



The Rule Minimum Age of Marriage in Islamic Family Law in the Muslim World

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Abstract

Abstract: Questioning the issue of the minimum rules for marriage in Islam itself is not explained in detail about the minimum age for marriage. In jurisprudence, scholars of different schools of thought have different opinions regarding the minimum age limit for marriage, which in essence, someone who has reached the age of puberty can already get married. This article aims to discuss the minimum rules for marriage that are applied in every Muslim country in the world. The minimum marriage rules discussed are in Indonesia, Algeria, Bangladesh, Egypt, Iraq, Jordan, Lebanon, Libya, Malaysia, Morocco, Yaman, Pakistan, Somalia, Syria, Tunisia, Turkey, Afghanistan. The minimum age difference in some Muslim countries including Indonesia stems from the way each country determines the direction of their legislation, especially in marriage laws. Because in some countries it refers to the school of jurisprudence that it uses. Then, the purpose of the minimum age in marriage is to minimize the risks that will occur in marriage such as: Divorce caused by the immaturity of the child's mentality, difficulties in fulfilling family livelihoods, the potential for the birth of an unhealthy child caused by the biological immaturity of the

child, and potential for maternal death due to pregnancy at an early age.

Keywords: Minimum Age for Marriage, Law, Muslim World

1. Introduction

Marriage is a contract that justifies the relationship between a man and a woman which was originally prohibited. Marriage that is recommended in Islam must be carried out by fulfilling the conditions set out in the Shari'a. Among these conditions are several conditions that must exist in marriage actors, namely prospective husbands and prospective wives. Each pair of prospective bride and groom must be qualified *expertly*, namely reaching the age of *baligh* and *aqil*.¹

Then as social beings, human life is governed by the rules or laws that apply to their group. Just like humans live in a state. In Indonesia, the rules of marriage are determined based on the Law of the Republic of Indonesia No. 1 of 1974 concerning Marriage Article 2 Paragraphs 1 and 2, namely "(1) Marriage is legal if it is carried out according to the laws of each religion and belief. (2) Every marriage is recorded according to the prevailing laws and regulations." Added in the Compilation of Islamic Law Chapter IV Concerning the Pillars and Conditions of Marriage, among the conditions for marriage that may be carried out, it is explained in Article 15 Paragraph 1 that "For the benefit of the family and household, marriage may only be carried out by the prospective bride and groom who has reached the age set out in Article 7 Law No. 1 of 1974, namely the prospective husband is at least 19 years old and the prospective wife is at least 16 years old.

The determination of the minimum age limit for marriage as stated in the UUUP authentically states the reasons and objectives for setting this restriction, namely in the explanation of Law No. 1 of 1974 concerning marriage, where in the general explanation number four letter d and in the explanation of article 7 paragraph 1 that, the reason This relates to the interests in question and the national interest, namely the importance of maturity, which is called maturity of body and soul in marriage and the tendency for a high national birth rate to be caused by underage marriages. These reasons have implications for the intent and purpose of setting a minimum age limit for marriage, namely realizing a good

¹ Muhammad Zuhaily, *al-Mu'tamad fi al-Fiqh al-Shafi'i* (Damascus: Dar al-Qolam, 2018) vol. 4 p. 60.

and eternal marriage, maintaining the health of husband and wife and obtaining good and healthy offspring and suppressing the national birth rate. However, the law also provides a settlement for those who want to get married but have not yet reached the minimum age for marriage, namely by providing a provision in article 7 paragraph 2 which states that: or other officials appointed by both male and female parents.²

This change in Law Number 16 of 2019 concerning Marriage reaches the age limit for marriage, improving norms that reach by increasing the minimum age for marriage for women. The minimum age for marriage for women is the same as the minimum age for marriage for men, which is 19 (nineteen) years. The age limit in question is considered to have matured physically and mentally to be able to carry out a marriage in order to realize the purpose of marriage properly without ended in divorce and got healthy and quality offspring. It is also hoped that the increase in the initial age limit from 16 (sixteen) to 19 (nineteen) years for women will bring benefits to marriage and result in a lower birth rate and reduce the risk of maternal and child mortality. In addition, it can also fulfill children's rights so as to optimize children's growth and development including parental assistance and provide children's access to education as high as possible.³

This law adheres to the principle that the prospective husband and wife must have matured in mind and body to be able to carry out a marriage, so that they can realize the purpose of marriage properly without ending in divorce and obtaining good and healthy offspring. For this reason, marriages between prospective husbands and wives who are still under age must be prevented. In addition, marriage has a relationship with population problems. It turns out that a lower age limit for a woman to marry results in a higher birth rate. In this regard, this law determines the age limit for marriage for both men and women, which is 19 (nineteen) years for men and 16 (sixteen) years for women.⁴

The rules that apply to every human group regarding the legal requirements of a marriage are usually regulated based on the customs, habits and circumstances

² Salmah Fa'atin, REVIEW OF THE MINIMUM AGE OF MARRIAGE IN LAW NO.1/1974 WITH MULTIPRESPECTIVES, *Journal of Legal Thought and Islamic Law*, (Journal: YUDISIA, Vol. 6, No. 2, December 2015) pp. 437-438.

³ Iwan Romadhan Sitorus, AGE OF MARRIAGE IN LAW NO. 16 YEAR 2019 PERSPECTIVE OF MASLAHAH MURSALAH, (Journal: Nuansa Vol. XIII No. 2, 2020) page 191.

⁴ Muhammad Jihadul Hayat, *The History and Purpose of the Minimum Age for Marriage in Indonesian Muslim Family Laws and Muslim Countries*, (Journal: Equitable Vol. 3 No. 1, 2018) p. 55.

of each group. As a result, the minimum age for marriage in each group or country in the world may be different. Through this article, the author will discuss the minimum rules for marriage in the Muslim world.

2. Discussion

1) Early History of Marriage in Islam

The beginning begins with the history of the nation's civilizationArabs , among several marital issues that occur in the scope of our lives today is regarding the minimum age limit for marriage. The minimum age for marriage is not set by numbers in Islam. However, Muslim scholars determine it by the condition of *puberty* and one's intelligence. This indirectly makes Islam ready to be clashed with any time and place. Namely, the norms that apply to each group that has different conditions and circumstances will still be adapted to Islamic teachings. Regarding the minimum age of marriage, it is familiar that this is returned to the hadith of the Prophet SAW, when he married his wife Sayyidah 'Aisyah Ra:

أَيْشَةُ النَّبِيِّ لِي اللَّهُ لِيهِ لَمْ أَبْنَتْ سِتًّا (رواه البخاري)

Translation:

"From 'Aisha , indeed the Prophet. married her when she was 6 and started living together when she was 9." (Narrated by Bukhari) .⁵

It can be understood from the hadith above, that the age of Sayyidah 'Aisyah when she married the Prophet. was 6 years old and started living with the Prophet. at the age of 9 years. This hadith is often used as a reference for people who practice marriage with children who are still at an early age. Some of them also took the initiative through this hadith to get married in order to keep their children away from adultery. In fact, to understand the hadith above, it is necessary to study it comprehensively so that it does not fall into an inaccurate understanding. Like studying it with touches of Islamic studies in order to arrive at *Maqosid al-Sharia* which is beneficial.

Quoted from the *Hadzirah el-Quds facebook page* delivered by Sheikh 'Ala Muhammad Musthofa Na'imah regarding the explanation of the book *Ufuq al-'Azhamah al-Muhammadiyah* by Sheikh Abdussalam 'Ali Syita that " *it is true*

⁵ Abu Abdillah Ismail al-Bukhori, *Sahih al-Bukhori* p. 1022.

that the Prophet SAW. married a young woman aged 6 years, but at that age the children, especially women in the Arabian Peninsula at that time had reached the age of puberty. It is precisely what is wrong in the eyes of the people who throw doubts to the Prophet. regarding the marriage of minors is to assess what the Prophet did. at that time with today's conditions."⁶ This means that the biological conditions behind humans at the time of the Prophet SAW. cannot be equated with the current human biological condition.

If we examine more about the condition of the Arabs before the Prophet was sent. is the state of those who are immersed in ignorance (*Jahiliyah*).⁷ Then the Arabs were known as the *Ummiy* (don't know how to read and write). However, this also makes their lives protected from customs or customs that come from outside Arabia. Thus making them adhere to the customs and teachings taught by their ancestors.⁸ This is one of the wisdoms of the Arabs chosen to carry the prophetic message. So this is what makes it difficult for secularists and orientalist to drop accusations or *doubts* against Islamic teachings. As one of the *doubters* who said that the Prophet Muhammad SAW was a person who suffered from *pedophilia* because he married a young child.⁹ But again, the accusations can be dismissed because they are not proven to be true. The slanted issues thrown at the teachings of Islam today are new issues. In fact, if it was the Prophet's marriage. with Sayyidah 'Aisyah Ra. is not a proper marriage, then the marriage will not take place because it has been much opposed before by the Arabs themselves. This proves that the marriage between the Prophet and Sayyidah 'Aisha Ra. at the time it was a proper marriage.

Added in the book of *al-Hawi al-Kabir* by Imam al-Mawardi, a *Faqih* from Iraq that there are at least 4 types of marriages that are known from the hadith of 'Aisyah Ra during the *Jahiliyah period*, namely before the Prophet Muhammad was sent.¹⁰

النِّكَاحُ الْجَاهِلِيَّةُ أَنْ لِيَاءِ: أَحْ أَحْ النَّاسِ الْيَوْمَ

⁶ Abdussalam 'Ali Syita, *Ufuq al-'Azhamah al-Muhammadiyah* (Egypt: Alexandria, 2020) chapter 9 pp. 10-11.

⁷ Mahmud Syukri al-Alusi al-Baghdadi, *Bulughu al-Arob fi Ma'rifati Ahwal al-'Arob* (Beirut: Dar al-Kutub al-'Ilmiyyah, undated) vol. 1 p. 15.

⁸ Ibid. p. 38.

⁹ Irena Handono, *Prophet Muhammad SAW. Not a Pedophile* (Bekasi: Gate Publishing, 2010) cet 1 page 7.

¹⁰ Abu Hasan 'Ali Muhammad al-Mawardi, *al-Hawi al-Kabir* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1994) vol. 9 p. 6.

Translation:

"Indeed, there were four forms of marriage in the age of ignorance. One form of which is marriage like people today, "(HR al-Bukhari).

Al-Wiladah's marriage. In this marriage, a boy or a boy comes to the girl's parents to propose to her. Then he married her accompanied by her dowry. This is a justified marriage because it aims to produce offspring. And this marriage was also mentioned by the Prophet Muhammad. in one of his hadiths, "I was born from a (justified) marriage, not from adultery." Because indeed Allah always delivers His future Prophet from an intelligent rib to a clean womb .

Al-Istibdha 's marriage . In this marriage, a husband asks his wife to go to a well-known man and ask him to interfere. After that, the husband stayed away from her and did not touch her again until the man looked pregnant. This was done simply because he wanted good and noble offspring.

Al-Rath's marriage. In this marriage, a group of less than ten men jointly marries one woman and interferes with her. After getting pregnant and giving birth, the woman sent messengers to them. Not one of them refused to come and gather. In front of them, the woman said, "You know what happened between you and me. Now I have given birth. And this is your son, O so and so (while saying his name)." The woman assigned her child to a man and the man could not refuse it.

Al-Rayah's marriage . In this marriage, a number of men came to the place of the prostitutes. As a sign, the women planted a flag (*al-Râyah*) in front of their door. So, any man who passes by and wants him, just goes into the house. If one of the women became pregnant and gave birth, the men would be gathered together. They will let a *Qa'if* (a person who is good at observing the signs of children from whose descendants). After that, the *Qa'if* will assign the child to a man who is also approved by the woman. None of them could resist the child.

2) Age of Marriage According to Jurisprudence

Islam in the period of human development is generally described in several periods. namely: *Prenatal* period , when it is still a fetus in the mother's stomach. The period of *Thufulah* (*childhood*) is childhood or childhood , namely after birth from the mother's womb until the period before *tamyiz* (able to distinguish right and wrong). Tamyiz period, from *mumayyiz* to *puberty* . The *Baligh* period,

namely the change from the *tamyiz* period to the *baligh* period. The *Rushd* period, which is perfect in his mind.¹¹ The minimum age of marriage in Islam is also not determined by numbers. However, Muslim scholars determine it by the condition of *puberty* and one's intelligence. So what is being discussed is when a person can be declared *mature* and intelligent. The majority of Ulama' agree that someone who has reached *puberty* can be marked by *Ihtilam* or dreaming, namely the discharge of fluids during sleep.¹² This is based on the hadith of the Prophet SAW:

إِثْنَةُ النَّبِيِّ إِلَى اللَّهِ لَمْ يَلِ أَلْ: رُفِعَ الْقَلَمُ ثَلَاثَةً: النَّائِمِ الصَّغِيرِ لَمْ الْمَجْنُونِ يَعْقِلَ

Translation:

From Aisyah, from the Prophet sallallaahu 'alaihi wasallam said: "The pen is lifted (not subject to sin) over three groups: People sleeping until they wake up, small children until wet dreams and crazy people until they understand." (Hr. Abu Daud)¹³

Then some Ulama' set the age limit for a person's *puberty*. As Imam al-Shafi'I set a limit for a person to be declared *baligh* when he reached the age of 15 years.¹⁴ Likewise, two students of Imam Hanafi, namely Abu Yusuf and Muhammad Hasan al-Syaibani, set 15 years as the age of *puberty*. Unlike the Hanafi Imams who set the age of *puberty* at 17 or 18 years.¹⁵ Then the famous opinion regarding the age of *puberty* in the Maliki School is 18 years and Imam Hambali 15 years.¹⁶

The views of the Ulama' regarding the age of *puberty* are of course also based on the following hadith of the Prophet Muhammad:

ابْنُ رَضِيَ اللَّهُ: لَ اللَّهُ إِلَى اللَّهِ لَمْ أَحَدٍ ابْنُ لَمْ يَوْمَ الْحَنْدَقِ ابْنُ عَشْرَةَ أَرْنِي

Translation:

"I have told Ibn 'Umar radhiyallahu 'anhuma that he once offered himself to the Prophet sallallaahu 'alaihi wa sallam to take part in the battle of Uhud. At that

¹¹ Wizaroh al-Auqof wa Syu'un al-Islamiyah, *Mausu'ah al-Fiqhiyyah al-Quwaitiyyah* (Kuwait: Thoba'ah Dzati al-Salasil, 1986) ct 2 vols 7 p. 155.

¹² 'Ala al-Din al-Kasani, *al-Badhoi' al-Shonai' fi Targgibi al-Syaroi'* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1986) ct 2 vols 7 pp. 171-172.

¹³ Abi daud Sulaiman Bin 'Asy'ats al-Sijistani, *Sunan Abi Daud* (Amman: Baitu al-Afkar al-Dauliyyah, No Year) p. 481.

¹⁴ Abu Hasan 'Ali Muhammad al-Mawardi, *al-Hawi al-Kabir* Volume 2 p. 314.

¹⁵ 'Ala al-Din al-Kasani, *al-Badhoi' al-Shonai' fi Targgibi al-Sharoi'* vol. 7 p. 172.

¹⁶ Wizaroh al-Auqof wa Syu'un al-Islamiyah, *Mausu'ah al-Fiqhiyyah al-Quwaitiyyah* p. 160.

time he was fourteen years old, but he did not allow it. Then he offered again at Khandaq war. I was fifteen at that time and he let me .” (HR. Bukhari)¹⁷

It is through this hadith that the Ulama’ set the age limit for a person’s *puberty* . So when a person has reached the age of 15 years, it is permissible for him to carry out marriage.

3) Minimum Age of Marriage in the Muslim World INDONESIA

In Indonesia, the law that discusses the minimum age for marriage has undergone changes. This was triggered by several considerations against Article 7 Number 1 of 1974 concerning Marriage which reads “ *Marriage is only permitted if the man reaches the age of 19 (nineteen) years and the woman has reached the age of 16 (sixteen) years.*”¹⁸In this article, the minimum age for marriage between men and women is distinguished.

Then in 2019 the State issued the Amendment Sheet No. 186 of 2019 regarding this Law. Namely, the ratification of the Law of the Republic of Indonesia Number 16 of 2019 concerning Amendments to Law Article 7 Number 1 of 1974 concerning Marriage to “ *Marriage is only permitted if a man and woman have reached the age of 19 (nineteen) years.*”¹⁹Changes that occur through this article regarding the minimum age limit for marriage are produced after going through several considerations.

The provisions on the age limit for marriage in Law Number 1 of 1974 are stipulated in Article 7 paragraph (2), which states “ *the age limit for marriage is 16 years for women and 19 years for men* “. This has been going on for approximately 35 (thirty five) years and has reaped many social and economic problems that have arisen in practice both in urban communities, especially in traditional communities. One of the impacts is that the reproductive organs of girls are not yet ready, which contributes to the high mortality rate of mothers who give birth and their children, malnourished babies and stunted children.²⁰

Child marriage also harms the spirit of protection of human rights carried out by the government. Several laws have been issued by the Government in its

¹⁷ Abu Abdillah Ismail al-Bukhori, *Sahih al-Bukhori* p. 507.

¹⁸ Compilation of Islamic Law (Bandung: CV. Nuansa Aulia, 2020) ct 8 page 77.

¹⁹ Ibid. page 108.

²⁰ B Rini Heri Heryanti, “ *Implementation of Changes in Marriage Age Limit Policy*”, Ius Constituendum Journal, Vol. 6 No. 2 (April: 2021) p. 122.

efforts to provide guarantees for child protection, namely Law Number 23 of 2002 concerning Child Protection which was updated by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, namely the definition child as “ *a person who is not yet 18 years old*”. Thus, a person is considered an adult when he is 18 years old. This is also contained in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.²¹

The age limit of 19 (nineteen) years is considered an adult both psychologically, physically and spiritually. When the bride and groom get married already within the age limit of adulthood, it will be able to reduce the problems that arise at the time of marriage. So that the divorce rate can decrease as well as the decline in the number of early child marriages.

PAKISTAN

The United States Census Bureau estimates Pakistan's population at 199,085,847 in 2015, which is equivalent to 2.57% of the world's population. The majority of Pakistan's population is Muslim with a percentage of 97% of the population. Most of them are Sunni. This makes Pakistan the third largest Muslim country in the world by population after Indonesia and India. Pakistan has changed the constitution three times, while its new Family Law Act was enacted in 1961, namely the *Muslim Family Law Ordinance* (MFLO) of 1961.²²

In the 1961 MFLO and various related laws and regulations, there are several amendments to family law, among which is the discussion relating to the minimum age limit for marriage in Pakistan. As for handling the minimum age limit for marriage in Pakistan, they have their own laws which are contained in Law no. 29 of 1929 concerning the prohibition of child marriage (*Child Marriage Restraint Act*) as amended by Ordinance No. 8 of 1961. In the law it is defined that a *child* is someone who is under 18 years old for boys and under 16 years old for girls.²³

Child marriage occurs when one of the bride and groom or both are still in their childhood. So if this happens, the MLFO will impose a sanction in the form of imprisonment for a maximum of one month or a fine of a maximum of 1000 Rupees.

²¹ Ibid. p. 122.

²² Yulia Fatma, “ *Age of Marriage in Islamic Family Law (Comparison Between Muslim Countries: Turkey, Pakistan, Morocco and Indonesia)* ”, Scientific Journal of Sharia, Vol. 18 N0. 2 (July: 2019) p. 123.

²³ Ibid. p. 125.

TURKEY

Turkey is a Muslim country that is the fastest to face civilization from the west. After the fall of the Ottoman Caliphate, in 1923 Turkey proclaimed the country a Republic. As a result, the existing legislation in this country has undergone many changes, previously purely following the Hanafi school to following western laws adopted from Switzerland (*Swiss Civil Code*). Turkey is a secular country with no official religion, the Turkish Constitution provides for freedom of religion and conscience. Despite not having an official religion, with a population in 2017 of 79,815,000 people, 82% of the total population adheres to Islam, 2% is Christian, 7% has no religion and 2% has other religions.²⁴

In 1937, the principle of secularism was incorporated into the Turkish constitution. In the matter of marriage, marriage law is no longer carried out in accordance with Islamic law, but is carried out in accordance with civil law (*civil code*) adopted from Switzerland (*Swiss Civil Code*). So in relation to the provisions on the minimum age limit for marriage, the Turkish Law (*The Ottoman Law of Family Right 1917 "capacity to marry" act 4-8*) stipulates that the minimum age for a man to marry is 18 years. and 17 years for women. Courts can also allow marriage at the age of 15 for boys and 14 for girls after obtaining parental or guardian consent.²⁵

MOROCCO

This is different from Turkey, whose laws are dominated by the opinions of the Hanafi school of thought. Morocco in the formation of its family law law is dominated by the opinions of the Maliki school.

Morocco is a country with a population of about 33 million. Most of Morocco's population is Berber with Arab influence. The official languages spoken in Morocco are Arabic and Berber. While the French they use in commerce and public administration. Almost the entire population of Morocco is Muslim (98.7%), the rest are Christians and Jews.²⁶ In contrast to Pakistan and Turkey which have a republican system of government, Morocco is a country that adheres to a government system with a royal model (*Kingdom of Morocco*) based on a constitution (*Constitutional monarchy*).

²⁴ (<https://id.wikipedia.org/wiki/Turkey>).

²⁵ Yulia Fatma, " *Age of Marriage in Islamic Family Law (Comparison Between Muslim Countries: Turkey, Pakistan, Morocco and Indonesia)* " p. 126.

²⁶ (<https://id.wikipedia.org/wiki/Morocco>).

Marriage and family laws that apply in Morocco are based on Islamic law or fiqh. However, since the country started codifying Islamic law in the era of 1957-1958, apart from Islamic law which was the material for the compilation of the codification of family law, it was also influenced by western law, especially from France. Morocco carried out reforms to family law, first carried out in 1957, namely amendments to family laws until the last in 2004 concerning changes to family law.

Provisions related to family law in Morocco are called *Mudawwanah al-Ahwal al-Syakhsyah* (*The Code of Personal Status 1958*). Then after undergoing reform it changed to *Mudawwanah al-Ahwal al-Syakhsyah al-Jiddah fi al-Maghrib or Mudawwanah al-Usrah*. Then the minimum age for marriage in Morocco between men and women is set at the same number, namely at the minimum age of 18 years.²⁷

4) Comparison of the Minimum Age of Marriage in the Muslim World

Discussions about family law in general in several countries are applied in different ways. That is, there are several polarization models and different types of law.²⁸ **First**, is a country that applies traditional family law. Namely applying it by referring only to Islamic law or to opinions in the four schools of thought, and not being codified in the form of legislation. Such as Saudi Arabia which enforces it according to the Hambali school, Yemen with the Shafi'i and Hanafi schools, as well as Bahrain and Qatar without legalizing the law in the form of legislation.

Second, some secular countries have completely changed Islamic law with modern laws or laws from the west. Then apply it to all residents of the country. Like Turkey, which began to implement the *Swiss Civil Code* in 1926 after the collapse of the Ottoman Caliphate. **Third**, the group of countries that have made reforms in Islamic family law. In the sense that the law applied is Islamic law which is combined and then legalized with modern law by not leaving Islamic norms. Such as Tunisia, Morocco, Iran, Jordan, and several countries in Southeast Asia such as Indonesia, Malaysia, Singapore, Brunei Darussalam etc.

In this third group of countries, namely countries that have reformed their family law in combination with modern law without abandoning the values of

²⁷ Yulia Fatma, "Age of Marriage in Islamic Family Law (Comparison Between Muslim Countries: Turkey, Pakistan, Morocco and Indonesia)" p. 128.

²⁸ Abdol Qodir Zaelani et al, *Family Law in Modern Muslim Countries* (Bandar Lampung: Anugrah Utama Raharja, 2013) p. v.

Islamic law originating from the schools of fiqh, there are at least two methods used to obtain legal results. **First**, with the *Intra-doctrinal Reform method*. That is, by continuing to refer to the conventional fiqh concept, by choosing one of the schools in fiqh or by *al-Jam'u wa al-Tarjih*, namely combining several opinions of scholars so that they can produce a style. **Second**, with the *Extra- Doctrinal Reform method*. That is by no longer referring to the opinions of schools in conventional fiqh, but by direct reinterpretation of the *Nash* al-Qur'an or Hadith.²⁹

Graph of Minimum Age for Marriage in the Muslim World:

Based on the graph above, it can be seen that in the Muslim world, from Albania to Afghanistan, the age limit for marriage is above the age of 15 (fifteen years). In this graph, the highest marriage age limit is located in Algeria and Bangladesh, namely 21 years for men and 18 years for women. Then the lowest age is 15 years, namely the country of Yemen.

5) The Purpose of the Minimum Age for Marriage

The background of the importance of implementing the minimum age for marriage, one of which is in Indonesia, can be seen in the provisions of Article 7 of the Law of the Republic of Indonesia Number 1 of 1974 contained in the weighing section as stated in Law of the Republic of Indonesia Number 16 of 2019: that the state guarantees the rights of citizens to form a family and continue offspring through legal marriage, children's rights to survival, growth, and development. Then marriage at the age of a child has a negative impact on the growth and development of children.³⁰

Specifically for the chapter on marriage, one of the *maqasid Shari'ah experts*, Jamaluddin Attiyyah, explained in detail about *maqasid* or the purpose of shari'ah marriage (family) by understanding and interpreting the texts of the Qur'an and sunnah about *maqasid shari'ah* marriage, and combine several opinions from other *maqasid experts*. According to Jamaluddin Atiyyah, the *maqasid shari'ah* of marriage are: Regulating the relationship between men and women, maintaining offspring, Creating a similar family, *Maintaining* lineage, Maintaining diversity in the family, and managing the financial aspects of the family.³¹

²⁹ Ibid. thing vi.

³⁰ Wayan Agus Vijayantera, *Changes in the Minimum Age Limit for Marriage Since the issuance of Law of the Republic of Indonesia Number 16 of 2019*, (Journal: Undiksa Citizenship Education Vol.8 No. 3, 2020) p. 86.

³¹ Holilur Rahman, *Ideal Age Limit for Marriage from the Perspective of Maqasid Shariah*, (Jurnal: Islamic Studies and Humanities Vol. 1, 2016) p. 69-72.

3. Conclusion

The early history of marriage in Islam was a revelation given by Allah SWT. to the Prophet Muhammad SAW.. Apart from the civilization of the Arabs who at that time were a nation that was *Ummiy* (don't know how to read and write) the Arabs still adhered to the customs of their ancestors and avoided the influence of cultures other than Arabs. This is precisely what invalidates the *doubts* against the Prophet. that he saw. suffering from *Pedophilia* and married with *lust* when he married Sayyidah 'Aisyah. This *syubhat* is invalid because it is not proven true.

The minimum age for marriage according to fiqh is not set by a number. Rather, it is determined by the age of *puberty*. Scholars agree that a person's *puberty* can be marked by *Ihtilam* (wet dreams). However, each Ulama gives a different view on the size of the age of *puberty*. The difference in their views departs from their way of understanding a hadith of the Prophet SAW. The minimum age difference in some Muslim countries including Indonesia stems from the way each country determines the direction of their legislation, especially in marriage laws. As in Indonesia, the marriage law refers to one of the schools of jurisprudence, namely the Shafi'i school. In contrast to Turkey, which mostly refers to the Hanafi school before reforming their laws to the *Swiss Civil Code*. Likewise with Morocco which refers a lot to the Maliki school. And several other Muslim countries.

Then the goal of the minimum age in marriage is to minimize the risks in marriage, such as: Divorce caused by the immaturity of the mentality of minors in dealing with household problems that will occur. Difficulties in fulfilling family livelihoods are caused by not being independent and not yet legally competent in conducting transactions and managing assets. The potential for the birth of an unhealthy child is caused by the biological immaturity of the child. And, the potential for maternal death due to pregnancy at an early age, etc.

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