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

Ahmad Ropei,* Adudin Alijaya,* Muhammad Zaki Akhbar Hasan,* and Fakhry Fadhil**

*STAI Miftahul Huda Subang, Indonesia
**STIS NU Tangerang, Indonesia
Email: ahmadropei88@gmail.com

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 ‘Abīd al-Jābirī’s bayānī (indication/explication) and burhānī (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 rusydān (legal capacity), demonstrating readiness and mental maturity for marital life. The renewal of Indonesia’s marriage age limit aligns with Muḥammad ‘Abīd al-Jābirī’s epistemology, which integrates naṣṣ (Al-Qur’an and hadīth) with rational reasoning and empirical evidence.

Keywords: Minimum age of marriage; bayānī; burhānī; marriage law; Muḥammad ‘Abīd al-Jābirī

mentally for marriage and to live in a household. The age of marriage has been updated in Indonesia in line with epistemology *bayānī* and *burhānī* Muhammad ‘Abid al-Jābīrī because the provisions are still based on *nās* (Al-Qur’an and hadis) that are supported by rational and empirical evidence.

**Kata Kunci:** Batas usia perkawinan; *bayānī*; *burhānī*; Undang-Undang Perkawinan; Muhammad ‘Abid al-Jābīrī

**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

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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.
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 (nas), 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 ijtihād (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

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the legal age limit defined by fiqh scholars (jurists) and respects human rights. Drawing on the theory of maqāsid al-shari‘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. Cahyani and Salmah assert that the legal minimum age of marriage is a complex issue that requires consideration of various factors in its determination. Consequently, Yunitasari highlights the inconsistency in setting the minimum age of marriage in Indonesian laws and regulations. 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.

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 ʿAbid 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. 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

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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. In the Hindu tradition, truth is sought through three sources: sacred texts, reason, and personal experience. In Islam, the study of epistemology can be categorized into three branches: bayānī (indication/explication) and burhānī (demonstration/proof), and ‘irfānī (mystical/intuitive). 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.

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. Al-Jābirī asserts that Islamic epistemology seeks to investigate the process of knowledge construction in Islam, the

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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 \textit{Naḥnu wa al-Turāt} and “\textit{Al-Khitāb al-ʿArabī al-Muʿāṣir Dirāsah Naqdiyyah Tahlīliyyah.} 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 \textit{Naqd al-ʿAql al-ʿArabī.}\(^{21}\) Al-Jābirī asserts that the Islamic scientific tradition encompasses various aspects of thought in Islamic civilization, including religious doctrine, shariʿa, 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 \textit{al-ʿaql al-mukawwin} and \textit{al-ʿaql al-mukawwan} to define Arab reason. For him, \textit{al-ʿaql al-mukawwin} refers to the intellectual ability possessed by every human being to create universal theories and principles. On the other hand, \textit{al-ʿaql al-mukawwan} represents an accumulation of theories or principles derived from \textit{al-ʿaql 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: \textit{bayānī}, which is based on text; \textit{burhānī}, which

\(^{22}\) Muhammad Abid Al-Jabiry, \textit{Al-Turāth wa al-Hadāsah; Dirāsāt wa Munāqashāt} (Beirut; Markaz Dirasat al-Wihdah al-Arabiyyah, 1999), p. 32.
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

²⁶ Al-Jabiry, Bunyah al-Aql al-Arabi.
²⁹ Al-Jabiry, Bunyah al-Aql al-Arabi.
method of inference (al-istinṭaj) by connecting specific premises with premises accepted by reason or proven to be true. This logical sequence serves as the primary foundation for the development of burḥānī epistemology.

Within the context of the burḥānī approach, Amin Abdullah suggests that the source of burḥānī is reality (al-wāqi‘), encompassing natural, social, humanitarian, and religious realities. The knowledge that emerges from the burḥānī approach, referred to as ʿilm al-busbūlī, 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 burḥānī 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. Thus, the epistemology of burḥānī relies on the workings of logic, which, in turn, depend on reason and logical thinking to generate knowledge.

The Epistemology of Bayānī and Burḥānī in Islamic Law Reform

Epistemology in the study of Islamic law is often referred to as naẓāriyyah al-maʿrifah or the theory of science. The development of this theory is believed to optimize the process of establishing Islamic law (istinbāṭ al-ahkām). 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

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Islamic law must be capable of providing answers to the essential needs of human life while being oriented towards the values of benefit.\textsuperscript{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.\textsuperscript{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 \textit{ijtiḥād}, 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 \textit{ijtiḥād is} based on the idea that the Qur’ān contains limited verses with unlimited contexts that are continuously explored by jurists (\textit{mujtahid}). Therefore, the process of deriving Islamic law is an ongoing endeavor.\textsuperscript{35} Epistemology plays a vital role in the development of Islamic law as it addresses contemporary issues in the modern era. The epistemology of \textit{bayānī} and \textit{burhānī} has contributed to the development of Islamic legal thought.\textsuperscript{36}

The epistemology of \textit{bayānī} focuses on delving into the meaning of textual sentences to acquire knowledge.\textsuperscript{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 \textit{bayānī} influenced \textit{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.\textsuperscript{38}

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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. 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.

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 sharī’a texts. This burhānī epistemology adheres to the primary objective of Islamic law (al-maqāṣid al-ḍaruriyyah) encompassing the preservation of religion, life, intellect, lineage, and wealth. 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, 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. Although the development of legal products employs rational reasoning through syllogisms, it remains crucial to establish a

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42 Al-Jabiry, Banyah 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.\(^4^4\) This update can be understood through the development of the epistemology of *bayānī* and *burhānī* in the study of Islamic law.\(^4^5\) 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.\(^4^6\)

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.\(^4^6\) Hence, a person has the understanding and ability to differentiate between good and bad in

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\(^4^5\) Muhammad Abid Al-Jabiry, *Kritik Nalar Arab: Formasi Nalar Arab (Kritik Tradisi Memaju Pembahasan dan Pluralisme Wacana Interreligius)*.

their life in order to benefit themselves.\textsuperscript{47}

The jurists interpret the word \textit{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.\textsuperscript{48} Meanwhile, Wahbah al-Zuhaily provides a more flexible limit for \textit{rusydan}, suggesting the age of 25.\textsuperscript{49} Quraish Shihab argues that a person can fully mature at 25\textsuperscript{50} when significant changes occur, including mindset, maturity, and psychology.\textsuperscript{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: \textit{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.\textsuperscript{52}

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

\textsuperscript{47} Ahmad Tafsir, \textit{Cakrawala Pemikiran Pendidikan Islam} (Bandung: Mimbar Pustaka, 2002).


\textsuperscript{52} Muhammad Jawad Mughiyah, \textit{Fiqh Lima Mazhab}, (Jakarta: Lentera, 2003).

years for both men and women.\textsuperscript{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.\textsuperscript{55}

Based on the opinions of scholars from various schools of thought, the age limit of \textit{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.\textsuperscript{56} From a psychological perspective, people can comprehend good and evil as they relate to themselves.\textsuperscript{57} The age range of 15 to 25 years is generally considered a period of maturity and reaching \textit{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).\textsuperscript{58}

To strengthen the \textit{bayānī} argument, the epistemology of \textit{burhānī} also holds an important position. The renewal of the legal minimum age of marriage must be based on a \textit{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


\textsuperscript{55} Muhammad Jawad Mughiyah, \textit{Fiqh Lima Mazhab}.


\textsuperscript{57} Ahmad Tafsir, \textit{Cakrawala Pemikiran Pendidikan Islam}.

\textsuperscript{58} Ibnu Hisyam, \textit{Sirah Nabawiyah Ibnu Hisyam} (Jakarta: Akbar Media, 2015).
for benefit and reject harm. Minimizing early marriages, which have a higher risk of divorce, contributes to achieving this goal.

Burhānī’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. This principle is grounded in the rejection of discrimination. 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. 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 burhānī. 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.

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

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men’s reproductive health. 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. 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-Jābiri’s epistemology of bayānī and burhānī. This update is rooted in exploring the Qur’an and hadīth 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 balīg 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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