



Between Divine Limits and Legal Reform: Muhammad Syahrur's Ḥudūd Theory and the Reconstruction of Minimum Marriage Age in Indonesian Islamic Family Law

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Abstract

This article examines the reform of the minimum marriage age in Indonesia through Muhammad Syahrur's *ḥudūd* theory and its implications for contemporary Islamic legal epistemology. While previous studies have largely discussed Law No. 16 of 2019 from the perspectives of gender equality, child protection, and positive law, limited attention has been given to how this reform may be theoretically justified within a dynamic framework of Islamic legal reasoning. Using normative legal research, this study combines statutory, conceptual, and Islamic legal-theoretical approaches. It compares Law No. 1 of 1974 and Law No. 16 of 2019 and interprets the reform through Syahrur's theory of limits, supported by relevant legal materials and scholarly literature. The study finds that raising and equalizing the minimum marriage age reflects not merely a legislative response to social problems, but also an epistemological shift in Islamic family law from rigid textualism toward contextual legal construction. Within Syahrur's framework, the state's determination of marriage age represents human *ijtihād* operating within divine boundaries, where legal norms may be adjusted to protect welfare, maturity, equality, and social justice. The article argues that the reform embodies an adaptive model of Islamic legal development that reconciles scriptural normativity with changing social realities. It contributes to debates on Islamic family law reform by showing that Syahrur's *ḥudūd* theory offers a productive framework for legitimizing legal transformation without detaching Islamic law from its normative foundations.

Keywords: Islamic Family Law, Marriage Age Reform, Muhammad Syahrur, Ḥudūd Theory, Legal Epistemology, Gender Equality

1. Introduction

Marriage, as a foundational social institution, transcends its formal legal characterization and functions as a long-term moral, social, and ethical commitment.¹ It embodies an intimate partnership between a man and a woman that integrates physical, psychological, and spiritual dimensions into a unified framework of responsibility and mutual obligation. Within this understanding, marriage cannot be reduced to a contractual arrangement legitimizing biological relations; rather, it constitutes a comprehensive life project that requires emotional maturity, psychological stability, moral awareness, and social competence.² Consequently, legal regulations governing marriage are not merely procedural instruments but normative mechanisms designed to ensure that individuals enter marital life with adequate preparedness, accountability, and capacity to sustain family stability over time.³

A crucial implication of this normative vision is the necessity of both physical and psychological maturity prior to marriage. Chronological age, while often used as a legal benchmark, primarily serves as a proxy for broader dimensions of readiness, including emotional regulation, cognitive development, decision-making capacity, and the ability to manage complex interpersonal responsibilities.⁴ Determining an appropriate marriage age therefore involves balancing biological capability with psychological resilience and social competence, particularly in the context of contemporary families facing increasing economic pressures, shifting gender roles, and heightened expectations of emotional partnership.⁵

In Indonesia, debates surrounding marriage, especially child marriage, remain highly contentious within the socio-legal landscape. Early marriage is frequently legitimized through appeals to tradition and customary norms (*adat*), which tend to rely on subjective assessments of maturity rather than clearly defined age thresholds.⁶ While *adat* law plays an important role in shaping communal identity, its flexible standards often conflict with modern legal frameworks informed by human rights principles, gender equality norms, and child protection policies. This tension exposes a structural dilemma: the persistence of culturally embedded practices that may inadvertently perpetuate social vulnerability, particularly for women and children, amid rapidly evolving social realities.⁷

The amendment of Law No. 16 of 2019, which equalized the minimum marriage age at 19 for both men and women, represents a significant normative and legal shift within this contested terrain.⁸ This reform signals a transition from a biologically oriented, gender-differentiated legal framework to a more egalitarian, welfare-oriented approach. Rather than treating marriage age as a purely

¹ Danu Aris Setiyanto, "Hukum Islam sebagai rekayasa sosial dan implikasinya dalam undang-undang perkawinan di Indonesia," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 17, no. 2 (2017): 175–89.

² Mahrus Ali dan Rudi Hanafi, "Pembaruan Hukum Batas Usia Perkawinan (Perspekstif Hukum Islam dan Kesetaraan Gender)," *JSHI: Jurnal Syariah Hukum Islam* 1, no. 1 (2022): 54–69.

³ Abdul Hamid dkk., "Tinjauan Filosofis terhadap Perubahan Batas Usia Perkawinan dalam Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan," *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 19, no. 1 (2021): 16–26.

⁴ Nahdiyanti Nahdiyanti dkk., "Implementasi perubahan kebijakan batas usia perkawinan terhadap perkawinan di bawah umur," *Journal of Lex Generalis (JLG)* 2, no. 1 (2021): 150–67.

⁵ Ali Supyan, "Batas Usia Perkawinan Berdasarkan Hukum Islam Dan Perundang-Undangan di Indonesia," *MIM: Jurnal Kajian Hukum Islam* 1, no. 1 (2023): 80–95.

⁶ Riska Yunitasari Yunitasari, "Dinamika Pembaharuan Batas Usia Perkawinan (Analisis Batas Umur Melaksanakan Pernikahan Dalam Hukum Nasional Indonesia)," *Doktrina: Journal of Law* 3, no. 1 (2020): 9–21.

⁷ Tarmizi Tarmizi dkk., "Kontekstualisasi dan Pembumian Fikih Berbasis Realitas Ke-Indonesiaan," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab*, 2024, 171–86.

⁸ Syarifah Lisa Andriati dkk., "Implementasi perubahan batas usia perkawinan menurut uu no. 16 tahun 2019 tentang perubahan atas uu no. 1 tahun 1974 tentang perkawinan," *Binamulia Hukum* 11, no. 1 (2022): 59–68.

physiological threshold, the revised law reflects growing recognition of psychological maturity, educational attainment, and social readiness as essential preconditions for marriage.⁹ Accordingly, this study situates the reform within broader debates on legal modernization, gender justice, and the role of law as an instrument of social protection.

From the perspective of Islamic law, the absence of an explicit numerical marriage age in the Qur'an and Hadith has historically allowed for interpretive diversity. Classical Islamic jurisprudence emphasizes *bulūgh*, the attainment of physical maturity as a minimum requirement for marital eligibility. However, this criterion was never intended to function in isolation from moral responsibility (*taklif*) and psychological competence.¹⁰ Islamic legal reasoning implicitly assumes that marriage presupposes the ability to fulfill ethical, social, and familial obligations, suggesting that maturity in Islamic law is multidimensional rather than strictly biological. This interpretive openness provides a doctrinal basis for contemporary legal reasoning (*ijtihād*) that responds to changing social contexts.¹¹

In contrast, Indonesia's positive legal system operates through explicit statutory limits to ensure legal certainty and social protection. Prior to 2019, the differentiation between men and women in Law No. 1 of 1974 institutionalized a gendered understanding of maturity that increasingly conflicted with contemporary norms of equality and child protection.¹² The enactment of Law No. 16 of 2019 eliminated this disparity, aligning national legislation with international standards and reinforcing the state's commitment to safeguarding women's rights, reducing child marriage, and improving family welfare outcomes. Nevertheless, the reform also raises critical questions about the adequacy of age-based regulation for capturing the complex realities of psychological readiness across diverse cultural settings.¹³

These challenges underscore the importance of conceptualizing marriage-age regulation as an *ijtihādī* legal policy one that remains open to evaluation, contextual refinement, and empirical assessment. Legal age thresholds, while necessary, cannot fully encapsulate the psychological, emotional, and socio-economic dimensions of marital readiness.¹⁴ As such, marriage-age reform must be understood not as a definitive solution, but as part of an ongoing process of legal adaptation aimed at enhancing social resilience and intergenerational well-being.

Within this context, Muhammad Syahrur's theory of limits (*naẓariyyat al-ḥudūd*) offers a particularly robust analytical framework. Syahrur conceptualizes divine law as operating within elastic normative boundaries defined by minimum (*al-ḥadd al-adnā*) and maximum (*al-ḥadd al-a'lā*) limits.¹⁵ Human reasoning, through *ijtihād*, is permitted to function dynamically within these boundaries to address changing historical and social conditions. This model rejects both rigid

⁹ Rizky Irfano Aditya dan Lisa Waddington, "The Legal Protection Against Child Marriage in Indonesia," *Bestuur* 9, no. 2 (2021): 126–34.

¹⁰ Ansori Ansori, "Qawā'id Fiqhiyyah as Islamic Epistemology and Its Application at Marriage Law in Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (2022): 67–76.

¹¹ Qodariah Barkah dkk., "The manipulation of religion and the legalization of underage marriages in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 1–20.

¹² Rosdalina Bukido dkk., "Reception of Marriage Age Limit in Marriage Law in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 146–74.

¹³ Liky Faizal dkk., "Age Limit for Marriage in Indonesia from The Perspective of Maqashid Sharia," *Analisis: Jurnal Studi Keislaman* 22, no. 2 (2022): 297–318.

¹⁴ Premchand Dommaraju dan JooEan Tan, "Going against Global Marriage Trends: The Declining Age at First Marriage in Indonesia," *Asian Population Studies* 20, no. 2 (2024): 144–64, <https://doi.org/10.1080/17441730.2023.2193488>.

¹⁵ Doli Witro, "Muhammad Syahrur dan Teori Limitasi: Sebuah Metode Penggalan Hukum Islam," *Istinbath: Jurnal Hukum* 18, no. 1 (2021): 15–31.

textualism and unrestrained relativism, instead proposing a principled flexibility that preserves the integrity of divine norms while enabling legal responsiveness.¹⁶

Applied to the reform of marriage-age regulation, Syahrur's framework allows the minimum age of 19 to be interpreted as a legitimate exercise of *ijtihād* operating within permissible divine limits.¹⁷ The reform reflects contemporary priorities such as education, women's empowerment, and psychological readiness while remaining consistent with Islamic legal principles that emphasize welfare (*maṣlaḥah*), responsibility, and justice in marital relations. In this sense, the law functions not merely as a regulatory constraint but as a preventive and transformative instrument aimed at fostering mature, equitable, and sustainable family structures.¹⁸

Accordingly, this study addresses two interrelated research questions: (1) what social, political, and legal factors motivated the amendment of the minimum marriage age for women under Law No. 16 of 2019; and (2) how can this reform be theoretically justified through Muhammad Syahrur's theory of limits. By integrating doctrinal Islamic legal analysis with socio-legal inquiry, this research seeks to demonstrate how Islamic law can operate as a responsive normative system one that balances fidelity to divine principles with sensitivity to contemporary social challenges.

Ultimately, this study contributes to broader scholarly discussions on Islamic legal reform by illustrating how *ijtihād*, when grounded in a coherent methodological framework such as Syahrur's *ḥudūd* theory, can support legal innovation without undermining normative certainty. The regulation of marriage age thus emerges as a paradigmatic case of adaptive Islamic law capable of addressing modern social realities while remaining anchored in its ethical and theological foundations.

2. Literature Review

Studies on the minimum age of marriage in Indonesia have expanded considerably, particularly following the enactment of Law No. 16 of 2019, which amended Law No. 1 of 1974. Existing scholarship may be broadly classified into five interrelated clusters: (1) normative analyses of regulatory reform, (2) empirical studies on implementation and enforcement challenges, (3) critiques emphasizing psychological maturity and mental readiness, (4) examinations of social and health impacts, and (5) Islamic legal perspectives grounded in *maṣlaḥah* and *maqāṣid al-sharī'ah*.

Existing legal scholarship largely conceptualizes the revision of the minimum marriage age as a progressive legislative response to shifting social realities and evolving conceptions of family law. Normative legal analyses commonly interpret the equalization of the minimum marriage age at 19 years for both men and women as a strategic intervention aimed at eliminating gender-based disparities and strengthening the legal protection of women and children. Within this body of literature, marriage is increasingly understood not merely as a formal legal contract, but as a social institution that presupposes a minimum level of physical, psychological, and social maturity.¹⁹

¹⁶ Hendri Hermawan Adinugraha, "Reaktualisasi Hukum Islam di Indonesia (Analisis Terhadap Teori Hudūd Muhammad Syahrur)," *Islamadina: Jurnal Pemikiran Islam* 19, no. 1 (2018): 1–26.

¹⁷ Mujiyati Mujiyati dan Hoirul Anam, "Tela'ah Kritis Makna Islam Dalam Perspektif Muhammad Syahrur Dengan Teori Double Movement," *J-CEKI: Jurnal Cendekia Ilmiah* 1, no. 6 (2022): 858–69.

¹⁸ Nuruddin Nuruddin dkk., "Evaluating the Effectiveness of Age Restriction on Marriage in Indonesia," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2023, 313–30.

¹⁹ Zaimatul Ummah, "Perubahan Batas Usia Nikah Bagi Perempuan Dalam Undang-Undang Nomor 16 Tahun 2019 Perspektif Teori Limit Muhammad Syahrur" (PhD Thesis, Institut Agama Islam Negeri Madura, 2022), <http://etheses.iainmadura.ac.id/3427/>.

Consequently, age regulation is framed as a normative expression of the state's responsibility to safeguard human dignity, relational accountability, and the long-term stability of family structures.

A closely related strand of literature situates marriage-age reform within broader child protection and human development agendas. Scholars emphasize that raising the minimum marriage age functions as a preventive legal instrument designed to reduce the prevalence of child marriage and mitigate its long-term social costs. From this perspective, marriage-age regulation is linked to the enhancement of family quality, intergenerational welfare, and human capital development. Marriage is thus reconceptualized as a form of social investment whose sustainability depends on educational attainment, emotional readiness, and socio-economic capacity, rather than solely on biological maturity. This approach reflects a shift from formal legality toward outcome-oriented regulation grounded in public welfare considerations.

However, empirical studies examining the implementation of Law No. 16 of 2019 reveal significant limitations in the transformative capacity of legal reform when operating in isolation. Despite the statutory increase in the minimum marriage age, research consistently reports a high volume of marriage dispensation applications submitted to Religious Courts. These applications are commonly justified by factors such as premarital pregnancy, economic vulnerability, and entrenched cultural norms that continue to normalize early marriage. Such findings suggest that commensurate shifts in social consciousness or behavioral practices have not accompanied legislative change.²⁰ As a result, a persistent disjunction emerges between normative legal frameworks and lived social realities, raising questions about the substantive effectiveness of marriage-age reform.

Further empirical analyses underscore weaknesses in law enforcement and policy dissemination. Limited public awareness of the social, psychological, and health-related consequences of early marriage is frequently identified as a major obstacle to effective implementation. Inadequate institutional coordination and insufficient community-level engagement further exacerbate this challenge.²¹ Collectively, these studies highlight a recurring gap between *law in books* and *law in action*, indicating that progressive legal norms risk remaining symbolic unless reinforced by sustained educational, social, and institutional interventions.

Another important body of literature critically interrogates the reliance on chronological age as the primary criterion for marital eligibility. Scholars argue that age-based regulation does not automatically guarantee psychological, emotional, or relational preparedness for marriage. In many socio-cultural contexts, particularly those shaped by strong traditional norms, maturity is assessed through social roles and communal expectations rather than through formal educational or psychological indicators.²² Consequently, minimum age requirements may become overly formalistic if they are not integrated with broader psychosocial support mechanisms, educational policies, and community-based awareness programs. The continued occurrence of child marriage in certain regions, despite statutory reform, underscores a pronounced normative-sociological gap that calls for more context-sensitive and multidimensional legal approaches.

At the same time, there is substantial convergence across disciplines regarding the negative social and health impacts of child marriage. Empirical research consistently demonstrates that early marriage is associated with adverse outcomes for women's reproductive health, disrupted

²⁰ Supyan, "Batas Usia Perkawinan Berdasarkan Hukum Islam Dan Perundang-Undangan di Indonesia."

²¹ Bukido dkk., "Reception of Marriage Age Limit in Marriage Law in Indonesia."

²² Nuruddin dkk., "Evaluating the Effectiveness of Age Restriction on Marriage in Indonesia."

educational trajectories, and heightened psychological and economic vulnerability.²³ These consequences disproportionately affect women and children, reinforcing structural inequalities and intergenerational cycles of disadvantage. This body of evidence provides a strong empirical justification for raising the minimum marriage age as a long-term protective strategy grounded in public health, social welfare, and gender equity.

From an Islamic legal perspective, an expanding corpus of scholarship emphasizes that neither the Qur'an nor the Sunnah stipulates a fixed numerical age for marriage. Instead, scholars increasingly invoke the principles of *maṣlaḥah* (public interest) and *maqāṣid al-sharī'ah* as normative foundations for statutory age regulation. Within this framework, establishing a minimum marriage age is understood as an instrument for safeguarding the core objectives of Islamic law, particularly the protection of life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), and lineage (*ḥifẓ al-nasl*). The age threshold of 19 is therefore widely framed as a legitimate outcome of contemporary *ijtihād*, epistemologically grounded in modern social, educational, and health-related realities.²⁴

Despite the breadth of existing scholarship, significant gaps remain. Much of the literature approaches marriage-age reform either from a positive legal perspective or through the lens of classical Islamic jurisprudence, often without systematically integrating psychological dimensions or contemporary Islamic legal theories. Notably, there is a paucity of studies employing Muhammad Syahrur's theory of limits (*naẓariyyat al-ḥudūd*) as an analytical framework capable of mediating between legal flexibility and divinely grounded normative boundaries. This absence limits the theoretical integration between modern legislative reform and dynamic models of Islamic legal reasoning. Accordingly, the present study seeks to address this lacuna by examining the revision of the minimum marriage age under Law No. 16 of 2019 through the lens of Syahrur's theory of limits, to contribute to the development of Islamic legal thought and national legal frameworks that are both socially responsive and normatively coherent.²⁵

3. Method

This study employs normative (doctrinal) legal research to examine the legal norms, principles, and doctrines governing the reform of the minimum marriage age under Law No. 16 of 2019. The analysis focuses on Indonesia's statutory framework on marriage, particularly Law No. 1 of 1974 and its amendment, to identify normative shifts in marriage-age regulation and assess their implications for family law and legal development.

Methodologically, the research employs a statutory and a conceptual approach. The statute approach is used to analyze and compare the provisions of Law No. 1 of 1974 and Law No. 16 of 2019, emphasizing changes in legislative standards, legal consistency, and regulatory objectives concerning the minimum marriage age. The conceptual approach engages Muhammad Syahrur's theory of limits (*naẓariyyat al-ḥudūd*) as an analytical framework to interpret legal reform as a form of adaptive *ijtihād* operating within normatively bounded flexibility in response to social change.

²³ Endang Prastini, "Pernikahan usia dini dalam tinjauan hukum dan psikologi anak," *Aufklärung: Jurnal Pendidikan, Sosial dan Humaniora* 2, no. 2 (2022): 43–51.

²⁴ Ummah, "Perubahan Batas Usia Nikah Bagi Perempuan Dalam Undang-Undang Nomor 16 Tahun 2019 Perspektif Teori Limit Muhammad Syahrur."

²⁵ Azwarfajri Azwarfajri dkk., "Contemporary Approach in Muhammad Syahrur's Thought on Islamic Law," *Jurnal Pemikiran Islam* 4, no. 2 (2024): 162–78.

The study draws on primary and secondary legal materials. Primary materials include statutory texts and Syahrur's principal works on the theory of limits, which constitute the normative foundation of the analysis. Secondary materials comprise scholarly books, peer-reviewed journals, and academic studies on marriage-age reform, Islamic family law, and women's legal protection, which serve to contextualize and deepen the interpretive analysis.

Data are collected through documentary research, involving the systematic identification and examination of authoritative legal and academic sources. The collected materials are processed through thematic classification and analytical interpretation to ensure coherence and methodological rigor.

Analytically, the study employs a descriptive-analytical approach, combining a systematic exposition of legal norms with a critical evaluation of their coherence, assumptions, and implications. This approach enables the study to move beyond descriptive analysis toward a normative and theoretical assessment of marriage-age reform, contributing to contemporary discourse on legal adaptability, women's protection, and the dynamic interaction between Islamic legal theory and modern statutory law.

4. Result and Discussion

a. Motives Behind the Revision of the Minimum Marriage Age for Women under Law No. 16 of 2019

The revision of the minimum marriage age for women under Law No. 16 of 2019, which sets the minimum marriage age at 19 years, was shaped by multiple interrelated and mutually reinforcing factors. These motives reflect not merely a legal adjustment but a broader transformation in the state's normative and developmental orientation toward marriage, gender justice, and social welfare.²⁶

1) Protection of Women's and Children's Rights

The primary rationale for amending the minimum marriage age lies in the protection of women's and children's rights, which forms the normative core of the reform. Empirical evidence from public health studies demonstrates that early marriage exposes adolescent girls to heightened physical and psychological risks, including pregnancy complications, premature childbirth, and long-term reproductive health problems, due to incomplete biological maturity.²⁷

Psychologically, early marriage often places young women in marital roles for which they lack sufficient emotional resilience and decision-making capacity. This condition increases vulnerability to stress, limits personal autonomy, and entrenches unequal power relations within the household. In the educational sphere, child marriage remains a major factor contributing to school dropout among girls, significantly restricting access to higher education and undermining long-term human capital development.²⁸

²⁶ Mir'atul Firdausi dkk., "Batas Usia Perkawinan Menurut Undang-Undang Nomor 16 Tahun 2019 tentang Perkawinan dalam Melindungi Kesehatan Reproduksi Remaja Ditinjau dari Maqashid Syariah," *The Indonesian Journal of Islamic Law and Civil Law* 5, no. 2 (2024): 248–64.

²⁷ Ahmad Ropei dkk., "Rethinking the Minimum Age of Marriage Law in Indonesia: Insights from Muḥammad 'Ābid al-Jābirī's Epistemology," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 56, no. 2 (2022): 245–64.

²⁸ Abdul Aziz, "Batas Usia Perkawinan Dalam Undang-Undang Nomor 16 Tahun 2019: Analisis Psikologi Dan Masalah Mursalah," *Tasyri': Journal of Islamic Law* 1, no. 1 (2022): 25–43.

Economically, early marriage tends to reinforce women's financial dependency and perpetuate structural gender inequality. At the same time, sociologically it reflects persistent traditional norms that increasingly conflict with contemporary human rights and child protection standards. Against this backdrop, the establishment of a higher minimum marriage age under Law No. 16 of 2019 should be understood as a substantive and responsive legal strategy rather than a merely administrative adjustment.²⁹

The reform enhances legal protection for women by creating institutional space for educational attainment, psychological preparedness, and economic capability prior to marriage. From a gender and development perspective, it represents an effort to harmonize individual rights, family stability, and state responsibility in fostering a more educated, resilient, and equitable generation.³⁰ This multidimensional approach affirms that marriage regulation must be situated within broader social, psychological, economic, and cultural contexts to ensure sustainable and long-term legal effectiveness.

2) Prevention of Domestic Violence

A further key rationale for revising the minimum marriage age is the prevention of domestic violence. Empirical research consistently indicates that early marriage substantially increases the risk of domestic violence, primarily due to the emotional immaturity and limited conflict-resolution capacity of young couples. In such settings, ineffective communication and psychological instability often normalize coercion and violence as mechanisms of control.³¹

Sociologically, domestic violence in early marriages reflects structural power asymmetries, where young women frequently lacking education, economic autonomy, and social support face heightened vulnerability to physical and psychological abuse. These dynamics not only undermine marital stability but also negatively affect children's well-being and perpetuate intergenerational cycles of violence.

Within this context, establishing a minimum marriage age of 19 serves as a preventive legal instrument to enhance emotional maturity, psychological readiness, and responsible decision-making among prospective spouses. While this reform constitutes a socially responsive legal intervention rather than a purely normative prohibition, its effectiveness depends on complementary measures such as premarital education, public awareness, and institutional support.³² Absent these mechanisms, the policy risks remaining symbolic rather than producing substantive reductions in domestic violence and sustainable improvements in family welfare.

3) International Standards and Human Rights Commitments

International human rights norms constitute a significant impetus for revising the minimum marriage age. International instruments, particularly the Convention on the Rights of the Child (CRC), urge states to raise age thresholds to safeguard children's rights to education, personal development, and protection from exploitation. From a legal-harmonization perspective, Indonesia's reform reflects an effort to align domestic marriage law with international

²⁹ Hisam Ahyani dkk., "Philosophical Review Of Materialism And Idealism Married Age Limits In Indonesia (Study Of Article 7 Paragraph (1) Of Law 16 Of 2019 In Conjunction With Law 1 Of 1974 Concerning Marriage)," *Al-IHKAM: Jurnal Hukum Keluarga Islam Fakultas Syariah UIN Mataram* 12, no. 2 (2020): 107-24.

³⁰ Suqiyah Musyafaah, "Tafsir Maqasid dengan Pendekatan Gender terhadap Ayat-Ayat Hukum Keluarga," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 7, no. 2 (2017): 1-31.

³¹ Prastini, "Pernikahan usia dini dalam tinjauan hukum dan psikologi anak."

³² Faizal dkk., "Age Limit for Marriage in Indonesia from The Perspective of Maqashid Sharia."

normative frameworks. This alignment signifies not merely procedural compliance but an acknowledgment of growing socio-political pressures to integrate human rights principles into national legal systems, particularly concerning the protection of women and children and the enhancement of human capital.

Nevertheless, implementation challenges persist due to tensions between formal legal standards and entrenched local cultural practices. These normative–sociological gaps risk weakening policy effectiveness unless accompanied by sustained public education, community engagement, and institutional monitoring. Accordingly, the reform underscores that national law must operate not only as a regulatory mechanism but also as a transformative instrument for advancing substantive social justice.

4) Educational Advancement and Women’s Empowerment

Enhancing educational quality and women’s empowerment constitutes a central rationale for setting the minimum marriage age at 19. This threshold enables women to complete secondary education and pursue higher or vocational training before marriage, thereby strengthening intellectual capacity, rights awareness, and social responsibility. From a human development perspective, delaying marriage serves not merely as a legal constraint but also as a strategic investment in social, economic, and emotional competence essential to stable family formation.³³

Education-driven empowerment also helps reduce gender inequality and increase women’s participation in economic and civic life. Sociologically, delayed marriage enhances women’s bargaining power within households and communities, while generating positive intergenerational effects on children’s health, education, and well-being. Accordingly, raising the minimum marriage age reflects a forward-looking legal reform that positions marriage law as an instrument of social transformation, promoting gender equity, family resilience, and sustainable national development.³⁴

b. The Revision of the Minimum Marriage Age for Women under Law No. 16 of 2019 through the Perspective of Muhammad Syahrur’s Theory of Limits

The revision of the minimum marriage age for women under Law No. 16 of 2019 can be examined more comprehensively through Muhammad Syahrur’s theory of limits (*naẓariyyat al-ḥudūd*), which provides a conceptual framework for legal flexibility in responding to temporal change and social dynamics. Syahrur’s theory enables Islamic law to remain normatively grounded while being socially adaptive. The application of this theory to the reform of marriage-age regulation may be analyzed along several interrelated dimensions.

1) Legal Flexibility in a Changing Social Context

One of the core principles articulated by Muhammad Syahrur is the elastic nature of divine law, which may be implemented flexibly so long as it operates within divinely established boundaries namely, *al-ḥadd al-adnā* (the minimum limit) and *al-ḥadd al-a‘lā* (the maximum limit). Within this framework, human *ijtihād* is permitted and even necessary in determining concrete legal policies that respond to social realities. In the Indonesian context, the establishment of 19 years

³³ Shofiyulloh Shofiyulloh, “Target Usia Perkawinan Bagi Perempuan: Studi Di Pondok Pesantren Darussalam Dukuwaluh Purwokerto,” *Yinyang: Jurnal Studi Islam Gender Dan Anak* 14, no. 2 (2019): 201–20, <https://doi.org/10.24090/yinyang.v14i2.2946>.

³⁴ Arini Rufaida, “Hak Istri Menolak Rujuk Perspektif Islam dan Gender,” *Yinyang: Jurnal Studi Islam Gender dan Anak* 14, no. 2 (2019): 245–70.

as the minimum marriage age for women under Law No. 16 of 2019 may be understood as a form of legislative *ijtihad* situated between these permissible limits. This legal determination is not merely formal or administrative; rather, it reflects a substantive consideration of women's physical, psychological, and social readiness to enter marital life responsibly. The flexibility embedded in Syahrur's theory enables law to respond effectively to evolving social conditions, including increased awareness of children's rights, women's protection, and the critical role of education before marriage.³⁵

Critically, the application of legal flexibility highlights the inherent tension between religious normativity and contemporary social realities. Excessively rigid legal interpretations risk neglecting individuals' lived experiences and psychological conditions, thereby undermining the law's protective function. Conversely, calibrated flexibility, such as raising the marriage age, ensures that legal norms remain relevant, enforceable, and socially responsive while preserving the ethical integrity of Islamic principles. In this sense, the minimum age of 19 functions not merely as a bureaucratic threshold but also as a reflection of adaptive jurisprudence that integrates justice, social welfare, and individual rights.

2) Balancing Tradition and Legal Renewal

Syahrur's theory of limits also provides a conceptual space for reconciling traditional legal norms with the necessity of legal reform in modern societies. In classical Islamic jurisprudence, marriage eligibility has often been associated primarily with biological maturity (*bulūgh*), with limited attention to psychological, educational, or socio-economic readiness.³⁶ Such traditional approaches, while historically grounded, may insufficiently address contemporary challenges faced by women and young families, including reproductive health risks, limited household management capacity, and restricted access to education. The elevation of the minimum marriage age under Law No. 16 of 2019 demonstrates an application of context-sensitive *ijtihad* consistent with Syahrur's principle of legal elasticity.³⁷ Legislators recalibrated the age requirement to align with contemporary social and psychological realities while remaining within the normative boundaries of Islamic law. This approach underscores a deliberate balance between respect for tradition and responsiveness to modern imperatives, particularly those emphasizing mental maturity, education, and women's empowerment.

From a critical perspective, this reform illustrates the law's potential to function as an adaptive social instrument rather than a static doctrinal construct. By setting the minimum marriage age at 19, the regulation serves as a preventive mechanism against the adverse consequences of early marriage, while simultaneously integrating traditional ethical values with modern objectives namely, family stability, social resilience, and generational competitiveness. Such flexibility demonstrates that legislative *ijtihad* can effectively bridge historical norms and evolving social challenges, rendering law both normatively legitimate and practically meaningful.

³⁵ Mujiyati dan Anam, "Tela'ah Kritis Makna Islam Dalam Perspektif Muhammad Syahrur Dengan Teori Double Movement."

³⁶ Suqiyah Musyafaah, "Tafsir Maqā'id Āzid Dengan Pendekatan Gender Terhadap Ayat-Ayat Hukum Keluarga," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 7, no. 2 (2017): 1–31.

³⁷ Andriati dkk., "Implementasi perubahan batas usia perkawinan menurut uu no. 16 tahun 2019 tentang perubahan atas uu no. 1 tahun 1974 tentang perkawinan."

3) Responsiveness to Contemporary Social Realities

The revision of the minimum marriage age for women further reflects the urgent need to align legal norms with contemporary social realities. Syahrur consistently emphasizes that Islamic law must remain responsive to social, cultural, and psychological transformations without transgressing its foundational principles.³⁸ The application of the theory of limits to marriage-age regulation exemplifies this responsiveness, as it acknowledges shifting societal priorities, particularly in education, health, and women's empowerment.

By raising the minimum marriage age to 19, the state formally recognizes that psychological maturity, social competence, and educational attainment are indispensable prerequisites for marriage. This recognition extends beyond individual protection to encompass broader social objectives, including family quality and social stability. Critically, this approach positions law as a mechanism of social transformation, capable of harmonizing religious normativity with the demands of modern life.

Syahrur's framework provides a philosophical justification for such legislative reforms, allowing legal adaptation without compromising Islamic fundamentals. Within this paradigm, the age threshold is not a symbolic figure but a contextual legal expression responsive to the lived realities of women and society.³⁹ Consequently, the law remains relevant, functional, and oriented toward safeguarding individual rights while contributing to the long-term development of future generations.

4) Expanding the Scope of Ijtihād in Islamic Legal Application

Finally, Syahrur's theory of limits underscores the need to expand the scope of ijtihād in the practical application of Islamic law. This expansion enables regulatory adjustment in response to social dynamics and temporal needs without diluting core religious principles. In the context of marriage-age reform, the theory legitimizes the state's decision to raise the minimum age as a rational and ethical response to contemporary challenges, including women's health, education, and social preparedness.⁴⁰

From a critical standpoint, the legislative use of ijtihād in determining marriage age demonstrates law's capacity to address concrete social problems. Unregulated early marriage has demonstrable implications for reproductive health, educational discontinuity, women's empowerment, and family stability. By allowing women sufficient time to attain psychological and social maturity, the reform not only protects individual rights but also contributes to the formation of a more capable and competitive generation.⁴¹

Importantly, Syahrur's endorsement of flexibility does not imply moral or religious laxity. Rather, it reflects an adaptive implementation of law grounded in objective social conditions. This integration of normative principles and empirical realities transforms law into an effective instrument for human development, family strengthening, and gender equality. Accordingly, Law No. 16 of 2019 should be understood not merely as a legalistic reform, but as a manifestation of responsive Islamic legal reasoning that harmonizes religious fidelity with contemporary societal needs.

³⁸ Witro, "Muhammad Syahrur dan Teori Limitasi."

³⁹ Adinugraha, "Reaktualisasi Hukum Islam di Indonesia (Analisis Terhadap Teori Hudūd Muhammad Syahrur)."

⁴⁰ Muhammad Syahrur, *Epistemologi Qurani: Tafsir Kontemporer Ayat-ayat Al-Quran berbasis Materialisme-Dialektika-Historis* (Marja, 2023),

⁴¹ Azwarfajri dkk., "Contemporary Approach in Muhammad Syahrur's Thought on Islamic Law."

c. Analysis of the Reform of Marriage Age through Muhammad Syahrur's Theory of Limits

Muhammad Syahrur's theory of limits (*naẓariyyat al-ḥudūd*) is among the most influential contemporary reconceptualizations of Islamic law, fundamentally challenging the long-standing perception of *Shari'ah* as a static and rigid legal system. Syahrur departs from classical legal formalism by arguing that Islamic law is inherently structured around two interconnected normative domains. The first domain consists of absolute and immutable principles (*ḍarūriyyāt*) that constitute the ethical and theological foundation of the *Shari'ah*. These principles articulate fundamental moral imperatives such as justice, human dignity, and the protection of essential human interests that are not subject to alteration by historical or social change. The second domain encompasses elastic and interpretive norms, which are open to contextual reasoning through *ijtihād* and are designed to respond to the evolving conditions of human societies.⁴²

At the center of Syahrur's legal philosophy lies the concept of *ḥudūd*, which he reconceptualizes not as fixed punishments or singular commands, but as divinely ordained normative limits. Within this framework, Islamic law does not prescribe one immutable legal rule for every circumstance; rather, it defines a legal spectrum bounded by a minimum limit (*al-ḥadd al-adnā*) and a maximum limit (*al-ḥadd al-a'lā*). Within these boundaries, human reason and legislative authority are granted epistemological and juridical space to formulate context-sensitive regulations. This model establishes a balance between divine sovereignty and human agency, ensuring that legal development remains normatively anchored while allowing for adaptability and reform.⁴³

Syahrur's approach is rooted in his understanding of the prophetic message as both universal and historically situated. For him, the universality of Islam does not lie in the literal replication of seventh-century legal forms, but in the enduring applicability of its ethical objectives across time and space. Islamic law, therefore, must be understood as a dynamic and responsive system, capable of engaging constructively with scientific advancement, social transformation, economic development, and political change. This dynamism is articulated through the dialectical relationship between *istiqāmah* (steadfast adherence to foundational principles) and *ḥanīfiyyah* (contextual flexibility and openness to change). Together, these principles ensure that Islamic law maintains its moral coherence while remaining functionally relevant to contemporary realities.

To operationalize this theory, Syahrur formulates six models of legal limits that illustrate the diverse ways in which *Shari'ah* regulates human conduct. These include: (1) minimum limits that cannot be reduced under any circumstances; (2) maximum limits that must not be exceeded but allow mitigation below them; (3) combined minimum-maximum limits that define a permissible legal range; (4) absolute or straight limits that admit neither reduction nor augmentation; (5) limits that approach but never reach prohibition, reflecting preventive legal logic; and (6) configurations in which absolute prohibitions coexist with minimum obligations that may be ethically exceeded. Collectively, these models demonstrate that Islamic law operates within a graduated normative continuum rather than a binary structure of lawful and unlawful. This continuum explicitly

⁴² Raihan Azmi Azhari dan Muhajirin Muhajirin, "Ijtihad Muhammad Syahrur Dalam Upaya Pengembangan Epistemologi Hukum Islam Dan Implementasinya Dalam Bidang Ekonomi dan Keuangan Syariah," *AT-TAWASSUTH: Jurnal Ekonomi Islam* 9, no. 2 (2024): 219–34.

⁴³ Mia Fitriah Elkarimah, "Teori Limit Dalam Metode Hukum Islam Muhammad Syahrur," *MASLAHAH (Jurnal Hukum Islam Dan Perbankan Syariah)* 5, no. 1 (2014): 21–40.

accommodates *ijtihād*, legal innovation, and policy discretion, enabling *Sharī‘ah* to function as a living legal system rather than a historically frozen doctrine.⁴⁴

When applied to the regulation of marriage age, Syahrur’s theory of limits provides a particularly illuminating analytical framework. Determining a minimum marriage age does not constitute an immutable core of Islamic law, as neither the *Qur’ān* nor the *Sunnah* prescribes a specific numerical age for marriage. Classical Islamic jurisprudence, in contrast, relied on indicators of biological maturity (*bulūgh*) that served as context-sensitive markers rather than fixed legal thresholds. These indicators were shaped by historical, environmental, and socio-cultural conditions, underscoring the contextual nature of marital eligibility in premodern societies.⁴⁵

Under Syahrur’s framework, matters such as marriage age clearly fall within the elastic normative zone bounded by *al-ḥadd al-adnā* and *al-ḥadd al-a‘lā*. As such, they are subject to reinterpretation through *ijtihād* in light of changing social realities. The establishment of 19 years as the minimum marriage age under Indonesia’s Law No. 16 of 2019 can therefore be understood as a legitimate exercise of legislative *ijtihād* operating within the permissible limits of Islamic law.⁴⁶ This reform reflects contemporary understandings of psychological maturity, educational readiness, reproductive health, and social responsibility dimensions that were not explicitly foregrounded in classical jurisprudence but have become central to modern conceptions of family welfare and human development.

From a Syahrurian perspective, this legal reform does not contradict *Sharī‘ah*; rather, it exemplifies its adaptive potential.⁴⁷ By situating marriage-age regulation within the framework of *ḥudūd*, Syahrur’s theory transcends the binary opposition between “Islamic law” and “modern law.” Instead, it offers a normative synthesis in which divine principles establish ethical boundaries while human reasoning determines contextually appropriate legal formulations. The reform of marriage age thus emerges not as a departure from Islamic values, but as an expression of contextual fidelity a commitment to justice, welfare (*maṣlaḥah*), and human dignity within changing social realities.⁴⁸

Moreover, Syahrur’s conceptualization of *al-ḥadd al-adnā* as a flexible legal floor rather than a fixed historical standard is particularly relevant in this context. Raising the minimum marriage age reflects an effort to recalibrate this legal floor in response to empirical evidence concerning the risks of early marriage, including adverse health outcomes, psychological vulnerability, educational disruption, and long-term social inequality. Within the theory of limits, such recalibration is permissible so long as it does not transgress immutable divine principles, such as the prohibition of injustice or the violation of human dignity.⁴⁹

Nevertheless, the application of Syahrur’s theory also raises critical questions regarding legal authority and governance. Determining who holds the legitimate mandate to define marriage-age limits whether the state, legislative institutions, religious scholars, or a combination thereof remains

⁴⁴ Muhamad Sauki Alhabsyi dkk., “Teori Nazariyyat Al-Hudud Muhammad Syahrur,” *Prosiding Kajian Islam dan Integrasi Ilmu di Era Society (KIIIES)* 5.0 3, no. 1 (2024): 390–95.

⁴⁵ Mujiyati dan Anam, “Tela’ah Kritis Makna Islam Dalam Perspektif Muhammad Syahrur Dengan Teori Double Movement.”

⁴⁶ Ansori, “Qawā’id Fiqhiyyah as Islamic Epistemology and Its Application at Marriage Law in Indonesia.”

⁴⁷ Firdausi dkk., “Batas Usia Perkawinan Menurut Undang-Undang Nomor 16 Tahun 2019 tentang Perkawinan dalam Melindungi Kesehatan Reproduksi Remaja Ditinjau dari Maqashid Syariah.”

⁴⁸ Zarul Arifin, “Kehujahan Maqasid Al-Syari’ah Dalam Filsafat Hukum Islam,” *Al-‘Adalah: Jurnal Syariah dan Hukum Islam* 5, no. 2 (2020): 258–74.

⁴⁹ Ruwaila Zanuba Arifah, “Batasan Seorang Suami Menggauli Istri Ketika Haid Perspektif Teori Limit Muhammad Syahrur.” (PhD Thesis, Institut Agama Islam Negeri Madura, 2023), <http://etheses.iainmadura.ac.id/6856/>.

a contested issue. In Syahrur's framework, *ijtihad* functions as a shared methodological space rather than the exclusive domain of traditional juristic elites. State institutions may legitimately exercise *ijtihad* to align legal norms with social realities, provided that such efforts remain methodologically sound and normatively constrained.⁵⁰

At the same time, this expanded role of the state introduces the risk of interpretive relativism. Without clear methodological guidelines, legal flexibility may undermine normative certainty and weaken the authority of *Shari'ah*. This constitutes one of the principal critiques of Syahrur's approach. To mitigate this risk, it is essential to establish explicit criteria for the exercise of *ijtihad* criteria that integrate empirical social data, ethical reasoning, and fidelity to foundational Islamic principles. Such guidelines are necessary to ensure that legal reform remains both responsive and normatively legitimate.

Furthermore, Syahrur's framework invites broader reflection on the criteria used to determine marital eligibility. While chronological age provides a clear and administrable legal standard, it may not fully capture psychological maturity, emotional readiness, or socio-economic preparedness. From the perspective of the theory of limits, there is conceptual space to incorporate additional indicators such as educational attainment or psychological assessment so long as they operate within the established boundaries of *Shari'ah*. This underscores the potential for further legal development that remains sensitive to diverse social contexts while preserving ethical coherence.

In sum, Muhammad Syahrur's theory of limits repositions Islamic law as a forward-looking regulatory framework capable of guiding social transformation rather than merely reacting to it. By conceptualizing marriage-age regulation as a dynamic application of *Shari'ah* within divinely ordained boundaries, the theory affirms Islamic law's capacity to protect women's rights, strengthen family institutions, and enhance social stability without sacrificing its theological legitimacy. Through this lens, legal reform becomes an expression of *Shari'ah*'s enduring relevance demonstrating that fidelity to divine principles and responsiveness to social change are not mutually exclusive, but mutually reinforcing.⁵¹

5. Conclusion

This study concludes that Muhammad Syahrur's theory of limits provides a constructive and socially responsive framework for rethinking the reform of the minimum marriage age in Islamic legal discourse. By emphasizing normative boundaries rather than rigid legal fixity, this theory opens space for legal adaptation to contemporary social realities while remaining anchored in the foundational values of *Shari'ah*. In the context of marriage-age regulation, Syahrur's framework demonstrates that Islamic law possesses an internal capacity for renewal, particularly when legal reform is directed toward justice, protection, welfare, and the prevention of harm. The amendment of the minimum marriage age under Law No. 16 of 2019 reflects the convergence of social, political, and legal considerations. Socially, the reform responds to the urgent need to protect women and children from the physical, psychological, educational, and socio-economic risks associated with early marriage. Politically, it represents a broader demand for legal modernization aimed at improving

⁵⁰ Ansori Ansori, "Rekonstruksi Metodologi Fikih Kontemporer," *Al-Manahij: Jurnal Kajian Hukum Islam* 12, no. 2 (2018): 329–40.

⁵¹ Muhammad Kholid, "Epistemological-Methodological Criticism of Muhammad Syahrur In Islamic Studies," *Tasfiyah J. Pemikiran Islam* 5, no. 2 (2021), https://scholar.archive.org/work/337pltd6ffldmwa22666kentu/access/wayback/https://ejournal.unida.gontor.ac.id/index.php/tasfiyah/article/download/6431/pdf_51.

family quality, reducing vulnerability to domestic violence, and strengthening the protection of citizens within the family institution. Legally, the amendment signifies an effort to harmonize national law with constitutional principles, human rights commitments, and international standards that prioritize the dignity, welfare, and best interests of women and children.

From the perspective of Syahrur's theory of limits, the establishment of nineteen years as the minimum legal age for marriage can be regarded as a valid exercise of *ijtihad* operating within the normative boundaries of Islamic law. Rather than negating divine prescriptions, this legal determination rearticulates their underlying ethical purposes into a contemporary juridical framework that responds to present social realities. The reform therefore illustrates how *ijtihad* can function as a dynamic legal mechanism that connects Islamic normativity with changing social conditions. In this sense, Syahrur's theory contributes to a progressive yet normatively grounded understanding of Islamic law one that is capable of responding to modern challenges without severing its connection to its theological and ethical foundations. Nevertheless, this study also emphasizes that legal flexibility must not collapse into interpretive relativism. The openness of *ijtihad* requires a clear, disciplined, and accountable methodological foundation so that legal reform remains coherent, authoritative, and normatively defensible. The central challenge, therefore, is not merely how Islamic law can change, but how such change can be justified within a rigorous legal-ethical framework. Strengthening the methodology of *ijtihad* is essential to ensure that Islamic law remains both stable and responsive, both principled and adaptive. Ultimately, the reform of the minimum marriage age demonstrates that Islamic law can continue to serve as a living legal tradition one that preserves its normative integrity while actively addressing the demands of justice, welfare, and social transformation in the contemporary world.

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