

The Hermeneutics of Islamic Law in Reviewing Changes to the Minimum Age for Marriage

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Abstract

This research aims to explore the perspective of Islamic legal hermeneutics in addressing the issue of changing the minimum age of marriage. The minimum age of marriage is a controversial issue that relates to the protection of children's rights, gender equality, and the interpretation of Islamic legal texts. This study employs a hermeneutical approach as a theoretical framework to understand the interpretation of Islamic law regarding the change in the minimum age of marriage. The research also involves an analysis of the changing societal views on the minimum age of marriage. In some cases, societal perspectives have evolved with changing times and increased awareness of the protection of women's rights. Therefore, this study attempts to identify arguments that support or oppose the change in the minimum age of marriage from the perspective of Islamic law. The results of this research are expected to provide deeper insights into the interpretation of Islamic law regarding the minimum age of marriage and its implications for efforts to protect women's rights and bring about social change within Muslim societies. By understanding the contribution of hermeneutics in interpreting Islamic law, it is hoped that more directed efforts can be made in formulating policies that align with the principles of Islamic law and humanitarian values.

Keywords: Marriage Age, Hermeneutic, Legal Changes

Abstrak

Penelitian ini bertujuan untuk menggali perspektif hermeneutika hukum Islam dalam menghadapi isu perubahan batas usia minimal menikah. Batas usia minimal menikah adalah isu kontroversial yang terkait dengan perlindungan hak-hak anak, kesetaraan gender, dan interpretasi teks-teks hukum Islam. Penelitian ini menggunakan pendekatan hermeneutika sebagai kerangka teoretis untuk memahami interpretasi hukum Islam yang berkaitan dengan perubahan batas usia minimal menikah. Penelitian ini juga melibatkan analisis perubahan pandangan masyarakat terhadap batas usia minimal menikah. Dalam beberapa kasus, pandangan masyarakat telah berkembang seiring perubahan zaman dan peningkatan kesadaran akan perlindungan hak-hak perempuan. Oleh karena itu, studi ini mencoba mengidentifikasi argumen-argumen yang mendukung atau menentang perubahan batas usia minimal menikah dari perspektif hukum Islam. Hasil dari penelitian ini diharapkan dapat memberikan wawasan yang lebih mendalam tentang interpretasi hukum Islam terkait batas usia minimal menikah, serta implikasinya terhadap upaya perlindungan hak-hak perempuan dan perubahan sosial dalam masyarakat muslim. Dengan memahami kontribusi hermeneutika dalam menafsirkan hukum Islam, dapat diharapkan adanya upaya yang lebih terarah dalam merumuskan kebijakan yang sesuai dengan prinsip-prinsip hukum Islam dan nilai-nilai kemanusiaan.

Kata Kunci: Usia menikah, hermeneutika, perubahan hukum

A. Introduction

Marriage is a complex social institution where law and religious values often play a crucial role. In Indonesia, changes in the rules regarding the minimum age for marriage have been a major focus in efforts to protect

children's rights and ensure dignified marriages.¹ In this context, it is important to consider the effectiveness of these rule changes through the lens of Islamic legal hermeneutics.²

In Islamic legal hermeneutics, the approach to interpreting the law is based on a deep contextual understanding of Islamic legal sources such as the Qur'an, Hadith, and legal principles. Islamic legal hermeneutics recognizes that legal interpretation cannot be conducted in isolation from the social, cultural, and historical contexts in which the law is applied.³ Contextual understanding becomes crucial in interpreting the provisions of Islamic law because it influences how the law is applied and understood by Muslim communities.⁴ Historical, cultural, and social contexts shape perspectives, norms, and values within a society, which in turn shape interpretations of Islamic law.⁵ For example, in understanding and interpreting provisions regarding the minimum age for marriage, Islamic legal hermeneutics would take into consideration the historical, cultural, and social backgrounds in which these provisions emerged. This includes understanding marriage traditions within Muslim communities, values inherent in Islam regarding marriage, and social changes that can influence the interpretation and implementation of the law.

¹ Rizky Aditya and Lisa Waddington, "The Legal Protection Against Child Marriage in Indonesia," *Bestuur*, 2021, <https://doi.org/10.20961/bestuur.v9i2.55144>; Umi Supraptiningsih, "Pro and Cons Contestation on the Increase of Marriage Age in Indonesia," *Samarah Jurnal Hukum Keluarga Dan Hukum Islam*, 2021, <https://doi.org/10.22373/sjkh.v5i1.9136>.

² Sarip Sarip et al., "Legal Dialectics: Age Limits for Marriage and Political Rights in Indonesia," *Jurnal Hukum Novelty*, 2022, <https://doi.org/10.26555/novelty.v13i1.a19018>.

³ Latifah Abdul Majid and Sharifah Nayan, "Ratio-Legal Fazlur Rahman's Hermeneutics and Its Influence on Sisters-in-Islam," *Jurnal Living Hadis* 6, no. 1 (2021): 105–20, <https://doi.org/10.14421/livinghadis.2021.2648>.

⁴ Muhammad Maskur Musa, "Adinugraha Thought: Textual and Contextual Approaches in Understanding Islamic Studies to Deal With Life Problems," *Jurnal Studi Ilmu Sosial Dan Politik* 2, no. 2 (2022): 93–99, <https://doi.org/10.35912/jasipol.v2i2.1685>.

⁵ V. F. Kozhevnikov, "The Hermeneutic Method in Modern Domestic Jurisprudence," *Budapest International Research and Critics Institute (Birci-Journal) Humanities and Social Sciences* 2, no. 4 (2019): 39–49, <https://doi.org/10.33258/birci.v2i4.605>.

By considering historical, cultural, and social contexts, Islamic legal hermeneutics allows for a more holistic, responsive interpretation of the law that is aligned with the realities and needs of contemporary Muslim societies. This interpretive approach enriches the understanding of Islamic law within a broader context, involving deep reflection on Islamic values, historical contexts, and evolving social dynamics. Thus, understanding Islamic legal hermeneutics entails acknowledging the importance of historical, cultural, and social contexts in interpreting Islamic legal provisions. This understanding enables scholars and legal practitioners to comprehend how Islamic law remains relevant in today's context and how Islamic principles can be contextually applied in addressing legal issues, including changes in the minimum age for marriage in Indonesia.

B. Current Minimum Age for Marriage in Indonesia

In Islamic legal tradition, there are various interpretations and opinions related to the minimum age for marriage. These interpretations can be influenced by the social and cultural context in which the Islamic legal tradition emerges.⁶ For example, in societies with a strong tradition of early marriage, interpretations of Islamic law regarding the minimum age for marriage may tend to allow marriage at a younger age. Additionally, social and cultural factors can also influence how Islamic law is interpreted regarding the minimum age for marriage. For instance, in societies that prioritize family responsibility and reproduction as core values, interpretations of Islamic law may focus more on physical and reproductive readiness in determining the minimum age for marriage.⁷

⁶ Cassandra Balchin, "Islamic Family Law in a Changing World: A Global Resource Book," *Al-Raida Journal*, 1970, <https://doi.org/10.32380/alrj.v0i0.287>; Ainur Mila Rofika and Iswari Hariastuti, "Social-Cultural Factors Affecting Child Marriage in Sumenep," *Jurnal PROMKES* 8, no. 1 (May 6, 2020): 12, <https://doi.org/10.20473/jpk.V8.I1.2020.12-20>; Hasyim Nawawie, "Hukum Islam Dalam Perspektif Sosial-Budaya di Era Reformasi," *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 8, no. 1 (June 3, 2013): 1–28, <https://doi.org/10.21274/epis.2013.8.1.1-28>.

⁷ Fardana Khirzul Haq, Muhammad Shulthoni, and Fahrudin Mukhlis, "Tariq Ramadan's View on Western Muslims Identity: Between Nation and God's Revelation," *Progresiva Jurnal Pemikiran Dan Pendidikan Islam* 11, no. 1 (2022): 55–68, <https://doi.org/10.22219/progresiva.v11i01.20496>; Andi Pramesti Ningsih et al., "Analisis Sosial Budaya terkait Pernikahan Usia Dini di Kepulauan Selayar," *Perilaku dan Promosi Kesehatan: Indonesian Journal of Health Promotion and Behavior* 2, no. 2 (December 31, 2020): 1, <https://doi.org/10.47034/ppk.v2i2.4127>; Ecep Ishak

However, it is important to note that social and cultural factors do not always have negative impacts on the interpretation of Islamic law.⁸ The social and cultural context can also provide valuable perspectives in understanding and applying Islamic law in the context of marriage.⁹ These factors can help identify how positive social and cultural values, such as family unity and concern for child welfare, can be integrated with the underlying principles of Islam that govern marriage. Therefore, a comprehensive understanding of the interpretation of Islamic law regarding marriage, including the minimum age for marriage, should take into account the social and cultural factors that influence such understanding. By understanding the social and cultural context in which Islamic law is practiced, a more holistic and contextually appropriate interpretation can be developed.¹⁰ This allows for a broader dialogue and a better understanding of how Islamic law can be applied contextually and relevantly to marriage issues while considering human values and gender equality.

The current minimum age for marriage in Indonesia is regulated by several relevant laws and regulations. The main reference is the Marriage Law No. 1 of 1974, which has undergone changes and improvements over time. The Marriage Law stipulates that the minimum age for both males and females to marry is 19 years old. However, the law provides exceptions with written consent from a judge for marriage under that age in urgent circumstances and considering the welfare of the prospective spouses.¹¹ There are several legal reasons underlying the changes in the minimum age for marriage in the Marriage Law in Indonesia. These reasons include:

Fariduddin, "Kontekstualisasi Hukum Islam dalam Realitas Sosial-Budaya Perspektif Wael B. Hallaq" 3, no. 1 (2022).

⁸ Ahmad Faisal, "The Intersection of Islamic Law and Nationhood in Contemporary Indonesia," *European Journal of Humanities and Social Sciences* 3, no. 2 (2023): 141–47, <https://doi.org/10.24018/ejsocial.2023.3.2.441>.

⁹ Mojtaba Mahdavi, "Islam and the Secular State: Negotiating the Future of Shari'a, by Abdullahi Ahmed an-Na'im," *Religious Studies and Theology* 32, no. 1 (2013): 133–34, <https://doi.org/10.1558/rsth.v32i1.133>.

¹⁰ Hafiz T. A. Khan, "Reconstruction of Islamic Law: An Appraisal of Basic Principles," *Journal of Islamic and Religious Studies* 5, no. 2 (2020): 1–16, <https://doi.org/10.36476/jirs.5:2.12.2020.01>.

¹¹ Singgih Susilo et al., "Investigation of Early Marriage: A Phenomenology Study in the Society of Bawean Island, Indonesia," *Journal of Population and Social Studies* 29, no. 1 (2021), <https://doi.org/10.25133/jpssv292021.034>.

Protection of Children's Rights and Welfare: The changes in the minimum age for marriage aim to protect the rights and welfare of children. Getting married at a too young age can have negative impacts on a child's education, health, and development. By raising the minimum age, it is hoped that better protection can be provided for children, allowing them better opportunities to receive education, develop physically and emotionally, and make more mature decisions regarding marriage.¹²

Gender Equality and Women's Rights Protection: The changes in the minimum age for marriage also aim to ensure gender equality and protect women's rights.¹³ Getting married at a too young age can have negative consequences for women, such as higher health risks, limited educational opportunities, and the risk of being trapped in unhealthy lifestyles or unequal relationships. By raising the minimum age, it is expected that women will have greater opportunities to develop themselves, obtain better education, and choose when they are ready for marriage.¹⁴

Social Well-being and Development: Changes in the minimum age for marriage are also directed towards supporting social well-being and community development. By giving individuals the opportunity to complete their education and develop their potential before getting married, it is expected to create a more educated, competitive, and sustainable society. Restricting early marriage can also reduce poverty rates and enhance economic well-being as individuals will have better preparation time before entering into marriage.¹⁵

¹² Jill Duerr Berrick, "Marriage, Motherhood and Welfare Reform," *Social Policy and Society* 4, no. 2 (2005): 133–45, <https://doi.org/10.1017/s1474746404002271>; Julien O. Teitler et al., "Effects of Welfare Participation on Marriage," *Journal of Marriage and Family* 71, no. 4 (2009): 878–91, <https://doi.org/10.1111/j.1741-3737.2009.00641.x>.

¹³ Marianthi Anastasiadou and Jasmine Samara, "'Where Are the Equal Rights?' Far-Right Women Challenging Gender Equality and Human Rights in Greece," *Digest Journal of Diversity and Gender Studies* 9, no. 2 (2022): 8–25, <https://doi.org/10.21825/digest.81849>.

¹⁴ Nurjanah Nurjanah et al., "Gender and Women's Citizens Rights," 2021, <https://doi.org/10.2991/assehr.k.210304.124>.

¹⁵ Christoph R. Becker, Isadora Kirchmaier, and Stefan T. Trautmann, "Marriage, Parenthood and Social Network: Subjective Well-Being and Mental Health in Old Age," *Plos One* 14, no. 7 (2019), <https://doi.org/10.1371/journal.pone.0218704>.

Social Change and Cultural Values: The changes in the minimum age for marriage also reflect social change and the values of society. Along with societal developments, the understanding of child protection, gender equality, and individual rights has increased. These changes reflect the desire to build a more inclusive, fair, and just society. Therefore, changes in the minimum age for marriage reflect shifts in values and societal perspectives that prioritize protection, equality, and well-being for individuals.¹⁶

The changes in the minimum age for marriage in the Marriage Law are based on legal and social considerations that reflect the need to protect children's rights, prioritize gender equality, promote social well-being, and recognize evolving values and societal perspectives. These reasons provide a strong legal basis for making these changes to achieve better goals in the context of marriage in Indonesia.

C. Reviewing the Need for Change

In analyzing arguments supporting a change in the minimum age of marriage, it is important to consider the implications of child marriage on the rights and well-being of individuals. Early marriage can have negative impacts on education, health, and the development of children, as well as lead to poverty and economic limitations within families.¹⁷ In this context, arguments supporting a change in the minimum age of marriage emphasize the need to protect children's rights and provide them with the opportunity

¹⁶ Susilo et al., "Investigation of Early Marriage: A Phenomenology Study in the Society of Bawean Island, Indonesia."

¹⁷ Sheetal Sekhri and Sisir Debnath, "Intergenerational Consequences of Early Age Marriages of Girls: Effect on Children's Human Capital," *The Journal of Development Studies* 50, no. 12 (2014): 1670–86, <https://doi.org/10.1080/00220388.2014.936397>; Kate C. Prickett and Jennifer March Augustine, "Maternal Education and Investments in Children's Health," *Journal of Marriage and Family* 78, no. 1 (2015): 7–25, <https://doi.org/10.1111/jomf.12253>; Terrence D. Hill, Megan Reid, and Corinne Reczek, "Marriage and the Mental Health of Low-Income Urban Women With Children," *Journal of Family Issues* 34, no. 9 (2012), <https://doi.org/10.1177/0192513x12441347>; Ravi Prakash et al., "Early Marriage, Poor Reproductive Health Status of Mother and Child Well-Being in India," *Journal of Family Planning and Reproductive Health Care* 37, no. 3 (2011): 136–45, <https://doi.org/10.1136/jfprhc-2011-0080>.

to grow and develop optimally before entering into the institution of marriage.

From a gender perspective, it is crucial to fulfill individuals' potential before marriage. This includes providing opportunities for women to receive adequate education, develop skills, and have independence before entering into marriage. By extending the minimum age of marriage, women can have more time to pursue their dreams and goals beyond marriage.¹⁸

Changes in the minimum age of marriage in the context of reproductive health involve understanding the impact of early marriage on the reproductive health of women and the children involved in such marriages.¹⁹ Early marriage can have negative effects on women's reproductive health. Women who marry at a young age often haven't fully attained physical and reproductive maturity, which can increase the risk of complications during pregnancy and childbirth, including maternal and infant mortality, as well as other health issues such as anemia, malnutrition, and sexually transmitted infections.²⁰

These changes also recognize women's reproductive rights. Reproductive rights include a woman's right to have control over her own body, the right to choose when and with whom to marry, and the right to access safe and affordable reproductive health information and services. A higher minimum age of marriage can provide women with more freedom to make decisions about their reproductive health.²¹

However, arguments opposing a change in the minimum age of marriage also need to be considered. Some arguments that arise are based on

¹⁸ Sylvain Dessy and Habiba Djebbari, "High-Powered Careers and Marriage: Can Women Have It All?," *The B E Journal of Economic Analysis & Policy* 10, no. 1 (2010): 41–42, <https://doi.org/10.2202/1935-1682.2358>.

¹⁹ Fitria Lestari and Imas Nurjanah, "Impact of Early Marriage on Adolescent Reproductive Health," *Abdimasmu Umtas* 1, no. 2 (2022): 81–86, <https://doi.org/10.35568/amu.v1i2.2540>.

²⁰ Farzaneh Valizadeh et al., "Sexual and Reproductive Health Challenges in Temporary Marriage: A Systematic Review," *Journal of Research in Health Sciences* 21, no. 1 (2021), <https://doi.org/10.34172/jrhs.2021.42>.

²¹ Shipra Garg, Dinesh Kumar, and Savita Prashar, "Role of Women in Reproductive Decision Making and Inter-Personal Communication Regarding Reproductive Health," *International Journal of Community Medicine and Public Health* 9, no. 12 (2022): 4472–77, <https://doi.org/10.18203/2394-6040.ijcmph20223201>.

religious interpretations and the belief that Islam permits marriage at a younger age. Supporters of these arguments argue that religious interpretations should be respected and that social and cultural factors should also be taken into account when making policy changes. Religion does play an important role in shaping marriage practices and views, including early marriage. However, it is important to remember that religious interpretations vary, and there is no single interpretation that can represent all existing religious teachings. Therefore, the statement "religion legitimizes early marriage" cannot be generalized without considering specific religious contexts and the diversity of interpretations that exist.²²

In some religious traditions, particularly those following Islamic legal sources, there are interpretations that allow for marriage at a younger age. Some supporters of these arguments refer to the practices and customs of marriage during the time of Prophet Muhammad and his followers in the past. They argue that religious teachings provide legitimacy for early marriage within specific time and cultural contexts. However, it is also important to note that there are diverse opinions and interpretations among religious scholars and experts regarding the appropriate minimum age of marriage in modern contexts. Many religious scholars have criticized the practice of early marriage and emphasized the importance of considering individuals' physical, mental, and emotional readiness before marriage. They argue that religious principles should be interpreted considering the values of justice, gender equality, and the protection of individual rights.²³ Furthermore, many religious perspectives also prioritize the values of equality, child protection, and human dignity within the context of marriage. These perspectives emphasize the need to safeguard the well-being of children, provide access to education, and respect women's rights within the institution of marriage.

²² Ayako Kohno et al., "Investigation of the Key Factors That Influence the Girls to Enter Into Child Marriage: A Meta-Synthesis of Qualitative Evidence," *Plos One* 15, no. 7 (2020), <https://doi.org/10.1371/journal.pone.0235959>.

²³ Serene J. Khader, "Do Muslim Women Need Freedom? Traditionalist Feminisms and Transnational Politics," *Politics & Gender* 12, no. 4 (2016): 1–27, <https://doi.org/10.1017/s1743923x16000441>; Nicole H.W. Civettini and Jennifer Glass, "The Impact of Religious Conservatism on Men's Work and Family Involvement," *Gender & Society* 22, no. 2 (2008): 172–93, <https://doi.org/10.1177/0891243207310714>.

Therefore, it is important to acknowledge that religious views and interpretations of early marriage are not monolithic. Religious interpretations are always influenced by social, cultural, and historical contexts. Society needs to engage in inclusive dialogue and discussions involving various stakeholders, including religious scholars, women's rights activists, and the general public, to develop a more inclusive and responsive understanding of the issue of early marriage, considering both religious values and the protection of individual rights.²⁴

Additionally, arguments against a change in the minimum age of marriage can also arise from a socio-legal perspective. Some supporters of these arguments argue that changing the minimum age of marriage may disrupt social norms and customs that have become ingrained in society. They are concerned about resistance and non-compliance with the newly implemented policy. Social and economic factors, such as poverty, traditions, and social pressure, on the other hand, form the basis for arguments opposing a higher minimum age of marriage. Sometimes, impoverished or marginalized families may see child marriage as a solution to overcome economic problems or gain social advantages. These factors can trigger an increase in child marriages even if there has been a change in the minimum age of marriage.²⁵

A change in the minimum age of marriage can alter societal norms and perceptions of marriage. If this change is not accompanied by adequate educational efforts, society may interpret it as legitimizing marriage at a younger age. This can lead to an increase in child marriages due to the perception that the new minimum age of marriage still allows for marrying at a young age. However, in addressing these arguments, it is important to discuss the need to align legal provisions with contemporary social realities. Changes in society, including changes in education, gender awareness, and efforts towards gender equality, emphasize the importance of adjusting the minimum age of marriage to reflect current values and needs. Additionally,

²⁴ Susilo et al., "Investigation of Early Marriage: A Phenomenology Study in the Society of Bawean Island, Indonesia"; Kartini Kartini, "Maqasid Al-Shari'ah Perspectives in Solution of Divorce Cases for Early Marriage," *International Journal of Health Sciences*, 2022, <https://doi.org/10.53730/ijhs.v6ns5.11775>.

²⁵ Prakash et al., "Early Marriage, Poor Reproductive Health Status of Mother and Child Well-Being in India"; Rofika and Hariastuti, "Social-Cultural Factors Affecting Child Marriage in Sumenep."

looking at the experiences of other countries that have made changes to the minimum age of marriage can provide guidance and learning for Indonesia.

In the overall analysis, it is important to maintain a balance between religious perspectives, individual rights, social needs, and legal considerations when considering a change in the minimum age of marriage. Comprehensive and inclusive discussions among stakeholders, including religious scholars, legal experts, women's activists, and the general public, need to be conducted to reach an agreement that respects religious values while advocating for gender justice and the protection of individual rights.

D. Islamic Legal Hermeneutics in Addressing Change: Considering Jasser Auda's Ideas

1. Jasser Auda's Ideas on Islamic Legal Hermeneutics

Jasser Auda is a contemporary Muslim scholar renowned in the field of Islamic legal hermeneutics. He is known for his contributions in developing an inclusive and contextual approach to understanding and interpreting Islamic law. Auda's approach to Islamic legal hermeneutics focuses on understanding the objectives or general principles (maqasid) of Islamic law in order to achieve justice and human welfare.

In his works, such as "Maqasid al-Shariah as Philosophy of Islamic Law" and "Reformulating the Islamic Legal Framework: A Methodology for the Contemporary Reform of Islamic Law," Jasser Auda proposes a more adaptive and responsive hermeneutical approach to the changing times and social context. He emphasizes the need to understand the objectives of maqasid al-shariah and consider universal principles such as justice, freedom, and welfare in the interpretation of Islamic law.

Jasser Auda also highlights the importance of considering ethical aspects and universal values in the interpretation of Islamic law. He promotes an approach that takes into account human values, gender equality, human rights, and the harmonization of Islamic law with the modern social context. Furthermore, Jasser Auda advocates for dialogue between religious scholars and scholars from other disciplines, such as science, philosophy, and social sciences. He emphasizes the importance of utilizing modern thinking, scientific methods, and multidisciplinary approaches in understanding and interpreting Islamic law. Overall, Auda's contribution to Islamic legal hermeneutics lies in advocating for an inclusive, adaptive, and contextual approach that considers general objectives, universal values, and harmonization with social realities. This approach aims to achieve justice,

welfare, and the fulfillment of individual rights in the interpretation of Islamic law within a modern context.²⁶

The hermeneutical principles proposed by Jasser Auda in the context of Islamic law involve an inclusive, contextual, and adaptive approach.²⁷ Here are some key principles developed by Jasser Auda:

1. **Maqasid al-Shariah (Objectives of Shariah):** Auda emphasizes the importance of understanding the general objectives of Islamic law (maqasid al-shariah) in the interpretation of law. Maqasid al-shariah encompasses principles such as the preservation of religion, life, intellect, lineage, and property. In Auda's hermeneutical approach, maqasid al-shariah serves as the main foundation for achieving justice, welfare, and balance in legal interpretation.
2. **Contextuality:** Auda emphasizes the importance of understanding the social, cultural, and historical context in the interpretation of Islamic law. Each legal provision should be viewed within the relevant context, including the development of time and social changes. Contextual understanding allows for the adaptation of Islamic law to social realities and human needs.
3. **Justice and Welfare:** The principles of justice and welfare are crucial pillars in Auda's hermeneutics. The interpretation of Islamic law should consider principles of justice, equality, and the protection of individual rights. Welfare or the common good is also an important consideration in interpreting Islamic law to achieve balance and optimal benefits for society.
4. **Integration of Knowledge:** Auda advocates for a multidisciplinary approach in Islamic legal hermeneutics. He encourages scholars and experts to engage in dialogue with other disciplines, such as science, philosophy, and social sciences. The integration of knowledge helps enrich the understanding and interpretation of Islamic law by adopting scientific methods, universal principles, and broad perspectives.

²⁶ Zaprul Khan Zaprul Khan, "Maqāṣid Al-Shariah in the Contemporary Islamic Legal Discourse: Perspective of Jasser Auda," *Walisongo Jurnal Penelitian Sosial Keagamaan* 26, no. 2 (2018): 445–72, <https://doi.org/10.21580/ws.26.2.3231>; Fita Setiati, "Menelisis Spirit Profetik Konsep Audit Internal Dalam Perspektif Maqashid Syariah Jasser Auda" 1, no. 2 (2022): 36–46, <https://doi.org/10.59001/pjeb.v1i2.33>.

²⁷ Ahmad Munjin Nasih, "Pergeseran Pola Maqasid Al-Shari'ah Dari Tradisional Menuju Modern: Membaca Pemikiran Jasser Auda," *Ijtihad Jurnal Wacana Hukum Islam Dan Kemanusiaan* 11, no. 1 (2011): 1–20, <https://doi.org/10.18326/ijtihad.v11i1.1-20>.

5. Harmonization with Universal Values: Auda emphasizes the importance of harmonizing Islamic law with universal values such as human rights, gender equality, and individual freedom. The interpretation of Islamic law should consider universal humanitarian values and ensure the protection of individual rights that align with Islamic principles.

Auda's hermeneutical principles reflect an effort to develop an approach that is responsive to changing times and universal values in the interpretation of Islamic law. The inclusive and adaptive approach advocated by Auda aims to achieve justice, welfare, and the fulfillment of individual rights within a relevant and responsive framework of Islamic law in the contemporary social context.

2. Relevance of Jasser Auda's Islamic Legal Hermeneutics in the Study of the Minimum Age of Marriage

Islamic legal hermeneutics is an important approach to legal interpretation when addressing changes, including changes in the minimum age of marriage. Islamic legal hermeneutics involves a deep understanding of the social, historical, cultural, and value contexts that shape a legal system. In the context of marriage and the minimum age of marriage, Islamic legal hermeneutics plays a crucial role in understanding and interpreting relevant Islamic legal provisions.

The approach of Islamic legal hermeneutics emphasizes the importance of understanding the social and historical context in legal interpretation.²⁸ It acknowledges that religious teachings do not exist in isolation but are always influenced by the context of time and place. Therefore, to understand and interpret legal provisions related to the minimum age of marriage, a deep understanding of the social, cultural, and historical context at that time is required.²⁹ Moreover, the approach of Islamic legal hermeneutics also encourages a comprehensive approach to interpretation. This means that in

²⁸ M. Amin Abdullah, "Epistemologi Keilmuan Kalam dan Fikih dalam Merespon Perubahan di Era Negara-Bangsa dan Globalisasi (Pemikiran Filsafat Keilmuan Agama Islam Jasser Auda)," *Media Syari'ah: Wahana Kajian Hukum Islam dan Pranata Sosial* 14, no. 2 (October 30, 2012): 123, <https://doi.org/10.22373/jms.v14i2.1871>.

²⁹ Afrizal Tw et al., "Hak Perempuan Dan Kesetaraan Gender: Analisis Terhadap Pemikiran Jasser Auda Dan Kontribusinya Dalam Pembaharuan Hukum Keluarga Islam Di Indonesia," *Tasamuh Jurnal Studi Islam*, 2022, <https://doi.org/10.47945/tasamuh.v14i2.691>.

addressing changes in the minimum age of marriage, Islamic legal hermeneutics asks questions that go beyond a literal understanding of religious texts. This approach considers the objectives and principles underlying Islamic law, such as justice, balance, and the protection of individual rights, to ensure interpretations that are suitable for the social context and current needs. Through a contextual and comprehensive approach to Islamic legal hermeneutics, a more inclusive legal framework and protection for individuals, particularly in the context of marriage and the minimum age of marriage, can be developed. This approach enables those involved in the interpretation of Islamic law, such as religious scholars and experts, to delve deeper and consider universal values such as gender equality, human rights, and child protection within the context of Islamic law.

The Islamic legal hermeneutics presented by Jasser Auda is relevant to the study of the minimum age of marriage, especially in efforts to understand and interpret legal provisions related to this issue in a contextual, inclusive, and adaptive manner. He emphasizes the importance of understanding the social, cultural, and historical context in legal interpretation. In the context of the minimum age of marriage, contextual understanding helps comprehend changes in social demands and needs, as well as developments in the understanding of children's rights and gender equality.³⁰

The *maqasid al-shariah* principles emphasized by Auda involve a focus on the general objectives of Islamic law, including the preservation of life, intellect, lineage, and property. In terms of the minimum age of marriage, this hermeneutical approach considers the protection of children's rights, their physical and mental well-being, as well as the balance between individual and societal interests. The principles of justice and welfare are also important aspects in Auda's hermeneutics. In interpreting the minimum age of marriage, this hermeneutics takes into account gender justice, child protection, and the balance between individual interests and the overall interests of society. The relevance of Jasser Auda's Islamic legal hermeneutics lies in the effort to harmonize Islamic law with universal values such as human rights and gender equality. In the context of the minimum age of marriage, this hermeneutics encourages legal interpretations that ensure the protection of

³⁰ Abdullah, "Epistemologi Keilmuan Kalam dan Fikih dalam Merespon Perubahan di Era Negara-Bangsa dan Globalisasi (Pemikiran Filsafat Keilmuan Agama Islam Jasser Auda)."

children's rights, promote gender equality, and recognize the importance of individual welfare within a broader social context.

Thus, Jasser Auda's Islamic legal hermeneutics has significant relevance in addressing the issue of the minimum age of marriage. The contextual, inclusive, and adaptive approach helps understand and interpret Islamic law by considering relevant demands and universal values, as well as the protection of individual rights within the contemporary social context.

E. Balancing Tradition and Contemporary Values

Balancing tradition and contemporary values in the interpretation of Islamic law, particularly in the context of the minimum age of marriage, is a complex and important challenge. Islamic principles, social needs, and the protection of individual rights in the context of the minimum age of marriage require a comprehensive approach that takes into account various factors.

One important aspect is the recognition of the rights and obligations of both husband and wife in Islamic marriage. Islamic teachings emphasize the importance of balance and harmony in marital relationships, where rights and obligations are mutually shared and respected. This approach promotes the preservation of Islamic principles while ensuring the protection of individual rights within the institution of marriage.³¹ Traditionally, Islamic family law has been codified in a manner that provides fewer rights for women compared to men. However, the Islamic legal tradition itself is not inherently incompatible with contemporary notions of liberal rights, including equal rights for women. The challenge lies in reconciling traditional interpretations with contemporary values and ensuring that the interpretation and application of Islamic law align with principles of justice and equality.³²

Cultural context plays a significant role in shaping the interpretation and implementation of Islamic law. It is essential to consider the diverse perspectives and dynamics within different societies, as well as the evolving

³¹ Muhammad Ikbali, "Rights and Obligations of Husband and Wife According to Islamic Law in Constructing Sakina Family," *Al Mashaadir Jurnal Ilmu Syariah* 3, no. 2 (2023), <https://doi.org/10.52029/jis.v3i2.94>.

³² Tamir Moustafa, "Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia," *Law & Social Inquiry* 38, no. 1 (2013): 168–88, <https://doi.org/10.1111/j.1747-4469.2012.01298.x>.

needs and aspirations of individuals and communities. This requires a nuanced understanding of the relationship between Islamic family law and social realities, taking into account the principles of justice, equality, and human rights.³³ The aftermath of the Arab Spring, for example, raised debates around gender parity versus complementarity, with arguments framed within the framework of liberal human rights or Islamic tradition. The cultural context influences the understanding and application of Islamic legal principles, and it is important to consider the diverse perspectives and dynamics within different societies.³⁴

Legal reform is often necessary to address the challenges in balancing tradition and contemporary values.³⁵ The minimum age of marriage has been a subject of debate and reform in many Muslim-majority countries.³⁶ The references highlight the importance of increasing the minimum age for marriage to protect the rights and well-being of individuals, particularly women.³⁷ Legal reform aims to align Islamic family law with contemporary

³³ Mulki Al-Sharmani and Sanna Mustasaari, "Islamic Family Law(s) in Finland," *Temenos - Nordic Journal of Comparative Religion* 58, no. 2 (2022), <https://doi.org/10.33356/temenos.113886>.

³⁴ Elisa Ada Giunchi, "Gender and Equality in Muslim Family Law, Justice, and Ethics in the Islamic Legal Tradition," *American Journal of Islam and Society* 31, no. 4 (2014): 50–72, <https://doi.org/10.35632/ajis.v31i4.1073>.

³⁵ Javaid Rehman, "The Sharia, Islamic Family Laws and International Human Rights Law: Examining the Theory and Practice of Polygamy and Talaq," *International Journal of Law Policy and the Family* 21, no. 1 (2007): 108–27, <https://doi.org/10.1093/lawfam/eb1023>.

³⁶ Quentin Wodon, "Islamic Law, Women's Rights, and State Law: The Cases of Female Genital Cutting and Child Marriage," *The Review of Faith & International Affairs* 13, no. 3 (July 3, 2015): 81–91, <https://doi.org/10.1080/15570274.2015.1075762>.

³⁷ Holijah Holijah and Jariyah Binti Abd Manaf, "The Importance of Increasing Minimum Age for Marriage in Indonesian Marriage Law," *Al-Adalah* 16, no. 2 (2019): 411–32, <https://doi.org/10.24042/adalah.v16i2.4546>; Nasruddin Yusuf, "Changes in Marriage Age Limits and Marriage Dispensations: A Study of Causes and Impacts on the Religious Courts in North Sulawesi," *Samarah Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 514–36, <https://doi.org/10.22373/sjhc.v6i2.12439>; Ibnu Radwan Siddik Turnip, Zainul Fuad, and Nurhayati Nurhayati, "The Current Development of Marriage Age Provisions in Indonesia and Malaysia: A Socio-Historical Approach," *Jurnal Ilmiah Al-Syir Ah* 20, no. 1 (2022): 105–22, <https://doi.org/10.30984/jis.v20i1.1813>.

understandings of human rights and to address the social, psychological, and physical readiness required for marriage.³⁸

The interpretation of Islamic law is not a monolithic process, and there are diverse perspectives and debates within the Islamic legal tradition itself. Harmonizing the preservation of Islamic principles with social needs and the protection of individual rights in the context of the minimum age of marriage requires a comprehensive approach. Scholars and activists play a crucial role in promoting alternative interpretations and advocating for gender equality within the framework of Islamic law. The process of legal codification has been selective and partial, and there is a need to bridge the gap between legal theory and popular understandings of Islamic law). In conclusion, balancing tradition and contemporary values in the interpretation of Islamic law, particularly in the context of the minimum age of marriage, is a complex and ongoing challenge. It requires considering cultural context, promoting gender equality, engaging in legal reform, and fostering diverse interpretations within the Islamic legal tradition. By addressing these challenges, it is possible to ensure that Islamic law evolves and adapts to contemporary realities while upholding principles of justice, equality, and human rights.³⁹

F. Result

Hermeneutical approach in legal interpretation is carried out by considering the social context, history, and underlying values of the law. In the context of the minimum age of marriage, Islamic legal hermeneutics emphasizes the need to understand and apply the principles that underlie Islamic law, such as protecting children's rights, maintaining a balance between individual and societal interests, and ensuring justice and gender equality. In the process of interpretation, it is important to integrate traditional understanding with universal values and broader societal developments. Thus, the hermeneutical approach of Islamic law views the minimum age of marriage as an issue that requires a deep understanding of legal texts and social contexts. This encourages us to reflect on these aspects

³⁸ Fatum Abubakar, "Islamic Family Law Reform: Early Marriage and Criminalization (A Comparative Study of Legal Law in Indonesia and Pakistan)," *Al-Ahkam Jurnal Ilmu Syari'ah Dan Hukum* 4, no. 2 (2019), <https://doi.org/10.22515/al-ahkam.v4i2.1667>.

³⁹ Moustafa, "Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia."

in order to ensure appropriate protection for children and respect for the underlying values of Islamic law. The hermeneutical approach of Islamic law can make a significant contribution to ensuring a balance between tradition and the needs of the times, as well as the protection of individual rights.

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