

Analysis of Islamic Law Reform Methods in KUPI Fatwa No. 02/IV/2017 Concerning Child Marriage

Abdul Wahid Maksum^{1*}

¹Universitas Islam Negeri Salatiga, Indonesia

*Correspondence Email: wahidmaksum@gmail.com

ABSTRACT

Child marriage is a serious problem in the social, cultural, and legal realms in Indonesia, even though there has been a revision of the minimum age limit for marriage through Law No. 16 of 2019. This practice is still ongoing and is often legitimized with religious postulates. The fatwa of the Indonesian Women's Ulema Congress (KUPI) No. 02/IV/2017 was present as a critical response to this condition, stating that child marriage is haram because it is contrary to the principles of sharia maqashid, especially the protection of soul, intellect, and offspring. This article analyzes the legal basis and method of Islamic law reform used in the fatwa, using a descriptive-analytical qualitative approach and content analysis of fatwa documents and related literature. The results of the study show that this fatwa prioritizes a contextual approach, sharia maqashid, and collective ijtihad of women scholars, as well as integrating the values of gender justice and child protection as the main foothold. This fatwa not only contributes to the discourse on Islamic law reform, but also becomes an instrument of moral advocacy in fighting for children's rights and strengthening social movements to abolish the practice of child marriage.

Keywords: Child marriage, KUPI Fatwa, Law Reform.

ABSTRAK

Pernikahan anak merupakan permasalahan serius dalam ranah sosial, budaya, dan hukum di Indonesia, meskipun telah terjadi revisi batas usia minimal perkawinan melalui Undang-Undang No. 16 Tahun 2019. Praktik ini masih berlangsung dan kerap dilegitimasi dengan dalil keagamaan. Fatwa Kongres Ulama Perempuan Indonesia (KUPI) No. 02/IV/2017 hadir sebagai respons kritis atas kondisi tersebut, menyatakan bahwa pernikahan anak adalah haram karena bertentangan dengan prinsip maqashid syariah, khususnya perlindungan terhadap jiwa, akal, dan keturunan. Artikel ini menganalisis dasar hukum dan metode pembaruan hukum Islam yang digunakan dalam fatwa tersebut, dengan menggunakan pendekatan kualitatif deskriptif-analitis dan analisis isi terhadap dokumen fatwa dan literatur terkait. Hasil penelitian menunjukkan bahwa fatwa ini mengedepankan pendekatan kontekstual, maqashid syariah, dan ijtihad kolektif ulama perempuan, serta mengintegrasikan nilai keadilan gender dan perlindungan anak sebagai pijakan utama. Fatwa ini tidak hanya berkontribusi terhadap wacana pembaruan hukum Islam, tetapi juga menjadi instrumen advokasi moral dalam memperjuangkan hak-hak anak dan memperkuat gerakan sosial untuk menghapus praktik pernikahan anak.

Kata Kunci: Pernikahan anak, Fatwa KUPI, Pembaruan Hukum.

INTRODUCTION

Child marriage remains a crucial social, cultural, and legal issue in Indonesia. Although the legal minimum age for marriage has been raised through the revision of Law No. 16 of 2019 to Law No. 1 of 1974 on Marriage (State Secretariat of the Republic of Indonesia, 2019), the practice of child marriage continues with various justifications, including the use of religious arguments (Nurmila, 2009). Within the context of Islamic law, child marriage is often justified through the interpretation that a child who has reached puberty may marry, without considering the accompanying psychological maturity and socioeconomic readiness (Hasan, 2004).

This phenomenon subsequently prompted a critical response from female religious scholars (ulama) members of the Indonesian Women's Ulema Congress (KUPI). In 2017, KUPI issued Fatwa No. 02/IV/2017, declaring child marriage to be haram (forbidden) due to its negative impacts on a child's physical, psychological, and future health. This fatwa is significant because it reflects a new approach to Islamic legal reform, integrating the perspectives of gender justice, child protection, and the principles of maqasid sharia as the basis for legal determination (Kupipedia.id, 2017).

KUPI Fatwa No. 02/IV/2017 is a significant contribution to contemporary Islamic legal discourse oriented toward protecting vulnerable groups. It also opens up space for the reinterpretation of religious texts that have been used to legitimize the practice of child marriage (Kupipedia.id, 2017). In this context, it is important to examine the legal basis used in the fatwa, understand the method of Islamic legal reform applied, and assess the social and legal impacts resulting from its issuance.

Based on this background, this paper will address two main research questions:

1. What is the legal basis for KUPI Fatwa No. 02/IV/2017?
2. How is the method of Islamic legal reform applied in the fatwa?

METHODS

To answer these questions, this article employs a qualitative approach with a descriptive-analytical method. Data sources include fatwa documents, academic literature, and reports from relevant institutions. The analytical techniques employed are content analysis and a hermeneutic approach to Islamic legal texts (Ahmad, 2018). Content analysis was used to explore thematic patterns in the KUPI fatwa documents and reports from relevant institutions through a systematic approach. This method allows for the identification of the frequency, categorization, and interpretation of manifestations of the concept of protecting girls in written texts, while also uncovering implicit biases or discursive shifts (Krippendorff, 2004). As explained by Elo et al., 2014, content analysis in qualitative research serves as a bridge between qualitative and quantitative approaches, facilitating thematic generalization through a structured coding process. This approach is particularly effective in tracing the evolution of the concepts of *maslahat* (public interest) and *Darurat syar'iyah* (sharia emergency) in fatwas on child marriage.

A hermeneutic approach is applied to interpret the Islamic legal texts in the KUPI fatwas through three layers of analysis: linguistic (*lafdzi*), contextual (*maqāṣidi*), and socio-historical. This method adopts Fazlur Rahman's double movement framework by tracing the historicity of classical texts and then recontextualizing them within contemporary realities (Auda Jasser, 2008). Islamic legal hermeneutics requires a critical reading of the authority of religious texts, considering the *asbab al-wurūd* (context of revelation) and the *illat al-ḥukm* (legal ratio). In the context of child

marriage, this approach reveals how KUPI reconstructs the understanding of kafa'ah (equality in marriage) through the lens of girls' psychological development.

The integration of content analysis and hermeneutics produces a holistic methodological framework that blends textual evidence with contextual interpretation, facilitating a multidimensional understanding of the contributions of KUPI fatwas. Through thematic triangulation of fatwa documents, academic literature, and field reports, this study reveals how KUPI transforms Islamic legal discourse from a paradigm of individual piety to collective social responsibility (*fard al-kifāyah*) in protecting girls. These findings reconfirm the role of contemporary *ijtihad* as an instrument of social change, as observed in studies of global female religious authorities (Bano, 2019).

RESULTS AND DISCUSSION

The concept of Islamic law is a legal system derived from the revelations of Allah SWT, namely the Qur'an and the Sunnah of the Prophet Muhammad (peace be upon him), and supplemented by the results of *ijtihad* (intelligence) of scholars in responding to the dynamics of human life. Etymologically, Islamic law is a set of rules governing human relations with God and with each other, encompassing areas of worship, transactions, and crime. The main principles underlying Islamic law are justice (*al-'adl*), benefit (*al-maslahah*), and avoiding harm (*la darar wa la dirar*) (Ummah, 2019). In its implementation, Islamic law is derived from the Qur'an as its primary source, the Sunnah as an explanation of the Qur'an, *ijma'* (consensus of scholars), and *qiyas* (legal analogy). In addition to these four sources, some scholars also utilize the methods of *istihsan*, *istislah*, and *'urf* to address contemporary legal issues not explicitly found in the texts (Ratno et al., 2024). One of the contemporary issues in Islamic law that is attracting attention is the practice of child marriage. Generally, child marriage is defined as marriage between individuals under the age of 18, as defined by UNICEF and supported by Law No. 16 of 2019 in Indonesia. This practice is considered a violation of children's rights and has long-term impacts on a child's physical, psychological, and social development (Sinha et al., 2013). From a classical Islamic legal perspective, child marriage is permissible if one party has reached puberty. However, this interpretation has been criticized by contemporary scholars for failing to consider the child's psychological maturity and socioeconomic readiness (Adienda Nabyala Al-Gifani, 2021).

KUPI Fatwa No. 02/IV/2017 marked a significant milestone in efforts to reform Islamic law regarding child marriage. This fatwa declared child marriage to be haram (forbidden) because it causes harm and contradicts the principle of protecting the soul and mind (Kupipedia.id, 2017). Research conducted by UNFPA and UNICEF also shows that children who marry early are more vulnerable to domestic violence, dropping out of school, and pregnancy complications (UNFPA-UNICEF, 2019). Therefore, an Islamic legal approach must consider social realities and be based on the principles of *maqasid sharia*, namely safeguarding religion, life, intellect, descendants, and property.

Islamic legal reform is crucial in addressing various evolving social challenges. Legal reform (*tajdid al-fiqh*) is an effort to reinterpret or reconstruct Islamic law to ensure its relevance and applicability in a modern context. According to Jasser Auda, legal reform aims to make Islamic law more oriented toward the greater goals of *sharia* (*maqasid sharia*), such as justice, welfare, and freedom (Auda Jasser, 2008). Various approaches are used in Islamic legal reform, including a contextual approach to texts, collective *ijtihad* (*ijtihad jama'i*), and a systemic approach to *maqasid sharia*. Abou El Fadl emphasized the importance of ethical interpretation in Islamic law so as not to

produce discriminatory interpretations against vulnerable groups such as women and children (Khaled Abou El Fadl, 2001).

Analysis of KUPI Fatwa No. 02/IV/2017 concerning Child Marriage

KUPI Fatwa No. 02/IV/2017 states that child marriage is haram (forbidden) because it violates the principle of protecting children's rights and negatively impacts their physical, psychological, and social development. This fatwa is emphasized by stating that "marrying children, whether by force or consent, constitutes a form of injustice against children" and contradicts the maqasid of sharia, particularly in terms of protecting their lives and minds (Kupipedia.id, 2017). The primary objective of this fatwa is to prevent the widespread practice of child marriage in Indonesia and to encourage the development of laws that better protect children's rights.

This fatwa was issued at the first Indonesian Women's Ulama Congress (KUPI) in 2017, held in Jepara. Its issuance was motivated by the high rate of child marriage in Indonesia, which, according to Statistics Indonesia (BPS) and UNICEF, remains above the average for ASEAN countries (Central Statistics Agency, 2020). In addition, the existence of religious understanding that legalizes this practice based on classical evidence is also a major challenge that female scholars are trying to answer with a contextual approach and maqashid sharia.

This fatwa bases its argument on several verses of the Koran, including Surah Ar-Rum verse 21 regarding the importance of calm (sakinah), affection (rahmah), and love (mawaddah) in marriage. These elements are difficult to realize if the marriage is carried out by children who are not yet psychologically and emotionally mature. Apart from that, the hadith of the Prophet SAW stated that "there should be no harm and no harm should be done to others" (la darar wa la dirar) (Muhammad Nashiruddin Al-Albani, 2007). used as a basis for rejecting the practice of child marriage.

In this fatwa, KUPI also refers to the opinions of contemporary ulama who emphasize the importance of benefit in determining laws, such as Yusuf al-Qaradawi and Jasser Auda. According to Auda, Islamic law must be read systemically and contextually so that it can function as a solution to the problems of the times (Auda Jasser, 2008). Musdah Mulia, as one of the initiators of KUPI, also emphasized that Islamic law needs to be reformed so that it does not become a tool of oppression against women and children.

Methods of Legal Reform in Fatwas

The KUPI fatwa uses the maqasid sharia approach in assessing child marriage as a practice that contradicts the objectives of Islamic law. This approach emphasizes the protection of the soul (hifz al-nafs), intellect (hifz al-'aql), and offspring (hifz al-nasl). Thus, the law is not determined solely by the text, but also by its context and social impact (Auda Jasser, 2008). Furthermore, the collective ijtihad approach of women is also a characteristic feature of the fatwa's drafting, in which female scholars take an active role in the formation of the law (Mulia, 2005).

This fatwa demonstrates that methods for reforming Islamic law can be implemented without deviating from the normative framework of sharia. Through reinterpreting the text and emphasizing the principle of justice, this fatwa serves as a concrete example of how Islamic law can support vulnerable groups. A study by Nurhidayati (2021) confirms that the KUPI fatwa successfully raised collective awareness of the importance of gender-based Islamic legal reform and child protection (Kupipedia.id, 2017).

In contrast, a number of conservative religious authorities defend the permissibility of child marriage by adhering to a literal interpretation of classical texts. They argue that the Qur'anic verse (Surat At-Talaq: 4) and the hadith regarding Aisha's early marriage provide the basis for legitimacy, thus rejecting the maqasid sharia approach, which they consider "ignoring the shari'ah texts" (Nurcholis et al., 2021). In practice, fatwas from institutions such as the Saudi Arabian Fatwa Council (2009) state that marriage before the age of 18 is permissible as long as physical and mental requirements are met, without considering the long-term psychological impact (M. Syarfi Iqbal & Moh. Asyiq Amrulloh, 2024). This approach ignores the principles of *hifz al-nafs* and *hifz al-'aql* because it focuses solely on formal legality.

Meanwhile, KUPI's gender-based collective *ijtihad* method is considered by traditionalists to be an innovation that deviates from established ulama authority. Critics such as Bano (2019) assert that women's participation in *ijtihad* actually "undermines the established hierarchy of Islamic scholarship." Case studies in Pakistan show that progressive fatwas based on gender justice are often rejected on the grounds of "importing Western values" and eroding the purity of sharia (Anjum, 2020). Furthermore, resistance to family law reform in countries such as Yemen and Afghanistan demonstrates that reinterpreting texts to protect vulnerable groups is often defeated by rigid textual readings (Aref & Rahman, 2025), rendering efforts such as the KUPI fatwa irrelevant in the context of a patriarchal society.

CONCLUSIONS

This article directly addresses two main issues: the legal basis and methodology for reforming Islamic law in the Indonesian Women's Ulama Congress (KUPI) Fatwa No. 02/IV/2017 concerning the prohibition of child marriage. From a legal perspective, this fatwa draws on Islamic principles such as justice, public welfare, and the protection of life and mind (*maqashid sharia*). It utilizes a normative-theological approach, drawing on Quranic verses and hadith, as well as a socio-religious approach that links religious texts to social realities and the negative impacts of child marriage.

In terms of methodology, the KUPI fatwa reflects a form of collective, gender-based *ijtihad* (intelligence) with a contextual and progressive approach that is systematically grounded in *maqashid sharia*. This reflects a shift from a formal-legal approach to an ethical-substantive approach in Islamic law. This article's scholarly contribution lies in its critical analysis of the KUPI fatwa as an effort to reform Islamic law in favor of vulnerable groups and as a form of social advocacy that challenges the theological legitimacy of child marriage in modern society.

REFERENCES

- Adiinda Nabyla Al-Gifani. (2021). Wacana Kesetaraan Gender dalam Al Quran Menurut Pandangan Nur Rofiah. In *Pharmacognosy Magazine* (Vol. 75, Issue 17). UIN Sunan Gunung Jati Bandung.
- Ahmad, J. (2018). Desain Penelitian Analisis Isi (Content Analysis). *Jurnal Analisis Isi*, 5(9), 1–20. https://www.academia.edu/download/81413125/DesainPenelitianContentAnalysis_revisedJumalAhmad.pdf
- Anjum, G. (2020). Women's Activism in Pakistan: Role of Religious Nationalism and Feminist Ideology among Self-Identified Conservatives and Liberals. *Open Cultural Studies*, 4(1), 36–49. <https://doi.org/10.1515/culture-2020-0004>
- Aref, A., & Rahman, M. M. (2025). *Correction to: The Handbook of Marriage in the Arab*

- World. https://doi.org/10.1007/978-981-97-7620-7_8
- Auda Jasser. (2008). *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*. International Institute of Islamic Thought.
- Badan Pusat Statistik. (2020). Pencegahan Perkawinan Anak Percepatan yang Tidak Bisa Ditunda. *Badan Pusat Statistik*, 6–10.
- Bano, M. (2019). Female Islamic Education Movements. In *Islamic Studies*. <https://doi.org/10.1093/obo/9780195390155-0268>
- Elo, S., Kääriäinen, M., Kanste, O., Pölkki, T., Utriainen, K., & Kyngäs, H. (2014). Qualitative Content Analysis: A Focus on Trustworthiness. *SAGE Open*, 4(1). <https://doi.org/10.1177/2158244014522633>
- Hasan, N. (2004). *Islam Politik , Teori Gerakan Sosial , dan Pencarian Model Pengkajian Islam Baru Lintas-Disiplin*.
- Khaled Abou El Fadl. (2001). Speaking in God's Name Islamic Law, Authority Women. In *Sustainability (Switzerland)* (Vol. 11, Issue 1). Oneworld Publications. http://scioteca.caf.com/bitstream/handle/123456789/1091/RED2017-Eng-8ene.pdf?sequence=12&isAllowed=y%0Ahttp://dx.doi.org/10.1016/j.regsciurbeco.2008.06.005%0Ahttps://www.researchgate.net/publication/305320484_SI STEM_PEMBETUNGAN_TERPUSAT_STRATEGI_MELESTARI
- Krippendorff, K. (2004). Content Analysis: An Introduction to Its Methodology (2nd ed.). *Organizational Research Methods*, 13(2), 392–394. <https://login.proxy.libraries.rutgers.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=buh&AN=48779086&site=ehost-live>
- Kupipedia.id. (2017). *Hasil Musyawarah Keagamaan Kongres Ulama Perempuan*. Kupipedia.Id. https://kupipedia.id/index.php/Naskah_Hasil_Musyawarah_Keagamaan_Tentang_Pernikahan_Anak
- M. Syarfi Iqbal, & Moh. Asyiq Amrulloh. (2024). Pembatasan Usia Minimal Perkawinan dalam Hukum Keluarga Islam Studi Komparasi Indonesia dan Yordania. *As-Syar i: Jurnal Bimbingan & Konseling Keluarga*, 6(2), 765–777. <https://doi.org/10.47467/as.v6i2.1526>
- Muhammad Nashiruddin Al-Albani. (2007). Shahih Sunah Ibnu Majah. In 2 (2nd ed.). Pustaka Azzam.
- Mulia, M. (2005). *Muslimah reformis: perempuan pembaru keagamaan*. Mizan. <https://books.google.co.id/books?id=GGnaAAAAMAAJ>
- Nurcholis, M., Afandi, M. F. F., Karimah, M. A., & Latif, A. (2021). Substantive Maturity In 'Aishah's Marriage. *Hikmatuna: Journal for Integrative Islamic Studies*, 7(1), 31–43.
- Nurmila, N. (2009). Women, Islam and Everyday Life. In *Women, Islam and Everyday Life*. <https://doi.org/10.4324/9780203878545>
- Ratno, D., Dwinata, F. U., Luthfiyah, T. N., Mujib, S. A., & Sukma, L. F. (2024). *تيماسلا : أساس أساس Hukum dan Prinsip Penerapan Hukum Islam*. 2(1), 44–49.
- Sekretariat Negara Republik Indonesia. (2019). Undang-undang Republik Indonesia No 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan. *Undang-Undang Republik Indonesia*, 006265, 2–6. <https://peraturan.bpk.go.id/Home/Details/122740/uu-no-16-tahun-2019>
- Sinha, A. K., Srivastav, V., Khan, M. S., Verma, N., Klu, J., Singh, A., Ete, J., Kumar, M., Bhaskaran, R., Nambiath, S., Obeid, S., Ahmad, N., Prabha, K., Arora, N., George, A., Singh, A., Sharma, D., & Panda, S. (2013). Child marriage. *Economic and Political*

- Weekly*, 48(52), 5. <https://doi.org/10.1177/104438942500600710>
- Ummah, M. S. (2019). No. In *Sustainability (Switzerland)* (Vol. 11, Issue 1, pp. 1–14). http://scioteca.caf.com/bitstream/handle/123456789/1091/RED2017-Eng-8ene.pdf?sequence=12&isAllowed=y%0Ahttp://dx.doi.org/10.1016/j.regsciurbeco.2008.06.005%0Ahttps://www.researchgate.net/publication/305320484_SI STEM_PEMBETUNGAN_TERPUSAT_STRATEGI_MELESTARI
- UNFPA-UNICEF. (2019). Global Programme to End Child Marriage. *Unfpa-Unicef*.