Tihāmah area (an area in the western Arabian peninsula known to have a hot climate) (Houstma, 1993, p. 765).

Menarche (early menstruation) occurs when women experience puberty is an indicator of physical readiness to have a sex. The sexual organs have reached maturity, and at this stage, the female ovum is ready to undergo fertilization, pregnancy, and childbirth. One factor that influences the age at which early menstruation occurs is heredity and the climate in which she lives (Mutasya et al., 2016, p. 233). While menstruation itself, which means the periodic time of menstrual bleeding, is the blood that comes from the uterine wall due to the unfertilized egg, which then mixes with the blood of the exfoliated uterine cells (Zalni et al., 2017, p. 158). In other words, a woman who has passed menstrual blood means that she has an ovum that is ready to be fertilized. On the other hand, a woman who has stopped having menstrual bleeding (menopause) means that her pregnancy period has ended. A woman who can still expel menstrual blood applies the principle that her uterus does not contain a fertilized ovum when she removes menstrual blood.

Based on the explanation above, it is interesting to observe the age of 'Āishah when she started marrying the Prophet, which is 9 (nine) years old. It is possible that she has reached adulthood substantially and has matured for sexual intercourse. This fact needs to be revealed to counter the opinion that the Prophet was the perpetrator of exploiting children's bodies (*pedophilia*) when he married 'Aishah. This argument can be born from the assumption that sexual activity is directly related to marriage based on social theories (Christopher & Sprecher, 2000, p. 1001). However, it should be considered that sexuality and marriage are related to social ideas and must be viewed from a legal and moral perspective. Marriage and sexuality are an institution of life based on a solid commitment from a partner (Stutzer & Frey, 2003, p. 326). Based on the analysis of 'Āishah's age and the hadith explained by Dārimī, the Prophet as *pedophilia* cannot be accepted.

أَخْبَرَنَا عُبَيْدُ اللَّهِ بْنُ مُوسَى، عَنْ سُفْيَانَ، عَنْ إِسْمَاعِيلَ بْنِ أُمَيَّةَ، عَنْ عَبْدِ اللَّهِ بْنِ عُرْوَةَ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، قَالَتْ: تَزَوَّجَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي شَوَّالٍ، وَأَدْخَلْتُ عَلَيْهِ فِي شَوَّالٍ، فَأَيُّ نِسَائِهِ كَانَ أَحْظَى عِنْدَهُ مِنِّي

“Telling me ‘ Ubayd Allāh ibn Mūsā from Sufyān from Ismā‘īl ibn Umayyah from ‘Abd Allāh ibn ‘Urwah from ‘Urwah from ‘Āishah, he said: Rasulullah married me in the month of Shawwal and I was taken with him in the month of Shawwal. Which Apostle's wife is more fortunate by his side than me? ”(Dārimī, 2000, p. 1418).

The statement related to 'Āishah's happiness about her marriage to the Prophet above was not read (or deliberately not read) by the *misogynist* group. Happiness in marriage is one of the interesting problems to study for those who concentrate on the issue of marriage (Stutzer & Frey, 2003, p. 334). This hadith can be used as an answer when asking about the marriage of 'Āishah with the Prophet because the presence of this hadith answers the questions that marriage reviewers always ask. When reading 'Āishah's

marriage age, they try to construct these past events with current ethical standards related to child maturity, but forget the factors that always arise when discussing marriage.

From the historical perspective, child marriage in the early Islamic era was a natural thing that even the *Quraysh* never used as a tool to the corner and be hostile to the Prophet (Candra, 2018, p. 15). The marriage of 'Āishah to the Prophet, apart from being a natural thing according to the social context of a particular society, has also fulfilled the element of substantial maturity as one of the prerequisites for fulfilling the purpose of marriage, namely *al-tanāsul* ('Aṭīyah, 2003, p. 332). This kind of significant maturity requirement was also previously mentioned by al-Nawawī (Asqalani, 2000, p. 124) and al-Syaukānī (Shaukānī, 1993, p. 144).

The Prophet's marriage to 'Āishah in the religious realm was based on choice and guidance. A narration of Tirmīzī shows the existence of a "marriage" between the Prophet and 'Āishah, can also be interpreted as a form of 'Āishah's privilege as a figure directly appointed by Allah SWT as the companion of the Prophet (Tirmīzī, 1975, p. 704). 'Āishah even became the youngest and most beloved wife of the Prophet after the death of Khadījah (Shāṭi' & Alkaf, 2001, p. 148). As the companion of the Prophet with the task of conveying revelation (*tablīg al-risālah*) and at the same time the "figure" of a perfect role model (*uswah*) for all people, 'Āishah has unquestionably been endowed with a character that can support the prophetic task, not only while the Prophet was alive, but continued lasted until the end of 'Āishah's own life.

The quality of 'Āishah's maturity from the strong side of memorization is well illustrated by many hadiths narrated (Nasaruddin & Dahaman@Dahlan, 2020, p. 1631). 'Āishah ranks fourth (by describing 2210 units of hadith) of the seven companions of the most hadith narrators. When married by the Prophet, the young age was supported by the intelligence he possessed from birth, making him the most narrator of hadith among the female companions. In addition to having qualified qualities in the field of hadith, 'Āishah is also known as an expert in interpretation, jurisprudence, and other Islamic scholarship. His knowledge is widely considered among the other companions of the Prophet (Istiqlaliyah, 2016, p. 42). Despite having a lot of memorization under the other companions of the Prophet, it must be noted that 'Āishah was the wife of the Prophet who was certainly not as free as the other companions of the Prophet in accompanying the Prophet in every activity, especially when outside the home. The only advantage of 'Āishah in trying to record the *Sunnah* of the Prophet was the proximity of her residence to the *Nabawī* mosque, which was widely used as a center for religious teaching (Istiqlaliyah, 2016, p. 43).

The brilliance of 'Āishah's reasoning power is also proven by her ability to not only record the words and deeds of the Prophet but also to have a strategic position in understanding and deciphering the explanation of a hadith. 'Āishah is the center of consultation for friends when facing life problems, especially regarding the law of *halal*



and *haram* (Tidjani, 2016, p. 33). She had many disciples from among the Prophet's companions, both male and female, whether they were related or not. According to the last group, the learning method was done by putting up a barrier between 'Āishah and other companions. No less than 150 (one hundred and fifty) students from the *tabi'in* group narrated the hadith from him (Hanafi, 2011, p. 51). This is because 'Āishah is a woman who has strength in memorizing hadith and an excellent capacity to understand and teach religion to other companions. (Al-Tirmizī, 1975, p. 186).

The description of the intellectual qualities possessed by 'Āishah can be used as a point of view in reading the hadith of her marriage to the Prophet. Reading that is often not used in reading the facts of 'Āishah's marriage. Based on the analysis of the hadith containing information on the age of marriage as above, it needs to be introduced and disseminated as an alternative view, it can even be an antithesis to the reading of 'Āishah's marriage with the Prophet in the perspective of early childhood marriage. The reading of substantial values in a 'problematic' hadith like this, according to the author, is a more critical project for Muslim scholars to undertake today than to be entangled in the contention of the text of the hadith texts that have been agreed upon by previous scholars. This reading helps generate an understanding of the traditions that prevailed in the past and then trying to contextualize them in a new tradition in this modern era.

2. Contextualization of Substantive Maturity in Marriage

Astronomical transmission patterns are Efforts to contextualize religious norms are a necessity. However, spiritual values that are universal in the process of their formation are always in contact with cultural levels that are partial, temporal, and local, which then crystallize in two dimensions, namely ritual (*sakral*) and social (*profan*) (Maulana, 2018, p. 36). In the case of ritual-related teachings, the principle of *ta'abbudī* (submission) applies. In contrast, in the social sphere, the focus of *ta'aqqulī* applies, where religion only sets available lines as a spirit in the preparation of a rule that by al-Shāṭibī referred to as al-*maṣlahah* (goodness).

The depiction of the relationship between a teaching text and the spirit that surrounds it. Al- Shāṭibī explains that legal norms are not applied to themselves, but are enforced to realize other goals, namely benefit (Būsā'adi, 2015, p. 228). Legal norms with a social dimension must constantly change in line with changes in standards of goodness based on rationality (reason) considerations. Al-Shāṭibī is of the view that religious texts (*naṣṣ*) are not static and final in the context of understanding and interpretation, but can continually accept new arrangements and undergo a renewal of meaning based on *ijtihad*. Hermeneutical problems like this always arise when one tries to understand the texts of the hadith. Hadiths sourced to the Prophet live centuries apart from their readers, making it possible for readers not to understand the exact words of the existing hadiths. However, it should be noted that this error is not an error that only exists in the process of understanding the hadith, but in the practice of the process of understanding the text which has quite a distance between the author and the reader (Wathani, n.d., p. 200).

This understanding is increasingly difficult when the aspect of benefit based on rationality contradicts the sound of religious texts. This situation can be held to the benefit must remain first (Shāṭibī, 2003, p. 42). Therefore, reading and understanding a text, not limited to religious texts, and needs contextualization efforts. Contextualization here in the sense that the interpreter, in this case, the writing of this article, tries to provide an understanding of the hadith according to the needs of the readers of his time, no longer trying to understand the reader according to the needs of the author of the text (Ulumuddin, 2019, pp. 218–219).

Efforts to contextualize religious teaching contained in a text with a social dimension require courage to place the sound of a religious text. The courage is due to trying to read the reality of the function and position of the Prophet, which is still not acceptable to the general public except for those who concentrate on the study of hadith. Judging from his function and position, the Prophet has a role as an ordinary human being, person, husband, head of State and society, war, and so on, in addition to his *nubuwwah* and apostolic roles (Suryadi, 2016, p. 32). The reading of the position and function of the Prophet brings an interpreter of the text of hadith with the principle that the text must be positioned as a means in realizing *maslahah* as its primary goal and the spirit of the implementation of the text itself. In its development, efforts to learn the benefit aspect can be made by having a dialogue with the core meaning of the text ('Allah) with reality, as seen in the case of *zakat* on rice for Muslim communities in Indonesia. This effort, in the end, on the one hand, maintains the sacredness of the text, and at the same time, can make religious teachings always feasible (*salih*) to be applied every time in every part of the world.

At the level of hadith studies, efforts to contextualize the meaning and purpose of a hadith can be done by classifying and formulating things in the form of means and things that are goals. A step that al-Qarḍāwī calls "*al-tamyīz bayn al-wasīlah al-mutaghayyirah wa al-haḍf al-Ṣābit li al-ḥadīth*" (distinguishing between dynamic with static goals). Al-Qarḍāwī noted that many errors in the interpretation of hadith by the Muslim community due to its failure to separate the elements of purpose and means. Errors in interpretation result in the weakening of the hadith itself, such as errors in interpreting the hadiths about the treatment performed and recommended by the Prophet. According to Al-Qarḍāwī, the hadiths about it only apply to certain contexts in a limited way, do not apply universally, and do not apply as religious norms (shariah). Aspects of religious teachings contained in the hadith are precisely related to efforts to maintain health and the prohibition of consuming things that are harmful to the body (Qarḍāwī, 1994, p. 140).

Based on Al-Qarḍāwī's idea of contextualizing a hadith, the age of 'Aishah's marriage as explained in the previous sub-chapter must be placed in a position as a means that always has the opportunity to change according to the social context and natural conditions (al-bī'ah). In addition, this step must be accompanied by the principle of making the aspect of maturity that exists in 'Aishah, in her capacity as a bride, as a goal,

and a core message that always applies across time and place. Based on Al-Qardawi's idea of contextualizing a hadith, the age of 'Aishah's marriage as explained in the previous sub-chapter must be placed in a position as a means that always has the opportunity to change according to the social context and natural conditions (*al-bī'ah*). In addition, this step must be accompanied by the principle of making the aspect of maturity that exists in 'Aishah, in her capacity as a bride, as a goal, and a core message that always applies across time and place.

The physical and non-physical readiness above is the basis for assessing whether a woman in marriage has fulfilled the substantial adult requirements. The relativity of maturity in marriage, which depends on context, must be used as a keyword to contextualize the age of marriage maturity. The text of maturity is based on the principle of physical, mental, and spiritual readiness, which is an effort to realize the requirements for holding a marriage at the juridical level.

In Indonesia, the age of marriage is regulated through marriage law number 16 of 2019. The age provision of 19 years applies to both the groom and the bride. The age of marriage is one of the requirements met by a pair of prospective brides who want to get married. The word team here needs to be emphasized that the state rules are not in favor of one of the future brides so that both prospective brides are equated with having a minimum age limit. If these conditions are not met, the marriage cannot be recorded at the marriage registration institution (Religious Affairs Office). Unregistered marriages result in the loss of legal protection provided by the State. Although not a determinant of the validity of a marriage, marriage registration is a guarantee of the legality of the application of aspects of citizenship that arise as a result of the existence of marriage recognized by the State, such as alimony, inheritance rights, and lineage (Marilang, 2016, p. 340).

The determination of the age of 19 (nineteen) years as a condition for the marriage to take place is an embodiment of the spirit of protection of children's rights, which stipulates the age limit of 18 (eighteen) years. According to the marriage law in Indonesia, the ideal age for marriage is when a person has reached the age of 21 (twenty-one) years. At this age, a person can marry without asking for parental consent. Although it does not reached yet the ideal age of marriage as set out in article 2 paragraph (6) of the marriage law, a person who has reached the age of 19 (nineteen) has been able to marry because it is considered to have reached physical maturity (health), mental maturity (education). And the age of eligibility to perform a marriage (Jaeni et al., 2015, p. 8). Even though it has been regulated in such a way, there are still marriages that occur when a person has not reached the minimum age of marriage through marriage dispensation efforts. This generally happens because of the pregnancy out of wedlock. In this case, the Religious Court Judge granted the application for a marriage dispensation with consideration of the two prospective brides and groom (Rais, 2018, p. 156).

Setting the age limit in marriage has a very close relationship with the realization of *maqasid al-'usrah* (the goals of family formation) such as: regulating the relationship of the bride and groom, preserving humanity, realizing happiness in the family, maintaining lineage, maintaining religion in the family sphere, the formation of family foundations, and the arrangement of economic aspects (Nurcholis, 2019, p. 15). The whole purpose of forming a family requires maturity and maturity of each partner in managing a married life full of dynamics of problems. In general, it is hard to imagine, the building of domestic life can survive well without the physical and psychological maturity of both. Marriage under the minimum age of marriage has significantly contributed to the high divorce rate in Indonesia. In turn, the high divorce rate also has a direct impact on the low guarantee of child custody protection (Nasution & Muchtar, 2020, p. 362).

The determination of the minimum age limit for marriage is a product of projective *ijtihad* that the parties should carry out to the marriage law. The main goal is to create an ideal household order based on the community's current and future conditions of social life. Efforts to dynamic and contextualize marriage law in Indonesia through projective *ijtihad* need to be carried out continuously and sustainably by utilizing *maqāsid al-syarī'ah*, especially *al-'usrah*, as the basis of religious moral-ethics (Nur et al., 2020, p. 332). Thus, the existing marriage law is in line with the values contained in the hadith regarding the age of Aishah's marriage to the Prophet. Age is not a definite benchmark for setting the limits of maturity so that it requires state leaders to look at the reality of society. The condition of Aishah, the women of her time, was certainly not the same as the conditions of women in Indonesia. This is because Aishah and her hadith are far apart in time and space from women in Indonesia.

C. Conclusion

Based on the discussion that has been explained, several things can be known. First, 'Aishah's marriage, even though it was carried out at a very young age, has fulfilled the element of substantive maturity in marriage, namely physical maturity related to reproduction and non-physical (intellectuality) related to aspects of harmony in married life. Second, the contextualization of the marriage age of 'Aishah as contained in the hadith is carried out by sorting and determining the element of purpose (*al-ḥadf*), which is fixed, and the element of means (*wasīlah*) which is constantly changing. This element has significance for the guarantee of religious legality related to the rules of the marriage age limit that apply in Muslim countries, especially in using the marriage law in Indonesia. As for other countries, further studies are needed, whether the age of marriage and the rules are the same as what happened in Indonesia.

REFERENCES

- Abi Husain Muslim ibn Al-Hajjaj. (Tth). *Shahih Muslim. Juz 1*. Dar al-kutub al-ilmiiyyah.
- Asqalani, A. bin 'Ali bin H. (2000). *Fath al-Bārī Syarh Shahīh al-Bukhārī*.

- 'Atīyah, J. A. D. (2003). *Naḥw Taf'īl Maqāṣid al-Syarīah*. Dār al-Fikr.
- Baugh, C. (2017). *Minor Marriage in Early Islamic Law*. BRILL.
<https://doi.org/10.1163/9789004344860>
- Bukhārī, M. bin I. al-. (1987). *Ṣaḥīḥ al-Bukhārī* (Vol. 5). Dār Ibn Kaṣīr.
- Būsā'adi, Y. S. (2015). *Al-Ṣabit wa al-Mutaghayyir min Aḥkām al-'Usrah*. Markaz Bāhiṭāt li Dirāsāt al-Mar'ah.
- Būṭī, M. S. R. al-. (2017). *'Aishah Umm al-Mukminīn* (D. S. Riyadi, Trans.). Qalam.
- Candra, M. (2018). *Aspek Perlindungan Anak Indonesia: Analisis Tentang Perkawinan di Bawah Umur*. Prenada Media Group.
- Christopher, F. S., & Sprecher, S. (2000). Sexuality in Marriage, Dating, and Other Relationships: A Decade Review. *Journal of Marriage and Family*, 62(4), 999–1017. <https://doi.org/10.1111/j.1741-3737.2000.00999.x>
- Coulson, N. J. (1987). *Hukum Islam dalam perspektif sejarah* (H. Ahmad, Trans.). Perhimpunan Pengembangan Pesantren dan Masyarakat (P3M).
- Dārimī, A. bin A. bin al F. bin B. bin A. al-Ṣamad al-. (2000). *Sunan al-Dārimī* (Vol. 3). Dār al-Mughnī.
- Gaib, H. (2020). *Pencegahan Perkawinan Anak Percepatan yang Tidak Bisa Ditunda*. Puskapa.
- Hanafi, Y. (n.d.). Kontroversi Usia Kawin Aisyah Ra dan Kaitannya dengan Legalitas Perkawinan Anak di Bawah Umur dalam Islam. *Istinbath: Jurnal Hukum Islam IAIN Mataram*, 15(2), 162–334.
- Hanafi, Y. (2011). *Kontroversi Perkawinan Anak Di Bawah Umur*. Mandar Maju.
- Ḥanbal, A. bin. (2001). *Musnad Aḥmad bin Ḥanbal* (Vol. 41). Mu'assat al-Risālah.
- Houstma, M. T. (1993). *First Encyclopaedia of Islam*. Brill.
- Imam An-Nasa'I. (2010). *Sunan An-Nasa'I, Juz 4*. Dar al-Hadits.
- Istiqlaliyah, U. (2016). PERAN DAN PENGARUH AISYAH DALAM BIDANG HADITS. *Dirosat: Journal of Islamic Studies*, 1(1), 41. <https://doi.org/10.28944/dirosat.v1i1.7>
- Jaeni, M., Ali, M., & Hilmi, R. A. (2015). *Fikih Kawin Anak*. Melvana Media.
- Mājah, 'Abd Allāh ibn. (n.d.). *Sunan Ibn Mājah* (Vol. 1). Dār Iḥyā' al-Kutub al-Islāmī.
- Marcoes, L., & Sirimorok, N. (2016). *Kerja Kuasa Tersamar Dalam Praktik Kawin Anak: Diskusi, Kesimpulan, dan Sejumlah Saran*. Yayasan Ruma Kita Bersama.
- Margoliouth, D. S. (1905). *Mohammed And The Rise Of Islam* (Cet. 3). Kenickerbocher Press.

- Marilang, M. (2016). LEGAL RELATIONSHIP BETWEEN ILLEGITIMATE CHILDREN AND THEIR BIOLOGICAL FATHER: The Analysis of Constitutional Court Decree No. 46/PUU-VIII/2010 in the Perspective of Civil and Islamic Law. *JOURNAL OF INDONESIAN ISLAM*, 10(2), 335. <https://doi.org/10.15642/JIIS.2016.10.2.335-354>
- Maulana, L. (2018). Telaah Ulang Talak SirriMelalui Hermeneutika Nurun Najwah. Hikmatuna: Journal for Integrative Islamic Studies. *HIKMATUNA : Journal for Integrative Islamic Studies*, 4(2), 166. <https://doi.org/10.28918/hikmatuna.v4i2.1545>
- Mutasya, F. U., Edison, E., & Hasyim, H. (2016). Faktor-Faktor yang Berhubungan dengan Usia Menarche Siswi SMP Adabiah. *Jurnal Kesehatan Andalas*, 5(1). <https://doi.org/10.25077/jka.v5i1.475>
- Nasaruddin, M. A. B. M., & Dahaman@Dahlan, M. A. B. D. (2020). AN ANALYSIS ON SYED AL-MUSAWI'S CRITICISM OF AISYAH'S 'ADALAH IN AL-MURAJ'AT. *Journal of Critical Reviews*, 7(8), 1631–1637.
- Nasution, H., & Muchtar, A. R. (2020). Access to Justice for Women and Children in Divorce Cases in the Indonesian Religious Courts. *AHKAM : Jurnal Ilmu Syariah*, 20(2). <https://doi.org/10.15408/ajis.v20i2.15702>
- Nur, I., Adam, S., & Muttaqien, M. N. (2020). Maqāsid Al-Sharī'at: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law. *AHKAM : Jurnal Ilmu Syariah*, 20(2). <https://doi.org/10.15408/ajis.v20i2.18333>
- Nurcholis, M. (2019). PENYAMAAN BATAS USIA PERKAWINAN PRIA DAN WANITA PERSPEKTIF MAQASID AL-USRAH (ANALISIS PUTUSAN MAHKAMAH KONSTITUSI NOMOR 22/PUU-XV/2017). *Mahakim: Journal of Islamic Family Law*, 3(1). <https://doi.org/10.30762/mh.v3i1.1328>
- Nurlaelawati, E. (2010). *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. Amsterdam University Press. <https://doi.org/10.5117/9789089640888>
- Qardāwī, Y. (1994). *Kayf Nata'āmal Ma'a al-Sunnah al-Nabawiyah*.
- Rais, I. (2018). Marriage Dispensation due to Extramarital Pregnancy: The Study on the Decision by the Religious Court of South Jakarta (2010-2011). *AHKAM : Jurnal Ilmu Syariah*, 18(1). <https://doi.org/10.15408/ajis.v18i1.7490>
- Rusdi, M. A. (2016). Status Hukum Pernikahan Kontroversial Di Indonesia (Telaah Terhadap Nikah Siri, Usia Dini dan Mut'ah). *Al-'Adl*, 9(1), 37–56. <https://doi.org/10.31332/aladl.v9i1.667>
- Shāṭi', 'Aīshah Bint al-, & Alkaf, A. Z. (2001). *Nisā'i al-Nabī*. Pustaka Hidayah.
- Shāṭibī, A. I. al-. (2003). *Al-Muwāfaqat*. Dār al-Kutub al-'Ilmiyyah.

- Shaukānī, M. (1993). *Nayl al-Awṭār* (Vol. 6). Dār al-Ḥadīs.
- Stutzer, A. A. S., & Frey, B. S. (2003). Does Marriage Make People Happy, or Do Happy People Get Married? *SSRN Electronic Journal*.
<https://doi.org/10.2139/ssrn.375960>
- Suryadi, S. (2016). PENTINGNYA MEMAHAMI HADIS DENGAN MEMPERTIMBANGKAN SETTING HISTORIS PERSPEKTIF YŪSUF AL-QARADAWĪ. *Jurnal Living Hadis*, 1(1), 29–50.
<https://doi.org/10.14421/livinghadis.2016.1067>
- Tidjani, A. (2016). AISYAH BINTI ABU BAKAR RA: WANITA ISTIMEWA YANG MELAMPAUI ZAMANNYA. *Dirosat: Journal of Islamic Studies*, 1(1), 27.
<https://doi.org/10.28944/dirosat.v1i1.6>
- Tirmizī, M. al. (1975). *Sunan al-Tirmizī* (Vol. 5). Mustafā al-Bābi al-Ḥalbī.
- Ulumuddin. (2019). TAFSIR KONTEMPORER ATAS “AYAT PERANG” Q.S. AL-TAUBAH (9): 5-6: PERSPEKTIF HERMENEUTIKA JORGE J.E. GRACIA. *Aqlam: Journal of Islam and Plurality*, 4(2), 215–232.
- Wathani, S. (n.d.). HERMENEUTIKA JORGE J.E. GRACIA SEBAGAI ALTERNATIF TEORI PENAFSIRAN TEKSTUAL ALQUR’AN | Wathani | *Al-A’raf: Jurnal Pemikiran Islam dan Filsafat*. Retrieved 25 June 2021, from <https://ejournal.iainsurakarta.ac.id/index.php/al-araf/article/view/945>
- Zalni, R. I., Harahap, H., & Desfita, S. (2017). USIA MENARCHE PADA ANAK PEREMPUAN BERHUBUNGAN DENGAN STATUS GIZI, KONSUMSI MAKANAN DAN AKTIVITAS FISIK. *Jurnal Kesehatan Reproduksi*, 8(2), 153–161. <https://doi.org/10.22435/kespro.v8i2.6918.153-161>