

Rethinking the Minimum Age of Marriage Law in Indonesia: Insights from Muḥammad ‘Ābid al-Jābirī’s Epistemology

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Abstract: This article analyzes the renewal of Indonesia’s minimum age of marriage law. Previously, the legal age for men was 19 years, and for women was 16 years. However, Law No. 16 of 2019 amended the law, setting the minimum age of marriage at 19 years for both genders. Notably, this increase for women contradicts certain *fiqh* texts and is the highest age limit among several Muslim countries. This study employs Muḥammad ‘Ābid al-Jābirī’s *bayāni* (indication/explication) and *burhāni* (demonstration/proof) epistemology to examine the subject. This article identifies the ideal age range for marriage as 19 to 25 years, when individuals reach *balig* (maturity) and *rusydan* (legal capacity), demonstrating readiness and mental maturity for marital life. The renewal of Indonesia’s marriage age limit aligns with Muḥammad ‘Ābid al-Jābirī’s epistemology, which integrates *naṣ* (Al-Qur’an and *hadīth*) with rational reasoning and empirical evidence.

Keywords: *Minimum age of marriage; bayāni; burhāni; marriage law; Muḥammad ‘Ābid al-Jābirī*

Abstrak: Artikel ini menganalisis pembaruan ketentuan batas usia perkawinan di Indonesia. Sebelumnya, batasan usia perkawinan bagi laki-laki adalah 19 tahun dan perempuan 16 tahun. Setelah diubah melalui Undang-Undang No. 16 Tahun 2019, ketentuan batas usia perkawinan antara laki-laki dan perempuan adalah sama, yaitu 19 tahun. Peningkatan batas usia perkawinan bagi perempuan di Indonesia ini menarik untuk dikaji dan dianalisis, karena bertentangan dengan sejumlah teks fikih dan sekaligus paling tinggi di antara beberapa negara muslim lainnya. Artikel ini merupakan hasil penelitian kepustakaan yang dianalisis menggunakan epistemologi *bayāni* dan *burhāni* Muḥammad ‘Ābid al-Jābirī. Artikel ini menemukan bahwa kriteria ideal batas minimal usia perkawinan berada pada rentang usia 19 sampai dengan 25 tahun. Pada rentang usia tersebut, pasangan calon pengantin telah memasuki masa baligh dan sekaligus cakap hukum (*rusydan*) sehingga mereka telah memiliki kesiapan dan kematangan

mental untuk melangsungkan perkawinan dan menjalani kehidupan rumah tangga. Pembaruan batas usia perkawinan di Indonesia tersebut sesuai dengan epistemologi *bayānī* dan *burhānī* Muḥammad ‘Ābid al-Jābirī karena ketentuan tersebut tetap mengacu pada *naṣ* (Al-Qur’an dan hadis) yang dilengkapi dengan penalaran rasional dan bukti-bukti empiris.

Kata Kunci: *Batas usia perkawinan; bayānī; burhānī; Undang-Undang Perkawinan; Muḥammad ‘Ābid al-Jābirī*

Introduction

The legal minimum age of marriage in several Muslim countries continues to develop dynamically according to the demands of the times, including in Indonesia. Law No. 1 of 1974 concerning Marriage stipulates that the maximum age for marriage for men is 19 years and for women is 16 years.¹ However, Law No. 16 of 2019 changed this provision, establishing the same minimum age of marriage, 19 years, for both men and women.² This equal minimum age of marriage, particularly for women, is higher compared to several other Muslim countries, such as Egypt, Malaysia, and Pakistan, which set a marriage age limit of 18 years for men and 16 years for women.³ In Tunisia, the minimum age for marriage is 20 for boys and 17 for girls.⁴ This

¹ Article 7 paragraph (1), Marriage Law No. 1 of 1974.

² Article 7 paragraph (1), Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage.

³ The minimum age of marriage law in Malaysia can be seen in the Islamic Family Law (Negeri Selangor) 2003 and Enactments or Ordinances. See: Edi Yuhermansyah, “Implementasi Batas Umur Pernikahan (Studi Kasus di Mahkamah Rendah Syari’ah Bukit Mertajam Pulau Pinang)”, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 2, no. 2 (2018), pp. 485-501. The minimum age of marriage law in Egypt are contained in Law No. 56 of 1923 concerning the Age of Marriage and the Law on the Composition of the Religious Courts of 1931. See: Fathul Mu’in, “Analisis Perbandingan Batas Usia Perkawinan di Mesir dan Indonesia”, *Jurnal EL-Izdivaj* 1, no. 1 (2020): 71–86. The minimum age of marriage law in Pakistan can be seen in Child Marriage Restraint Act 1929 which was later amended through Muslim Family Laws Ordinance (MFLO) No. 8 of 1961. See too: M. Atho Mudzhar, “Hukum Keluarga di Pakistan (Antara Islamisasi dan Tekanan Adat).” *Jurnal Al-’Adalah* XII, no. 1 (2014), pp. 11–24.

⁴ Article 5, Tunisian Marriage Act 1981. See: Lia Noviana, “Status Wanita di Negara Muslim Modern: Studi terhadap Hukum Keluarga di Tunisia dan Indonesia”, *Jurnal Kodifikasi: Jurnal Penelitian Islam* 13, no. 2 (2019), pp. 197–214.

variation in setting the minimum age of marriage highlights differences among Muslim countries.

The renewal of the minimum age of marriage to 19 years for men and women in Indonesia is interesting to study for several reasons. First, Islamic law does not explicitly regulate the minimum age of marriage. Some *fiqh* (Islamic jurisprudence) texts even stipulate a lower minimum age of marriage than that set by modern countries.⁵ There is a *hadith* which states that Asiyah married Prophet Muhammad at the age of 6 and had sexual intercourse at the age of 9.⁶ Second, the change in the minimum age of marriage has implications for the administration of marriage registration because couples who have not reached the age of 19 must request a marriage dispensation from the religious court. This provision has increased applications for marriage dispensation in Indonesia after the enactment of Law No. 16 of 2019.⁷

There isn't any definite textual evidence (*naş*), both in the Qur'an and *hadith*, and the differences in the minimum age of marriage in various Muslim countries indicate that this issue is subject to *ijtihad* (independent legal reasoning). Each country can establish a marriage age limit that is most suitable for its citizens. Therefore, it is crucial to further study the essence and purpose of the age restriction in marriage. The increase in the minimum age of marriage in Indonesia to 19 years for both men and women demonstrates that this matter is still subject to potential changes and developments.

Scholars with diverse perspectives regarding the legal minimum age of marriage have conducted numerous studies. Bastomi examines the minimum age of marriage from the perspective of Islamic law and marriage law in Indonesia.⁸ Siregar and Kelana argue that renewing the minimum age of marriage is a positive and safe measure as it aligns with

⁵ Salamah Fa'atin, "Tinjauan terhadap Batas Minimal Usia Nikah dalam UU No.1/1974 dengan Multiprespektif." *Jurnal* 6, no. 2 (2015), pp. 434-460.

⁶ Nur Ihdatul Musyarrafa, "Batas Usia Pernikahan dalam Islam: Analisis Ulama Mazhab terhadap Batas Usia Nikah," *Jurnal Shautuma* 1, no. 3 (2020), pp. 703-722.

⁷ Tri Hendra Wahyudi dan Juwita Hayyuning Prastiwi, "Seksualitas dan Negara: Permasalahan Dispensasi Perkawinan Anak di Indonesia." *Aspirasi: Jurnal Masalah-Masalah Sosial* 13, no. 2, (2022), pp. 205-255.

⁸ Hasan Bastomi, "Pernikahan Dini dan Dampaknya: Tinjauan Batas Umur Perkawinan Menurut Hukum Islam dan Hukum Perkawinan Indonesia", *Jurnal Yudisia* 7, no. 2 (2016), pp. 354-384.

the legal age limit defined by *fiqh* scholars (jurists) and respects human rights.⁹ Drawing on the theory of *maqāsid al-sharī'ah* (objectives of Islamic law), Rohman proposes that the legal minimum age of marriage should be 25 years for men and 20 years for women.¹⁰ Cahyani and Salmah assert that the legal minimum age of marriage is a complex issue that requires consideration of various factors in its determination.¹¹ Consequently, Yunitasari highlights the inconsistency in setting the minimum age of marriage in Indonesian laws and regulations.¹² In practice, enforcing the marriage age limit in several Offices of Religious Affairs (KUA) is not optimal, as many underage couples can still marry by obtaining a marriage dispensation from the religious court.¹³

Unlike some of the previous studies, this article focuses on the updating of the minimum age of marriage in Indonesia, which the author analyzes using the *bayānī* and *burhānī* epistemology of Muḥammad ‘Ābid al-Jābirī (al-Jābirī). This epistemological study is important as it serves as a fundamental tool in the development of Islamic scholarship in general and Islamic law in particular, aligning with the demands of the current era.¹⁴ Therefore, this article is based on library research. Data collection was conducted through documentation techniques and analyzed using the *bayānī* and *burhānī* epistemology of al-Jābirī. The objective is to establish a legal framework

⁹ Fitri Yanni Dewi Siregar & Jaka Kelana, “Kesetaraan Batas Usia Perkawinan di Indonesia dari Perspektif Hukum Islam”, *Mabakim Journal of Islamic Family Law* 5, no. 1 (2021), pp. 1-10.

¹⁰ Holilur Rohman, “Batas Ideal Usia Pernikahan Menurut Maqasid Shariah”, *Journal of Islamic Studies and Humanities* 1, no. 1 (2016), pp. 67-92.

¹¹ Tinuk Dwi Cahyani & Halimatus Khalidawati Salmah, “Tinjauan Normatif Batas Minimal Usia Anak untuk Melakukan Perkawinan”, *Jurnal De Jure* 11, no. 2 (2019), pp. 82-95.

¹² Yunitasari, Riska Yunitasari. “Dinamika Pembaharuan Batas Usia Perkawinan (Analisis Batas Umur Melangsungkan Pernikahan dalam Hukum Nasional Indonesia).” *Doktrina: Journal of Law* 3, no. 1 (2020), pp. 9-21.

¹³ Rini Heryanti, “Implementasi Perubahan Kebijakan Batas Usia Perkawinan.” *Jurnal Ius Constituendum* 6, no. 1 (2021), pp. 120-143.

¹⁴ See: Zaenudin Na’im, “Epistemologi Islam dalam Perpektif M. Abid al Jabiri”, *Jurnal Transformatif* 5, no. 2 (2021), pp. 163-176; M. Amin Abdullah, “Bangunan Baru Epistemologi Keilmuan Studi Hukum Islam dalam Merespon Globalisasi”, *Asy-Syir’ah: Jurnal Ilmu Syari’ah dan Hukum* 46, no. II, (2012), pp. 315-368, Nurani Soyomukti, *Pengantar Filsafat Umum* (Yogyakarta: Ar-Ruzz Media, 2011), p. 116.

regarding the ideal minimum age of marriage for the Indonesian population that aligns with the current conditions and demands while still adhering to the principles of Islamic teachings.

Muḥammad ‘Ābid al-Jābirī: Epistemologi of *Bayānī*, *Burhānī*, and ‘*Irfānī*

Discussions on epistemology can be found in various scientific traditions developed worldwide. Within the Western tradition, epistemology is divided into three schools of thought: empiricism, rationalism, and intuitionism.¹⁵ In the Hindu tradition, truth is sought through three sources: sacred texts, reason, and personal experience.¹⁶ In Islam, the study of epistemology can be categorized into three branches: *bayānī* (indication/explication) and *burhānī* (demonstration/proof), and ‘*irfānī* (mystical/intuitive).¹⁷ Each scientific tradition has its strengths and weaknesses. Western scholarship’s weakness lies in its rejection of revelation as an epistemological instrument. On the other hand, the weakness in the Islamic scientific tradition lies in its overemphasis on revelation, leading to the neglect of reason and senses. This imbalance tends to result in excessive reliance on reading legal source texts.¹⁸

The epistemology of *bayānī*, *burhānī*, and ‘*irfānī* in the Islamic intellectual tradition has been present since the early days of Islam but was later formulated by al-Jābirī. Al-Jābirī’s conceptualization of these three epistemologies aims to examine Arabic thought and reconstruct Islamic scholarship. However, in its development, this concept has also contributed to addressing several issues within Islamic law in the modern era.¹⁹ Al-Jābirī asserts that Islamic epistemology seeks to investigate the process of knowledge construction in Islam, the

¹⁵ Imam Zamroni Latief, “Islam dan Ilmu Pengetahuan”, *Jurnal Islamuna* 1, no. 2 (2014), pp. 151-169.

¹⁶ Swami Nikhilananda, *Hinduism It’s Meaning for the Liberation of the Spirit* (New York: Harper, 1958).

¹⁷ Muhammad Abid al-Jabiry, *Bunyab al-’Aql al-’Arabi; Dirāsāt Tablīyyāt Naqdīyyāt li Nuṣṣ al-Ma’rifah fī al-Thaqāfah al-’Arabīyyah* (Beirut: al-Markaz al-Thaqafī al-’Arabi. 1993), 18.

¹⁸ Mahmud Arif, *Pendidikan Islam Transformatif* (Yogyakarta: LKiS, 2008).

¹⁹ Samsul Bahri, “Bayānī, Burhānī dan Irfani Trilogi Epistemologi Kegelisahan Seorang Muhammad Abid Al-Jabiri,” *Jurnal Cakrawala Hukum* XI, no. 1 (2015), pp. 1–18.

methodology employed, and how the truth of Islamic knowledge can be attained and its validity established.²⁰

Al-Jābirī, a contemporary thinker born in 1936 in Figuig, the southeastern region of Morocco, began to develop his ideas and thoughts through his writings, including *Nahnu wa al-Turāt*²¹ and “*Al-Khitāb al-‘Arabī al-Mu‘āṣir Dirāsah Naqdīyyah Tablīīyyah*.” These works served as an introduction to his major intellectual project, which involved critiquing Arab rationalism. His sharp criticism of Arab reason is evident in his work titled *Naqd al-‘Aql al-‘Arabī*.²¹ Al-Jābirī asserts that the Islamic scientific tradition encompasses various aspects of thought in Islamic civilization, including religious doctrine, *shari‘a*, language, literature, art, theology, philosophy, and Sufism.²² As a result, he re-examined the history of Islamic Arab culture and analyzed the reasoning that shaped it.²³

In his analysis, al-Jābirī distinguishes between the concepts of *al-‘aql al-mukawwin* and *al-‘aql al-mukawwan* to define Arab reason. For him, *al-‘aql al-mukawwin* refers to the intellectual ability possessed by every human being to create universal theories and principles. On the other hand, *al-‘aql al-mukawwan* represents an accumulation of theories or principles derived from *al-‘aql al-mukawwin*, functioning as a tendency to seek systematic conclusions or rules that are determined, accepted, and considered absolute values within a specific historical period.²⁴ This critique of Arab rationalism by al-Jābirī provides an essential foundation for developing contemporary Islamic thought, as it finds an epistemological basis within Islamic scholarship.

The criticism of Arabic reason led to the emergence of three epistemological concepts: *bayānī*, which is based on text; *burhānī*, which

²⁰ Muhammad Abid Al-Jabiry, *Bunyah al-‘Aql al-‘Arabī; Dirāsāt tablīīyyāt Naqdīyyāt li Nuṣṣah al-Ma‘rifah fī al-Thaqafah al-‘Arabīyyah* (Beirut: al-Markaz al-Thaqafi al-‘Arabī. 1993), pp. 26-27.

²¹ Wira Hadi Kusuma, “Epistemologi Bayānī, Irfani dan Burhānī Al-Jabiri dan Relevansinya Bagi Studi Agama untuk Resolusi Konflik dan Peacebuilding,” *Jurnal Syi‘ar* 18, no. 1 (2018), pp. 1–19.

²² Muhammad Abid Al-Jabiry, *Al-Turāth wa al-Hadāsah; Dirāsāt wa Munaqashāt* (Beirut; Markaz Dirasat al-Wihdah al-Arabiyah, 1999), p. 32.

²³ M. Faisol, “Struktur Nalar Arab-Islam Menurut Abid Al-Jabiri,” *Jurnal Tsaqofah* 6, no. 2 (2010), pp. 335-359.

²⁴ Muhammad Abid al-Jabiry, *Takwīn al-Aql al-‘Arabī*, (Beirut: Markaz Dirasat al-Wihdah al-Arabiah, 1989), pp. 15-16.

relies on rational thinking; and *'irfānī*, which is rooted in spiritual experience. The epistemology of *bayānī* serves as a methodological framework for the development of Islamic thought, relying on the authority of the text found in the holy book. In *bayānī* epistemology, the holy book's text can be perceived as the knowledge that can be understood without the involvement of rational thinking. However, it can also be viewed as fundamental knowledge that requires the role of reason to interpret and comprehend its meaning. Nonetheless, the role of reason within *bayānī* epistemology has limitations and must align with the sacred text.²⁵ In this epistemology, the truth of knowledge remains within the text, and there is no truth beyond it. Understanding and deriving laws from these sources are achieved through language interpretation.

On the other hand, *burhānī* epistemology is a knowledge system based on logic or logical reasoning. It involves intellectual activity aimed at proving the truth of a proposition through a deductive approach by connecting axiomatically proven propositions.²⁶ From this understanding, it becomes evident that *burhānī* is the process of acquiring knowledge by employing the principles of logic based on previously confirmed actual knowledge.²⁷ This further underscores that logic seeks to explore knowledge by applying an understanding of syllogisms.²⁸

The patterns developed in the epistemology of *burhānī* are reminiscent of the thought framework that has evolved in the Greek scientific tradition, which relies on an empirical-logical approach to truth. In this context, truth must be empirically proven and recognized through logical reasoning.²⁹ Therefore, the epistemology of *burhānī* leans on logic and utilizes reason as an instrument. This *burhānī* approach involves cognitive activities that explore truth through the

²⁵ Muhammad Abid Al-Jabiry, *Bunyab al-Aql al-Arabi: Dirāsāt Tablīyiyāt Naqdīyyāt li Nuzm al-Ma'rīfah fi al-Thaqafah al-'Arabīyyah* (Beirut: al-Markaz al-Tsaqafi al-Arabi, 1993).

²⁶ Al-Jabiry, *Bunyab al-Aql al-Arabi*.

²⁷ Muhammad Abid Al-Jabiry, *Iykalīyat al-Fīkīr al-Arabi al-Mu'asbir* (Beirut: Markaz Dirasah al-Arabīyah, 1989).

²⁸ Muhammad Agus Najib, "Nalar Burhānī dalam Hukum Islam (Sebuah Penelusuran Awal)," *Hermeneia: Jurnal Kajian Islam Interdisipliner* 2, no. 2 (2003), pp. 217–38.

²⁹ Al-Jabiry, *Bunyab al-Aql al-Arabi*.

method of inference (*al-istintāq*) by connecting specific premises with premises accepted by reason or proven to be true.³⁰ This logical sequence serves as the primary foundation for the development of *burhānī* epistemology.

Within the context of the *burhānī* approach, Amin Abdullah suggests that the source of *burhānī* is reality (*al-wāqī'*), encompassing natural, social, humanitarian, and religious realities. The knowledge that emerges from the *burhānī* approach, referred to as *'ilm al-bushūlī*, is conceptualized, structured, and systematized through logical premises rather than derived from textual authority, *salaf* authority, or intuition. The premises of scientific logic are developed by relying on the essential role of reason, as its function is always directed toward seeking causal relationships. Its scientific validity is emphasized through correspondence, which entails the conformity between formulas created by human reason and natural laws. Additionally, this *burhānī* epistemology highlights the aspect of coherence, which pertains to the logical consistency and orderly progression of thought, as well as the ongoing efforts to enhance and refine the findings, formulas, and theories constructed and compiled through logic.³¹ Thus, the epistemology of *burhānī* relies on the workings of logic, which, in turn, depend on reason and logical thinking to generate knowledge.

The Epistemology of *Bayānī* and *Burhānī* in Islamic Law Reform

Epistemology in the study of Islamic law is often referred to as *nazariyyah al-ma'rifah* or the theory of science. The development of this theory is believed to optimize the process of establishing Islamic law (*istinbāṭ al-aḥkām*).³² The concept of epistemology in the study of Islamic law relies on efforts to produce legal products in specific fields under the approaches and mechanisms used to address various contemporary problems that arise with the progress of time. Islam is a comprehensive religion and a guide for life, so the values embedded in

³⁰ Hatimah, Ludigdo & Ahsin, "Epistemologi Islam sebagai Metodologi Penelitian."

³¹ M. Amin Abdullah, "At-Ta'wil al-'Ilmi: Ke Arah Perubahan Paradigma Penafsiran Kitab Suci," *Al-Jami'ah: Journal of Islamic Studies*. 39, no. 2 (2001), pp. 359–91.

³² A. Yasid, "Epistemologi Ushul Fiqh: Antara Pembaharuan dan Pemberdayaan Mekanisme Istinbath Al-Ahkam," *Jurnal Asy Syir'ah* 45, no. I (2011).

Islamic law must be capable of providing answers to the essential needs of human life while being oriented towards the values of benefit.³³ The development of Islamic law in this context can be interpreted as an effort to expand the use and application of Islamic law. Initially, it may have been applied only for specific purposes, but now it has evolved to be applicable for various other purposes.³⁴ Therefore, the methodological development of Islamic law in this study can be seen as an attempt to broaden the mechanism for deriving Islamic law.

The development of Islamic law can be observed through *ijtihād*, the process of interpretation and legal reasoning undertaken by qualified jurists to update Islamic law in the contemporary era. The methodology of Islamic law is employed to derive legal rulings from its sources. The renewal of Islamic law through *ijtihād* is based on the idea that the Qur'an contains limited verses with unlimited contexts that are continuously explored by jurists (*mujtahid*). Therefore, the process of deriving Islamic law is an ongoing endeavor.³⁵ Epistemology plays a vital role in the development of Islamic law as it addresses contemporary issues in the modern era. The epistemology of *bayānī* and *burhānī* has contributed to the development of Islamic legal thought.³⁶

The epistemology of *bayānī* focuses on delving into the meaning of textual sentences to acquire knowledge.³⁷ However, this approach has limitations when confronted with new problems not directly addressed in the text. In the development of Islamic law, the epistemology of *bayānī* influenced *mujtahids* until the Middle Ages, during which they generally reinterpreted the meaning of sacred texts to derive laws but did not generate new meanings from these texts.³⁸

³³ Husnul Fatarib, "Prinsip Dasar Hukum Islam: Studi terhadap Fleksibilitas dan Adaptabilitas Hukum Islam", *Jurnal Nizām* 4, no. 1 (2014), pp. 63-77.

³⁴ Amir Syarifudin, *Meretas Kebekuan Ijtihad* (Jakarta: Ciputat Press, 2005).

³⁵ Mahfudz Junaedi, "Epistemologi Hukum Islam Kontemporer," *Jurnal Manarul Qur'an* 19, no. 1 (2019), pp. 24-37.

³⁶ Bagus Mustakim, "Pemikiran Islam Muhammad Abed Al-Jabiri: Latar Belakang, Konsep Epistemologi, Urgensitas dan Relevansinya bagi Pembaruan Kurikulum Pendidikan Agama Islam", *JRTIE: Journal of Research and Thought of Islamic Education* 2, no. 2 (2019), pp. 191-211.

³⁷ Husnul Hatimah, Unti Ludigdo, and M Achsin, "Epistemologi Islam Sebagai Metodologi Penelitian," *Jurnal Imanensi* 2, no. 2 (2017), pp. 1-6.

³⁸ Miftahul Huda, "Epistemologi, Ontologi dan Aksiologi Hukum Islam," *Al Masblabah: Jurnal Hukum dan Pranata Sosial Islam* 2, no. 4 (2014), pp. 305-328.

To obtain knowledge from texts, the epistemology of *bayānī* employs two approaches: considering textual redaction with linguistic aspects and utilizing logic or rational reasoning as an analytical tool.³⁹ This reasoning is related to extracting the law originating from the text of the verse as an argument. Hence, every argument and legal product produced is believed to bring benefits. The rule of law can be comprehended through the explicit meaning in the text without having to delve into implicit understanding within it.⁴⁰

The epistemological development of *bayānī* plays a role in renewing Islamic legal thought on legal products (*fiqh*). This can be accomplished by referencing the verses of the Qur'an and *hadīth* as the foundation for rules. The epistemology of *bayānī* provides a clear basis by developing *fiqh* products based on existing texts, ensuring that the developed legal rules are founded on clear legal principles. Additionally, to complement the development of legal products, a *burhānī* epistemological approach can be utilized, which develops laws based on rational reasoning while remaining rooted in *shari'a* texts. This *burhānī* epistemology adheres to the primary objective of Islamic law (*al-maqāṣid al-ḍarurīyyah*) encompassing the preservation of religion, life, intellect, lineage, and wealth.⁴¹ Thus, logical reasoning in the development of Islamic law through the epistemology of *burhānī* must align with the principles of the objectives of Islamic law itself.

The development of Islamic law through the epistemology of *burhānī*, which is based on logical reasoning with syllogistic rules,⁴² has several requirements. These requirements include understanding the background of preparing premises, ensuring logical consistency between reasons and conclusions, and arriving at definite and correct conclusions.⁴³ Although the development of legal products employs rational reasoning through syllogisms, it remains crucial to establish a

³⁹ Zulpa Makiah, "Epistemologi Bayānī, Burhānī dan Irfani dalam Memperoleh Pengetahuan tentang Mashlahah," *Syari'ah: Jurnal Hukum dan Pemikiran* 14, no. 2 (2014), pp. 1-28.

⁴⁰ M. Faishal Munif, "Maslahah sebagai Dasar Istinbath Hukum Islam," *Jurnal Paramedia* 4, no. 3 (2003).

⁴¹ Muhammad Abid Al-Jabiry, *Kritik Nalar Arab: Formasi Nalar Arab (Kritik Tradisi Menuju Pembebasan dan Pluralisme Wacana Interreligi)* (Yogyakarta: IRCiSod, 2003).

⁴² Al-Jabiry, *Bunyah al-Aql al-Arabi*.

⁴³ Al-Jabiry.

textual basis to facilitate legal development. Therefore, the development of Islamic law with rational reasoning in the *burhānī* epistemology must be grounded in sacred texts, just as the development of *bayānī* epistemology. Hence, both epistemologies reinforce each other in developing Islamic law products.

Renewal of the Minimum Age of Marriage in Indonesia Based on the Epistemology of *Bayānī* dan *Burhānī*

After the enactment of Law No. 16 of 2019, the minimum age of marriage in Indonesia has been changed to 19 years for both men and women, an increase from the previous limit of 19 years for men and 16 years for women.⁴⁴ This update can be understood through the development of the epistemology of *bayānī* and *burhānī* in the study of Islamic law.⁴⁵ In this context, it is essential to seek a basis in the holy texts, both the Qur'an and *hadīth*, to comprehend the renewal of Islamic legal thought regarding the increase in the minimum age of marriage. Although no statement directly specifies the minimum age of marriage, several statements form the legal foundation for this issue, such as the verses that discuss maturity (*balig*) as a criterion for a person's legal capacity to engage in legal actions, including marriage. Additionally, one must have also attained intellectual intelligence and the ability to manage wealth wisely and bring benefits to oneself.

In Islamic law, the minimum age of marriage is determined by reaching *balig*. It can be found in Surah al-Nūr verse 59 and Surah al-Nisā' verse 6. A person's legal capacity to marry is marked by reaching puberty, which is generally indicated by wet dreams (*iḥtilām*) or seminal discharge (*junūb*) for men and menstruation or pregnancy for women. Furthermore, the legal capacity to marry also includes *rusydan* (legal capacity), as emphasized in Surah al-Nisā' verse 6, indicating that someone who has reached puberty must possess the ability to use wealth wisely and provide benefits for oneself.⁴⁶ Hence, a person has the understanding and ability to differentiate between good and bad in

⁴⁴ Ahmad Ropei, "Maqashid Syari'ah dalam Pengaturan Batas Usia Pernikahan di Indonesia", *Jurnal asy-Syir'ah* 23, no. 1 (2021), pp. 1-20.

⁴⁵ Muhammad Abid Al-Jabiry, *Kritik Nalar Arab: Formasi Nalar Arab (Kritik Tradisi Menuju Pembebasan dan Pluralisme Wacana Interreligius)*.

⁴⁶ Mustofa, *Perbandingan Hukum Perkawinan di Dunia Islam* (Bandung: Pustaka al-Fikriis, 2009).

their life in order to benefit themselves.⁴⁷

The jurists interpret the word *rusydan* as one of the signs of a person's maturity because, with this intelligence, they can manage wealth, maintain it, and use it properly. In terms of age, this sign of maturity can be indicated by referring to the age limit of puberty, which according to Imam al-Shafi'i, is when a child reaches the age of 15.⁴⁸ Meanwhile, Wahbah al-Zuhaili provides a more flexible limit for "*rusydan*," suggesting the age of 25.⁴⁹ Quraish Shihab argues that a person can fully mature at 25⁵⁰ when significant changes occur, including mindset, maturity, and psychology.⁵¹ In addition to referring to the two previous verses of the Qur'an, there is also a *hadith* related to the marriage of the Prophet Muhammad (SAW) to Aisha, which states that: *The Prophet married Aisha when she was six years old. And they lived together when Aisha was nine years old* (Narrated by Bukhari no. 5134). This *hadith* indicates that Aisha married the Prophet Muhammad at the age of 6, but they started living together when Aisha reached the age of 9. Some jurists also suggest that the minimum age for maturity for women is nine years, as adhered to by jurists from the Hanafi school of thought.⁵²

Regarding the age limit of *balig*, there are differences of opinion among jurists of different schools of thought. Al-Shafi'i and Ahmad Ibn Hanbal state that the legal age limit for both men and women is 15 years.⁵³ Meanwhile, Malik ibn Anas believes that the legal age limit is 18

⁴⁷ Ahmad Tafsir, *Cakrawala Pemikiran Pendidikan Islam* (Bandung: Mimbar Pustaka, 2002).

⁴⁸ M. Khoirul Hadi Al-Asyari, Muhaimin, and Qurrotul Ainiyah, "Objektifikasi Hukum Perkainan Islam di Indonesia Perspektif Maqasid Syari'iyah Upaya Dari Integrasi Keilmuan Keislaman," *Jurnal Yudisia* 7, no. 1 (2016): 199-237.

⁴⁹ Wahbah Al-Zuhaili. *Fiqh al-Islam Waadillatubu* (Beirut: Darul Fikr, 2007).

⁵⁰ M. Quraish Shihab. *Tafsir Al-Mishbab, Pesan, Kesan, dan Keserasian al-Qur'an*, Vol. 2. (Jakarta: Lentera Hati, 2011).

⁵¹ Sri Hartati and Triana Susanti, "Usia Ideal Menikah dalam Islam; Tafsir Al-Qur'an Surat An-Nisa Ayat 6 dan An-Nur Ayat 32", *Bertuab: Journal of Shariah and Islamic Economics* 2, no. 2 (2021): 28-35.

⁵² Muhammad Jawad Mughiyah, *Fiqh Lima Mazhab*, (Jakarta: Lentera, 2003).

⁵³ Abdurrahman Al-Jaziri, *Fiqh 'ala Madzhab al-Arba'ab*, (Bayrut: Dar'al Kutub Al-Ilmiyah, 2003).

years for both men and women.⁵⁴ On the other hand, Abu Hanifah stipulates that the legal age limit is 18 years for men and 17 years for women. Abu Hanifa's opinion includes the maximum age limit, while the minimum age is 12 years for men and nine years for women. It is because, at that age, boys have the potential to experience wet dreams and emit semen outside of dreams, while girls can experience pregnancy and menstruation.⁵⁵

Based on the opinions of scholars from various schools of thought, the age limit of *balig*, which refers to the age of 15 years, is widely recognized for both men and women. At this age, a person is considered to have reached physical and psychological maturity. Physically, the reproductive organs and the body as a whole have developed fully.⁵⁶ From a psychological perspective, people can comprehend good and evil as they relate to themselves.⁵⁷ The age range of 15 to 25 years is generally considered a period of maturity and reaching *rusydan*. This age limit serves as the basis for renewing Islamic legal thinking regarding increasing the minimum age of marriage. Another example is the Prophet Muhammad's first marriage to Khadijah, which occurred when he was 25 (twenty five).⁵⁸

To strengthen the *bayānī* argument, the epistemology of *burhānī* also holds an important position. The renewal of the legal minimum age of marriage must be based on a *burhānī* epistemology that utilizes logical and rational reasoning. The update of the marriage age limit is not merely aimed at changing existing regulations; several objectives accompany it. This reform seeks to address early-age marriages that are prone to divorce. It also aims to benefit couples who desire to marry by considering their mental readiness and psychological maturity. These objectives align with the principles of Islamic law, which strive

⁵⁴ Nur Ihdatul Musyarrafa, "Batas Usia Pernikahan dalam Islam: Analisis Ulama Mazhab terhadap Batas Usia Nikah," *Jurnal Shautuna* 1, no. 3 (2020), pp. 703-722.

⁵⁵ Muhammad Jawad Mughiyah, *Fiqh Lima Mazhab*.

⁵⁶ Achmad Asrori, "Batas Usia Perkawinan Menurut Fukaha dan Penerapannya dalam Undang-Undang Perkawinan di Dunia Islam," *Jurnal Al-'Adalah* XII, no. 4 (2015), pp. 807-826.

⁵⁷ Ahmad Tafsir, *Cakrawala Pemikiran Pendidikan Islam*.

⁵⁸ Ibnu Hisyam, *Sirah Nabaniyah Ibnu Hisyam* (Jakarta: Akbar Media, 2015).

for benefit and reject harm.⁵⁹ Minimizing early marriages, which have a higher risk of divorce, contributes to achieving this goal.⁶⁰

Burbānī's epistemological development in renewing the minimum marriage age also considers the equality of men and women in the legal context. It is consistent with the principle of equality before the law, where all individuals are treated equally without discrimination based on gender.⁶¹ This principle is grounded in the rejection of discrimination.⁶² The revision of the minimum age of marriage to 19 years for both men and women does not contradict the principles of equality and non-discrimination in Islamic law.⁶³ Additionally, the age of 19 aligns with completing compulsory education in senior high school, ensuring that marriage does not interfere with individuals' essential educational obligations.

In updating Islamic legal thinking regarding the minimum age of marriage, it is necessary to consider the ideal age range based on the epistemological developments of *bayānī* and *burbānī*. Combining rational reasoning with sacred texts discussing maturity (*rusydan*), the ideal age for marriage falls between 19 and 25 years. This age range is chosen because individuals have reached psychological maturity and are ready to embark on family life.⁶⁴

Moreover, in terms of reproductive health, a woman's reproductive organs mature between the ages of 19 and 25. Therefore, getting married below the age of 19 can negatively impact women's and

⁵⁹ Badrul Munir, "Batas Usia Perkawinan dalam Undang-Undang Keluarga Islam Negeri Selangor Tahun 2003: Analisis Perspektif Maqasid Al-Syarī'ah," *Jurnal Samarab* 3, no. 2 (2019), pp. 271-294.

⁶⁰ Moh. Ali Wafa, "Telaah Kritis terhadap Perkawinan Usia Muda Menurut Hukum Islam," *Jurnal Abkam* 17, no. 2 (2017), pp. 389-412.

⁶¹ Bagir Manan, *Hukum Kewarganegaraan Indonesia dalam UU No. 18 Tahun 2006*, (Yogyakarta: FH UII Press, 2009).

⁶² Khoiruddin Manahan Siregar, "Paradoks Penetapan Usia Perkawinan dalam Undang-Undang Perkawinan Secara Hukum Normatif," *Yurisprudencia: Jurnal Hukum Ekonomi* 5, no. 2 (2019), pp. 224-281.

⁶³ Fitri Yanni Dewi Siregar and Jaka Kelana, "Kesetaraan Batas Usia Perkawinan di Indonesia dari Perspektif Hukum Islam". *Mahakim Journal of Islamic Family Law* 5, no. 1 (2021), pp. 1-10.

⁶⁴ Alifia Fernanda Putri, "Pentingnya Orang Dewasa Awal Menyelesaikan Tugas Perkembangannya", *SCHOULID: Indonesian Journal of School Counseling* 3, no. 2 (2019), pp. 35-40.

men's reproductive health.⁶⁵ The stipulation of this ideal age also considers the aspect of benefit, such as ensuring the well-being of offspring through reproductive maturity and the formation of harmonious families, in line with the objectives of Islamic law.⁶⁶ Thus, the renewal of Islamic legal thinking concerning the minimum age of marriage, guided by the epistemology of *bayānī* and *burhānī*, emphasizes the age range of 19 to 25 years as the ideal criterion. This perspective is based on interpreting texts that discuss maturity and utilizes logical reasoning to determine the ideal age limit for marriage, aiming to achieve benefit and reject harm in marital relationships.

Conclusion

The renewal of Islamic law regarding the minimum age of marriage in Indonesia can be analyzed based on al-Jābirī's epistemology of *bayānī* and *burhānī*. This update is rooted in exploring the Qur'an and *hadith texts*, as well as contextual interpretation using rational reasoning and empirical evidence. Through this approach, it can be concluded that the ideal criterion for marriage falls within the age range of 19 to 25 years. This period represents the phase of *balig* and *rusydan*, enabling individuals to possess the mental readiness and maturity to embark on married life. Marriages within this age range are believed to have a higher potential for attaining the desired goals of a successful marriage.

Conflicts of Interest

The author has no conflict of interest with any party in writing this article.

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⁶⁵ Shafa Yuandina Sekarayu and Nunung Nurwati, "Dampak Pernikahan Usia Dini terhadap Kesehatan Reproduksi", *Jurnal Pengabdian dan Penelitian Kepada Masyarakat (JPPM)* 2, no. 1 (2021), pp. 37-45.

⁶⁶ Teguh Anshori, "Analisis Usia Ideal Perkawinan dalam Perspektif *Maqasid Syari'ah*", *Al-Syakhsiyah: Jurnal Ilmu Hukum & Keluarga* 1, no. 1 (2019), pp. 1-16.

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