Underage Marriage in Social Fiqh Review M.A. Sahal Mahfudh and Its Integration with the National SGDs (Sustainable Development Goals)

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Abstract

State policy was often top-down and legal-formalistic, sometimes at odds with the moral authority of religious figures. Economic empowerment interventions in rural villages are often irrelevant to the goal of Family Self-Reliance, only as a moral formality. The purpose of the study was to identify the social legitimacy of underage marriage, then analyze it with the perspective of Mahfudh's social jurisprudence. This research model is qualitatively interactive according to Miles and Hubermas, which is based on field research. Data analysis through interactive models, data collection and analysis process is constantly repeated and influence each other. Interview data processing is done in a structured and systematic manner to facilitate the conclusion. A social perspective used by Mahfudh. Results found: 1. Legitimacy of religious figures, 2. The legitimacy of cultural-social normalisation. 3. The importance of making law through Fiqh Social that are contextual to the facts and developments of the times; by changing the method from the *madzhab qauli* to the *madzhab manhaj* and applying *istinbath* to the laws of *furu'*. 4. The legal essence of social jurisprudence supports the SDGs program. Recommendations: 1. Spread of Islamic law by analogy and easy to understand, 2. The need for improving the perspective, skill of social jurisprudence method of religious leaders. 3. Deconstructing culture through emancipative education. 4. The result of the reconstruction of social jurisprudence law can be proposed as an idea of Public Policy and social ethics

that is more bottom-up, so that the law still lives with its practical, humanist and philosophical community values.

Keywords: Early Marriage; Social Jurisprudence; Fiqh Social; Islamic Law.

Abstrak

Kebijakan negara sering bersifat *top-down* dan legal-formalistik, terkadang bertentangan dengan otoritas moral tokoh agama. Intervensi pemberdayaan ekonomi di desa-desa pedalaman sering tidak relevan dengan tujuan kemandirian keluarga, hanya sebagai formalitas moral. Ada *disconnect* antara hukum positif dan hukum yang berlaku di masyarakat. Tujuan penelitian mengidentifikasi legitimasi sosial terhadap perkawinan di bawah umur, kemudian menganalisinya dengan perspektif Fikih Sosial Sahal Mahfudh. Model penelitian ini kualitatif interaktif menurut Miles dan Hubermas, yang berbasis penelitian lapangan. Analisis data melalui model interaktif, pengumpulan data dan proses analisis terus diulang dan saling mempengaruhi. Pengolahan data wawancara dilakukan secara terstruktur dan sistematis untuk memudahkan kesimpulan. Perspektif yang digunakan Fikih Sosial Sahal Mahfudh. Hasilnya ditemukan: 1. Legitimasi Tokoh agama, 2. Legitimasi normalisasi budaya-sosial. 3. Pentingnya mengeluarkan hukum Fikih Sosial yang kontekstual terhadap fakta dan perkembangan zaman; dengan merubah metode dari *madzhab qauli* ke *madzhab manhaj* dan mengaplikasikan *istinbath* untuk hukum-hukum *furu'*. 4. Esensi hukum Fikih Sosial mendukung program SDGs. Rekomendasi: 1. Penyebaran hukum Islam dengan analogi dan bahasa yang mudah dipahami, 2. Butuhnya *upgrading* perspektif, *skill* metode Fikih Sosial tokoh agama. 3. Melakukan dekonstruksi budaya melalui edukasi emansipatif. 4. Hasil rekontruksi hukum Fikih Sosial bisa diusulkan sebagai ide kebijakan publik serta etika sosial yang lebih *bottom-up,* sehingga hukum tetap hidup dengan nilai masyarakatnya yang praktis, humanis dan filosofis.

Kata kunci: Perkawinan Dini; Hukum Sosial; Fikih Sosial; Hukum Islam.

A. Introduction

Kalirejo village is one of the villages in Singorojo District, Kendal regency, Central Java province, consisting of 5 hamlets administratively, they are: Gelompong, Kaligedang, Kalipuru, Suwuan and Surak. The majority of the population has not understood the changes in the formal legal limit on the age of child marriage or underage marriage as a whole, as well as the understanding of the development of Islamic law on underage marriage is still weak. Kaligedang Hamlet, one of the main centers of research, was chosen because several religious figures of other hamlets still have relatives and the same religious mission with religious figures in this hamlet. Kiai became a figure as well as a strong influence in the lives of local people. He is also a mover and unifier of the community, considering that Indonesian people

are religious people, so they get more religious respect than other figures.[1] The socio-cultural phenomenon of underage marriage is still considered reasonable. There are many factors that cause this to happen, whether it is due to uncontrolled relationships, married in order to keep children from more free association, or because of economic factors. In the generation of the late 90s to the present, with the advancement of education and the openness of Information Technology gave a change in their views on child marriage. According to data from the Kendal population and Civil Registration Office, the marriage rate for minors aged 15-19 years in 2023 is relatively low and there is a possibility that the following years will decrease.[2] Although there has been a shift in citizens views on child marriage, they still consider this marriage to be a legal alternative to certain conditions.[3]

Marriage under age according to Muhammad Dlori more emphasis on preparation such as physical, mental and material.[4] There are many factors that can encourage underage marriage, including: economy, education, culture, customs, self-will and promiscuity. According to Hollean quoted by Bastomi, many underage marriages are caused by family economic problems, in the hope that responsibilities to one of her female family members will be reduced such as the need for clothing, food, education and so on.[5] The Executive Board of Nahdatul Ulama (PBNU) explained that the historical basis for the urgency of regulating the minimum age of marriage is the possibility of a guardian, who juridically has the right to marry his child who does not have competence in measuring the benefit of children. Therefore, the role of religious and state experts is needed to provide control as mentioned in the rules "*taṣarrufu al-imāmi ʿalā al-raʿiyyati manūṭun bi al-maṣlah".* In Indonesia the majority of which follow the Shafi'iyah *Madhhab,* then the formation of the law chooses to apply the age limit in accordance with the provisions of the *Madhhab*, this is what is called *maslahat* or goodness for all.[6] Differences in the perception of "adulthood" in the body of a teenager, for men the maturity of the sex organs is characterized by the first time ejaculation and the growth of some hairs in the armpits and around the genitals.[7] MUI itself stated that the selection of the age of 16 years for women, according to Ali Yafie, is a policy taken in order to prevent a gap that is too far between the provisions of puberty in

[1] Nurmahmudah, "Quo Vadis Pendidikan Pondok Pesantren Dan Pengaruhnya Otoritas Kiai Dalam Prespektif Filsafat Sosiologi," *Wahana Akademika: Jurnal Studi Islam Dan Sosial* 10, no. 2 (2023): 91, https://doi.org/10.21580/wa.v10i2.14936.

[2] K. K. Dinas Kependudukan dan Pencatatan Sipil, "Profil Perkembangan Kependududkan Tahun 2022," Pemerintah Kabupaten Kendal, 2023, 26, https://dispendukcapil.kendalkab.go.id/assets2/download/ppid/berkala/profil%202022.pdf.

[3] Nurmahmudah, *Observations and research interviews Kalirejo Village.* UIN Kediri research observation documentation 2024-2025. (Kediri: UIN Syekh Wasil Kediri, 2024), Jawa Tengah.

[4] M. M. Dlori, *Jeritan Nikah Dini, Wabah, Pergaulan* (Yogyakarta: Binar Press, 2005), 5.

[5] H. Bastomi, "Perkawinan Dini Dan Dampaknya (Tinjauan Batas Umur Perkawinan Menurut Hukum Islam Dan Hukum Perkawianan Indonesia.," *Yudisia Jurnal Pemikiran Hukum Dan Hukum Islam* 7, no. 2 (2016): 372.

[6] Mahkamah Konstitusi, "Putusan No. 30-74/PUU-XII/2014," Jakarta: Mahkamah Konstitusi, 2014, Hal. 189.

[7] Konstitusi, "Putusan No. 30-74/PUU-XII/2014," 184.

jurisprudence with the provisions of Indonesian positive law.[8] But, according to others, it seems to be out of date. According to them, the provisions should be revised to suit the demands and challenges of today. For them, the provisions in article a quo have violated the rules of Science in the field of medical, psychological and legal uncertainty.[9]

This phenomenon is an obstacle to the achievement of SDGs (Sustainable Development Goals). Underage marriage systematically undermines women's chances of achieving equal well-being with men, which includes education (SDG 4), being the main cause of school dropout in girls, limiting their skills and competitiveness in the world of work. Health and well-being issues (SDG3), physically and psychologically not ready for pregnancy and childbirth. This triggers a high risk of death of the young mother and child as well as health problems such as stunting. The problem of decent work (SDG 8): lack of education and skills forces women who marry young to remain in the informal sector with low income or become fully dependent on their husbands.[10] The elimination of underage marriage as one of the main priority indicators of the government of Indonesia in goal 5 SDGs. This is realized through the revision of Marriage Law No. 16 of 2019 which sets the minimum age for marriage to be 19 years for women and men. As well as launching the National Strategy for the Prevention of Child Marriage or *"Strategi Nasional Pencegahan Perkawinan Anak"* (Stranas PPA) to empower women.[11] Fairness or awareness of the people in the village in an emergency or certain circumstances, as well as low views and placing the value of women is limited to domestic affairs, resulting in power inequality, where girls do not have autonomy over the body, future, and the right to life of decent children. On this basis, this research becomes important to do, as an effort to help anticipate the occurrence of underage marriage in the future.

One of the literature reviews sourced from BPS (*Badan Pusat Statistik*), Bappenas, UNICEF, Komnas Perempuan, also proves the same thing. That there are several factors that cause early marriage, including economy, education, media, perpetuating relationships, family traditions, traditional traditions, married by accident, residence, natural disasters and slanderous regulations that are less firm.[12] The latest research in 2026 on the same theme also

[8] Konstitusi, "Putusan No. 30-74/PUU-XII/2014," 169.

[9] Konstitusi, "Putusan No. 30-74/PUU-XII/2014," 44.

[10] Kementrian PPN Bappenas, *National Strategy on The Prevention of Child Marriage* (The National Development Planning Agency 2020, 2020), 36–39, https://www.unicef.org/indonesia/sites/unicef.org.indonesia/files/2020-06/National-Strategy-on-Child-Marriage-Prevention-2020.pdf.

[11] Yeni Herliana Yoshida, Junita Budi Rachman, and Wawan Budi Darmawan, "Upaya Indonesia Dalam Mengatasi Perkawinan Anak Sebagai Implementasi Sustainable Development Goals (Sdgs) Tujuan 5 (5.3)," *Aliansi : Jurnal Politik, Keamanan Dan Hubungan Internasional* 1, no. 3 (2022): 153–66, https://doi.org/10.24198/aliansi.v1i3.44202.

[12] Dina Yudianingsih et al., "Problematika Perkawinan Dini Dalam Mencapai Sustainable Development Goals (SDGs)," *Jurnal Kajian Gender Dan Anak* 6 (June 2022): 1, https://doi.org/10.24952/gender.v6i1.5522.

results in that economic difficulties, low levels of education, the social environment and societal norms that continue to tolerate the practice.[13]

Grijns & Horii (2018), "*Child Marriage in a Village in West Java: Compromises between Legal Obligations and Religious Concerns*". This article discusses dilemmas and compromises in legal practice surrounding child marriage in Indonesia. The study shows that judges use their discretion to compromise state laws with local norms, and law implementation is creatively applied at the village level by key actors. The resistance is rooted in the religious concerns of conservative Muslims in a rapidly modernising society, with teenage sexuality at the centre of tensions.[14] The dilemma of formal national laws that provide relief for the compensation of underage marriage, not a violation of international law, with the same purpose as the protection of the right to a better life of children, for international law the protection of mental readiness, physical health and financial readiness when becoming an adult is preferred, while lolak norms prioritize protection from the stigma of social norms where he lives and protection against sexual immorality which further becomes a legal compromise that can be used as a foundation in decision making. Horii (2020), "*Legal Reasoning for legitimacy of Child Marriage in West Jawa"*, the research closest to the concept of "legitimacy" of this research. It found that the judge's ruling could place religious or customary law above state and international law, under the pretext of protecting children from the social stigma of pregnancy out of wedlock.[15] Shahrullah et al. (2023) argued that although the age limit was raised to 19, the law still failed to abolish child marriage because dispensation was still possible under emergency conditions, for example pregnancy.[16] Lukman Santoso (2026) in his research found several factors that contribute to child marriage, 1) social problems and promiscuity and underage marriage are considered as solutions to pregnancy that occurs outside of marriage. 2) social, cultural and religious norms that still consider underage marriage to be normal, even if it contradicts formal national laws that emphasize the right of children to enjoy their childhood. The study found that religious authority emerged as a key factor, on the one hand as a key factor as a guardian of public morality, and on the other hand, their encouragement and blessing were considered to be the main drivers given the dispensation of such marriages. communities that are more obedient to the decisions of religious leaders, as well as weak regulations in the regions, social pressure,

[13] Aprilia Rahmatunisa Purba and Nuriza Dora, "Dynamics Of Early Marriage And Its Implications For Household Quality Of Life From The Perspective Of Sustainable Development Goals (Sdgs) Achievement In Sambirejo Timur Village, Percut Sei Tuan District," *SOSIOEDUKASI : JURNAL ILMIAH ILMU PENDIDIKAN DAN SOSIAL* 15, no. 2 (June 2026): 2838, https://doi.org/10.36526/sosioedukasi.v15i2.8657.

[14] Mies Grijns and Hoko Horii, "Child Marriage in a Village in West Java (Indonesia): Compromises between Legal Obligations and Religious Concerns," *Asian Journal of Law and Society* 5, no. 2 (November 2018): 453–66, https://doi.org/10.1017/als.2018.9.

[15] Hoko Horii, "Legal Reasoning for Legitimation of Child Marriage in West Java: Accommodation of Local Norms at Islamic Courts and the Paradox of Child Protection," *Journal of Human Rights Practice* 12, no. 3 (November 2020): 501–23, https://doi.org/10.1093/jhuman/huaa041.

[16] Rina Shahrullah et al., "Dilemmas Faced by Judges When Granting Marriage Dispensations for Child Marriages in West Java, Indonesia.," *International Journal of Law, Policy & the Family* | 37, no. 1 (2023), https://doi.org/10.1093/lawfam/ebad035.

and weak coordination between government and private institutions result in a lack of synergy between institutions to support the progression of this rule. So one of the strategies is the empowerment of religious leaders as agents of change, the formulation of clear local legal instruments with standard operating procedures and sanctions, and the integration of education, health, and premarital counseling services. With a comprehensive socio-legal approach, child protection can be implemented more effectively.[17] Lena Hanifah, et al (2026) found that at the formal legal level it remains respected within its institutional space, but it remains secondary in day-to-day decision-making. Justifications generally include protecting the family's reputation, preventing immoral behavior, or the presence of a suitable partner. Consequently, readiness for marriage is determined not by legal age, but by parental responsibility, religious values and a sense of protection. This pattern reflects the strategic use of the law rather than its rejection. The rule of law is recognized, but is seen as flexible if it does not respond to pressing moral or social problems. This practice indicates a form of consciousness, in which the law is present but approached pragmatically instead of being fully accepted as something binding.[18]

Rofiah et al. (2022) found that religious organizations do not play a significant role and are not related to the high and low rates of child marriage, but religious leaders are still seen as having authority in the community, even so, but religious leaders are still seen as having authority in the community in supporting the success of government programs, including efforts to prevent and treat child marriage.[19] In line with Siti Masiroh's research, that the role and social functions of clerics as religious leaders contribute and are effective in raising supervision under the auspices of boarding school, religious leaders, guardians of students and the community in general in creating a healthy and conducive environment in keeping from the bad consequences of promiscuity, so as to prevent underage marriages, although this study.[20]

Likewise, research by Lutfi Raziq at Pesantren Miftahul Ulum Pragaan Sumenep, that the role of kiai in preventing underage marriage among students has a role with a religious approach, education and moral development.[21] Some scholars/*Ulama'* as religious

[17] Lukman Santoso, Khaidarulloh Khaidarulloh, and Muh Jihad Al Haqiqi, "Fragmented Legal Protection in Child Marriage Prevention: Intersections of State Law, Religious Norms, and Local Values in East Java," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 11, no. 1 (February 2026): 45–48, https://doi.org/10.22515/alahkam.v11i1.14103.

[18] Lena Hanifah et al., "Child Marriage in Indonesia: How Communities Navigate Marriage Practices within Islamic, Adat, and State Norms," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 21, no. 1 (June 2026): 19–21, https://doi.org/10.19105/al-lhkam.v21i1.21163.

[19] Siti Rofiah, Moh Fauzi, and Fakih Muqoddam, "The Role of Religious Organizations in Child Marriage Prevention and Handling during Pandemic," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 5, no. 2 (May 2022): 79–80, https://doi.org/10.30659/jua.v5i2.18508.

[20] Siti Masiroh, M. Noor Harisudin, and Mokhamad Ali Ridlo, "The Role of Traditional Kyai in Mitigating Early Marriage in Indonesia: An Analysis of a Social Phenomenon within the MaÎlahah Framework," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 9, no. 1 (2025): 4, https://jurnal.unissula.ac.id/index.php/ua/article/download/42330/14073.

[21] Luthfi Raziq, "Peran Kiai Dalam Mencegah Perkawinan Dini Di Kalangan Santri: Studi Kasus Di PP. Miftahul Ulum Pragaan Sumenep," *Minhaj: Jurnal Ilmu Syariah* 6, no. 2 (n.d.), accessed October 25, 2026, https://garuda.kemdiktisaintek.go.id/documents/detail/5682706.

leaders in Ponorogo, for example, have explained that underage marriage is legal in jurisprudence, but legally positive in the perspective of these scholars underage marriage should be avoided for rational reasons and explanation of Naqli arguments.[22]

Nur Shofa in her study noted that the leader of the Indonesian women's Ulama Congress or *Kongres Ulama Perempuan Indonesia* (KUPI) stipulates that the prevention of child marriage that causes legal damage is mandatory. This example of religious authorities legitimizing the prevention of underage marriages, by proposing education and decent work for women.[23] From a literature study conducted from the last 10 years of research it was found that the problem of underage marriage is still influenced by family interests and social influences. Some studies that have succeeded in preventing underage marriage by kiai religious leaders are only under the control of their authority in boarding school, while outside boarding school have not shown the same signs. This reflects another form of legal consciousness, in which parental, religious, and community Authority is rarely questioned, and individual suffrage, especially for girls, remains limited. The most prominent factor from the results of these studies and which is always used as social legitimacy is the role of religious leaders. The research gaps found from this literature review are the lack of contextualization awareness of religious leaders, the ability of religious leaders to produce laws in accordance with the rules of Islamic jurisprudence and the need to adapt to the times, the decisions of religious leaders so far seem to "spoil" the community. To overcome the gap, this research was conducted.

Purpose of research: 1. Identifying social legitimacy that supports the practice of underage marriage in kalirejo village, 2. Using Sahal Mahfudh's Social Fiqh perspective to analyze the legitimacy process. Finally, integrating social jurisprudence into the SDGs indicators, especially on the pillars of gender equality (SDG 5), welfare (SDG 3) and quality education (SDG4). Contributions that will be given in the form of perspectives and application of social jurisprudence Sahal Mahfudh on the issue of underage marriage in the village of Kalirejo, and the concept of social jurisprudence that beritengrasi with Sustainable Development Goals (SDGs) in the issue of underage marriage, which can be transformed as a social law through religious figures. This research data can be used as a basis for public policies that are more bottom - up, so that the law lives up to its community values.

B. **Research** Methods

The research model used is Miles and Hubermas interactive qualitative research,[24] based on field research in the village Kalirejo. The primary data is data in the field and the

[22] Dwi Astuti Furi, "Pandangan Ulama Kabupaten Ponorogo Terhadap Perkawinan Dini: Studi Kasus Perkawinan Dini Di Kecamatan Badegan Kabupaten Ponorogo," *Al-Adabiya: Jurnal Kebudayaan Dan Keagamaan* 14, no. 02 (2019): 193, https://doi.org/10.37680/adabiya.v14i02.205.

[23] Nur Shofa Ulfiyati, "Pandangan Dan Peran Tokoh Kongres Ulama Perempuan Indonesia (KUPI) Dalam Mencegah Perkawinan Anak," *De Jure Jurnal Hukum Dan Syariah* 11, no. 1 (July 2026): 32–33, https://doi.org/10.18860/j-fsh.v11i1.6488.

[24] Matthew B. Miles, A. Michael Huberman, and Johnny Saldaña, *Qualitative Data Analysis A Methods Sourcebook*, 3 vols. (USA: Arizona State University, 2014), https://www.metodos.work/wp-content/uploads/2024/01/Qualitative-Data-Analysis.pdf.

results of interviews with the people of Kalirejo Village, the informants are families who perform underage marriages, namely religious leaders in some hamlets who marry their sons at an early age, parents who marry their sons and daughters at the age of children, children who have recently married or have been married for a long time, community leaders and the surrounding community (the names of the figures will be disguised in order to maintain the confidentiality of informants personal data), a total of 20 informants. Secondary data library data on underage marriages such as, books written Muhandid, H. *Fiqh Perempuan "Refleksi Kyai Atas Wacana Agama & Gender."* Yogyakarta: Kertas LKIS, 2021, Muhandid, H. *Fiqh Perempuan "Refleksi Kyai Atas Wacana Agama & Gender."* Yogyakarta: Kertas LKIS, 2021, and others

First, primary data collection by conducting observations and field surveys in Kalirejo Village. *Second*, prepare an interview instrument and conduct interviews with 20 informants. The interaction process is done by in-depth dialogue and in-depth interview. The benchmark is the ability of citizens to explain clearly, structured and able to provide examples or analogies. *Third*, the analysis of the results of interviews, observation data that is habitual behavior, views of the figures and others as a comparison. The method of analysis uses a verification method between data. The Data obtained through interviews with the village government, village elders, residents and the perpetrators were compared with the results of observations during the study. Then the data is analyzed and criticized with the perspective of social jurisprudence Sahal Mahfudh. Qualitative data analysis is carried out through an interactive model, namely 1) the repeated process of collecting, processing and analyzing data continues to influence each other and repeat, 2) qualitative analysis in the form of Mahfudh Sahal's social jurisprudence perspective, is more fluid and humanistic, the documentation process is carried out carefully and in detail so that the results of the analysis can be reflected, refined and studied by others. Processing and display of data is done through the organization of a collection of compressed information, so that the form of the interview is then expanded, then systematized and arranged in a structured manner, so that it is easy to analyze, draw a common thread and draw conclusions.[25] *Fourth*, held a deep exploration to find the common thread. *Fifth*, using triangulation techniques, data, techniques and theories are always crosschecked simultaneously. According to Miles and Huberman qualitative methods, this process continues to be carried out repeatedly and affects both from collection, processing to data analysis. The results of his analysis, carried out in a humanistic and detailed way, are then reflected, perfected so that others learn.[26] The results of the study are then integrated with the National SDGs (National Sustainable Development Goals).

C. Results and Discussion

All religious leaders in the village of Kalirejo flow NU. The uniformity of the preaching method is almost similar, but the effort to "legitimize"the social Law of some

[25] Miles, Huberman, and Saldaña, *Qualitative Data Analysis A Methods Sourcebook*.

[26] Matthew B. Miles, A. Michael Huberman, and Johnny Saldaña, *Qualitative Data Analysis A Methods Sourcebook*, 3 vols. (USA: Arizona State University, 2014), https://www.metodos.work/wp-content/uploads/2024/01/Qualitative-Data-Analysis.pdf.

hamlets such as Surak and Kaligedang have similarities through the textualization of the "*Kitab Kuning*" or "Classic Book" and this method will be focused on the perspective of Sahal Mahfudh's social jurisprudence method, while Gelompong hamlet has more varied methods. Some of his religious leaders have married their daughters who are under the age of 16 to teenage boys between the ages of 17-18. The reason as the protection of social and urgent economic needs.[27]

This village is the land of babadan Java, which means that it used to be an unoccupied forest, then there were some residents who occupied it, then it developed into hamlets. In its development, this village faces more economic problems so that many of its citizens work abroad, especially housewives who work as household assistants as the main backbone of their families. The consequence is that many children are cared for by their fathers who work odd jobs, such as helping other people's farms, setting up stalls, farmers, working as factory workers. While the care of children is mostly assisted by their parents or in-laws, which means that grandmothers and grandfathers take part in caring for the abandoned children. As a result of this condition, many children drop out of school, due to lack of parental understanding of the importance of education for the future of children. For them, working and making money is more important than having to go to school which costs time and leads to the same fate. People's apathy towards education is still widely found, but since the intensification of the free school program from elementary to high school level provides new enthusiasm and encouragement for residents. Before the 2000s the long distance to school and the difficult road became one of their obstacles, the elementary school in Gelompong Hamlet was the only nearby school that could be reached on foot about 50-60 minutes from the farthest Hamlet, Surak Hamlet, and about 35-37 minutes from Kaligedang Hamlet and Kalipuru Hamlet. As for the Junior High School and high school located in the village of Ngarianak further away, they have to take 1 hour more, the price of motor vehicles at that time was still out of reach, this was true until the 2000s or around 2008. After that the economy began to increase, the price of vehicles has begun to be affordable, especially motorcycles. Through the assistance of local government programs and banks that offer loans and cooperation, husbands began to have financial management skills. Businesses that look like cattle breeding, goats, chickens, fish, until the establishment of rice milling. Some of his young people continued the "tradition" of trying their luck abroad, some left the city, so that the economic improvement began to be felt. Along with this change, it also has an impact on changing the way people view education and improving family welfare.[28]

Dissemination of information related to the age limit of marriage, slightly shifted the views and attitudes of local people towards underage marriage. Previously they considered it normal as a result of apathy towards education and work, then now began to shift to the attitude of informing if faced with an emergency situation or certain conditions that can be "understood", such as pregnancy out of wedlock, arranged marriages, or about economic limitations. One of the young women's informants explained that she married when she was 15 years old, she was not pregnant at laur nikah, but because the family feared for her safety

[27] Nurmahmudah, *Observations and research interviews Kalirejo Village.*
[28] Nurmahmudah, *Observations and research interviews Kalirejo Village.*

in the midst of free association in her school environment. Informants other young women due to family economic factors, married as the fastest way to demand their immediate independence. Young women and other sons were married because of pregnancy out of wedlock, so that the community is required to be responsible for their actions, and as a consequence maintain the morale and good name of the family.[29]

Some of the problems that arise in some families of informants due to the lack of ability of the husband or father in making a living and also overwhelmed them in educating and caring for their children when their spouse left to work abroad. Some other problems arise due to violence against children, so the child always runs away from home, and seeks a more accepting Association. Some other informants feel tempted by the lifestyle of being better than them, so it sometimes encourages them to look for instant ways, such as loans and sometimes things that are not commendable.[30]

The results of the interview showed, roughly as if the role of parents only as a supplier of money, the rest they ignore and find their own way. Deeper than that, the main focus of parents on work, so that family supervision of the development of education, emotional growth and development of children, and children's social interaction becomes very less. The main reason for this is the lack of parental insight in parenting, economic pressure, higher living and education costs and the lack of literacy and parental skills become a separate emotional burden for parents. Excessive demands on the child "to grow up quickly", which are not balanced by sufficient understanding from the parents, become a big problem that frightens children. Verbal, emotional and physical violence are the most complained about children. Their decision will be stronger when they get the approval, support and legitimacy of religious leaders.

Religious leaders, indigenous leaders and community leaders are more inclined to follow the social will, so that criticism from within such as criticism of local religious and cultural teachings does not exist at all. But it helps legitimize the decisions of citizens, especially in emergencies. One of the religious leaders became a parent who married his young daughters married at an early age, the reason is more due to protection from promiscuity and increasing economic pressure. This reinforces the social legitimacy of child marriage on grounds of protection. From the interviews of several religious leaders, and one who married his daughters under the age of religious studies with textualisai classical jurisprudence or classical fiqh, as well as using some Hadith as the legitimacy of the ratification of the marriage, without any comparison of differences in development and the demands of the times and the different situations they experienced. In addition to that, their legitimacy is only limited to the approach of *qauly*, without understanding the process of *ijtihad manhaj*. So that the *fatwas* of the scholars or *Ulama'* are only accepted, without knowing the "expiration" of a law, so that the essence of the *qiyas* method with *illat al-hukm* as the main axis in determining the law is neglected.

The underage marriages performed by the informants, were all filed through the

[29] Nurmahmudah, *Observations and research interviews Kalirejo Village.*
[30] Nurmahmudah, *Observations and research interviews Kalirejo Village.*

marriage dispensation in order to obtain the legality of legal validity. The path that is considered the most protective, profitable and fair for both parties. As the best solution to the legality of child marriage under the legal age limit, compared to serial marriage, *isbath nikah* (confirmation of marriage at a later date) who are more vulnerable to marital status and rights that are not protected socially or legally. Unfortunately, in the legal process, they admitted that they only received answer scripts that had been prepared by lawyers who had been appointed to be immediately granted by the court, they no longer considered critically the rights of children.[31]

This condition reflects another type of legal consciousness oriented "before the law", in which society obeys parental authority, religion, as well as the community without a critical attitude, the individual suffrage of children is limited. This proves that regulations are often applied instrumentally, laws are valued more for their practical benefits than for the essence of protection. Based on the shift and change in the public's perspective on education and welfare, it concludes that addressing child marriage requires more than just formal law enforcement.

Involving all social instrumentals and especially the role of government becomes a necessity. Involving religious leaders, Authority of traditional leaders and trusted community leaders who can translate their "law of life " norms such as religious and customary laws into socially meaningful messages, which are in line with formal laws and scientific developments. Support for the expansion of educational opportunities, job training institutions and the development of economic enterprises for adolescents is equally important given to the gods, this is a realistic strengthening of family resilience. Strengthening village programs and coordination between government and private sectors will further support change in the long term.

This dynamic shows that legal change does not as well as changing the attitudes and lifestyles of a society, unless it involves the moral and social framework that guides the decision-making of its society. This effort should involve religious leaders, teachers, and local officials who already have faith in the community. The process of legal awareness and compliance goes hand in hand with both, which is based on a process of gradual and simultaneous social learning.

Sahal Mahfudh Social Fiqh

Sahal Mahfudh's thoughts on Fiqh Social is a respect for the fact that Fiqh existing and prevailing jurisprudence in society is no longer considered to be able to realize the benefit of the people. This is because the method of use Fiqh in the community needs to be re-correction and require updates. Interpretation of the texts Fiqh contextually, it cannot be separated from the dynamics of science that has contact with various things, and still cannot be separated from the culture of boarding school which is thick with the classic book or "*kitab* kuning". This thought is also used in order to counter the opinion that considers the classic book or *"kitab kuning"* it is outdated and

[31] Nurmahmudah, *Observations and research interviews Kalirejo Village.*

unfit to be used as a reference in answering the problems that develop in society.[32] According to the structure Fiqh existing submarine is not a permanent building so it can not accept changes in its development. But the development

Contemporary jurisprudence (Fiqh Contemporer) also cannot necessarily abandon the arguments that have been built up in the texts of classical jurisprudence (text classical Fiqh) as well. He believes that the text Fiqh must be understood contextually so that the resulting interpretation can provide solutions to problems that develop.[33] This is the view of Mahfud Sahal about *Social Fiqh*:

a) switching from "*Madhhab Qauli*" to "*Manhaji*". He argues that the text Classical Fiqh not entirely accommodate the problems of all times. So he admitted also that some things in the classical text have been outdated.[34] According to him in doing *Madhhab*, *ijtihad* space gives a little space because of the strict requirements of *ijtihad* specified so that in the *Madhhab* the definition of *ijtihad* focuses on qiyas with illat al-hukm as the main axis of legal discovery.[35]

This awareness does not make him turn a blind eye to the social reality of people who need solutions. It is recorded that he gave several *fatwas* that had methodically gone out of the path prescribed by the *Shafi'i Madhhab*.[36] The goal is to realize the noble ideals of Islam that he called the *sa'adah al-darayan*.[37] For him, this can only be realized through maslahah as a basic need in a society that has changed. Therefore, he argues that the pattern of following *Madhhab* must improve from a rigid and formalistic order to a more responsive and transformative order.[38]

He believes that thinking in boarding school is still relevant to the dynamics of the times, but must be accompanied by a contextual approach. As an activist *bahtsul masail,* he felt the legalistic or black and white character that hegemoned the mindset of the kiai. So the earliest way is to provide contextual understanding with the same text, in order to encourage the keepers of the tradition to study the treasures of other sciences outside the boarding school such as sociology, psychology, anthropology, culture, politics, health and others in order to create a solid scientific integration. They must be inclusive of disciplines

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[32] Abdul Moqsith Ghazali, *Ta'liqat Atas Fiqh Sosial Kiai Sahal, in Fiqh Sosial Masa Depan Fiqh Indonesia, 2nd Ed.* (Pati: Pusat FISI IP MAFA, 2018), xxi.

[33] Muhamamd Ahmad Sahal Mahfudh, *Fiqh Sosial: Upaya Pengembangan Madzhab Qauli Dan Manhaji', in Nuansa Fiqh Sosial. Ed. by Hairus Salim SH Dan Nuruddin Amin,* ke-7 (Yogyakarta: LKiS, 2014).

[34] Mahfudh, *Fiqh Sosial: Upaya Pengembangan Madzhab Qauli Dan Manhaji', in Nuansa Fiqh Sosial. Ed. by Hairus Salim SH Dan Nuruddin Amin,* 22–23.

[35] Mahfudh, *Fiqh Sosial: Upaya Pengembangan Madzhab Qauli Dan Manhaji', in Nuansa Fiqh Sosial. Ed. by Hairus Salim SH Dan Nuruddin Amin,* 48.

[36] Achmad Ma'ruf Editor Asrori, *Dialog Problematika Umat*, ke-2 (Jakarta: LTN PBNU, 2014), Hal. 132–33.

[37] Mahfudh, *Fiqh Sosial: Upaya Pengembangan Madzhab Qauli Dan Manhaji', in Nuansa Fiqh Sosial. Ed. by Hairus Salim SH Dan Nuruddin Amin,* 27.

[38] J. M. Asmani, *Fiqh Sosial Kiai Sahal Mahfudh Antara Konsep Dan Implementasi* (Surabaya: Khalista, 2007), 31–33.

outside the boarding school, not self-sufficient with jurisprudence alone. If this process is done gradually, absolute fanaticism will be eroded and the birth of Objectiv thoughts. This scientific integration must be supported by all circles both NU and other parties. So that experts from various sciences try to the maximum in the forum *ijtihad ijtima'i* (collective *ijtihad*) to respond to contemporary problems and formulate valid, solid and effective answers.[39]

b) Dimensional verification *ushul* and *furu*¸ as we know the necessity of jurisprudence as a product of understanding between scholars *Ulama'* both in one *Madhhab* and different *Madhhab.* This difference arises because of differences in methods and understanding of *nash* al-Qur'an and al-Sunnah (some scholar/*Ulama'* add *ijma'*), this is what distinguishes between the *nash* al-Qur'an and al-Sunnah/hadist with Fiqh. Sahal Mahfudh uses the terms *ushul* and *furu'* to give a clear distinction between the two.[40] Position *ushul* what is meant here is a number of legal provisions that have been standard (*qat'iy*) in the Qur'an and Sunnah/hadist. Based on the agreement of scholars or agreement of *Ulama'*, such as the obligation to establish a 5-time *Fard* prayer, the shari'a of fasting in Ramadan, the prohibition of adultery, killing and so on becomes a question *ushul* which does not need to be debated again, because the law directly comes from the origin of Islamic law itself, the Qur'an and al-Sunnah/hadist. While *furu'* is something that exists and occurs that comes from Fiqh, in its position as a branch of its origin (*nash* al-Qur'an and al-Sunnah/hadist).[41]

c) Fiqh as a etic and social science. Sahal Mahfudh's awareness in seeing the fact that Indonesia stands above the interests of various groups, and Islam is not the host so it has historically not had the right to prioritize the truth of its version. In addition, the implementation of absolute jurisprudence in the political configuration of law in Indonesia is seen as something against the common good, because it is predicted to bring more conflict than bring the spirit of harmony. Islamic law does not want damage in the form of conflict and conflict for his people.[42] This attitude aims to maintain the integrity of the nation and the state from possible divisions due to the classical jurisprudence constructs that tend to be formalistic. In this case, Sahal Mahfudh is of the view that jurisprudence does not need to be formally-intact into state law but the values of Islamic law must exist in every breath of legislation. In concrete terms, this is reflected in his participation in the formulation of the compilation of Islamic law, which originally took the form of inpress into law.[43]

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[39] Jamal Ma'mur Asmani, "Fikih Sosial Kiai Sahal Sebagai Fikih Peradaban," *Al-Ahkam Jurnal Pemikiran Hukum Islam*, 2014, 20.

[40] M. N. Rijal, "Keeping the Middle Path: Mainstreaming Religious Moderation through Islamic Higher Education Institutions in Indonesia," *Indonesia Journal of Islam and Muslim Societies* (Salatiga), 2021, 7, https://ijims.iainsalatiga.ac.id/index.php/ijims/article/view/5009., IAIN Salatiga.

[41] A. S. Mahfudh and J. M. Asmani, *Mengambangkan Fikih Sosial KH. M Elaborasi Lima Ciri Utama* (Jakarta: PT. Elex Media Komputindo, 2017), 52–53.

[42] Asmani, *Fiqh Sosial Kiai Sahal Mahfudh Antara Konsep Dan Implementasi*, 81.

[43] Ghazali, *Ta'liqat Atas Fiqh Sosial Kiai Sahal, in Fiqh Sosial Masa Depan Fiqh Indonesia, 2nd Ed.*, xv.

d) Philosophical thinking and socio-cultural problems. For him, religion is not a science that has a theological dimension, but more than that, religion in this case is in a sociological dimension, so it is no longer an absolute divine revelation but also as a manifestation of the results of social interaction formed from various civilizations from the beginning of arrival in Mecca to widespread including Indonesia.[44]

The ideal on which Social Fiqh is based is the realization of *sa'adah al'darayan,* therefore, he did not cover himself by taking the opinion that had been provided by the *fuqaha* before. More than that, he made several breakthroughs by giving more portions to the role of philosophy in formulating solutions to legal problems. This thought cannot be separated from the influence al-Shatibi which is a reference Sahal Mahfudh.[45] The reconstruction of the laws produced by social jurisprudence can be used as the basis of social ethics as well as input for a more bottom-up social policy. Society always demands that its laws remain alive and recognized its existence as the values of life, then the laws that are built are adjusted to the values of society. More familiar laws are easy to accept and obey, so the resulting law is a practical, humanist and philosophical law.

Application of Social Fiqh Sahal Mahfudh on Religious Leaders Legitimation of Underage Marriage

The characteristic of thinking in social Fiqh is the contextualization of Fiqh texts, namely the attempt to interpret Fiqh to fit the context of space and time, the current context will not be the same as the context in the past. So with the development of science, it requires renewal in the understanding of classical jurisprudence. Textual patterns of thought must be abandoned because they will lead to stagnation, rigid and exclusive. M. Amin Abdullah called it normative Islam and historical Islam. The contextualization of Fiqh texts is the first characteristic because it cannot be separated from the understanding of the majority of Muslims, especially among boarding school and Nahdlatul Ulama who interpret Fiqh textually and only oriented to the past, so it looks dry and rigid, so it is not able to respond to contemporary problems dynamically and solutely.[46]

Traditionally textual religious teaching like this is still used in some hamlets in Kalirejo village. According to Sahal Mahfudh, every problem has its own context which is usually much more complex than the problem itself. Ahmad Dahlan explained, in delivering religious lessons do not use a textual approach but contextual. Therefore, making the "*kitab kuning*" or classical book as a reference in solving actual problems is not a scientific error, but must be developed by providing approach concepts that pay attention to the roots and problems that arise in society, because every problem will not arise by itself. The most basic issue related to the classical book or "*kitab* kuning" is how to see it not as a compendium of

[44] Muhammad Atho Mudzhar, *Pendekatan Sosiologi Dalam Studi Hukum Islam, Dalam Mencari Islam: Studi Islam Dengan Berbagai Pendekatan* (Yogyakarta: Tiara Wacana, 2000), 29.

[45] Muhammad Ahmad Sahal Mahfudh, *Nuansa Fiqh Sosial, Ed.by Hairus Salim HS Dan Nuruddin Asmani*, ke-7 (Yogyakarta: LKiS, 2011), 5.

[46] J. M. Asmani, *Mengembangkan Fikih Sosial KH. MA. Sahal Mahfudh Elaborasi Lima Ciri Utama* (Jakarta: PT Elex Media Komputindo Kompas, 2015), 3–4.

jurisprudence that is very legalistic, so the classical book or "*kitab* kuning" is often regarded as a positive law that can judge all issues in detail against the background of considerations, arguments and decisions that are raw, rigid and fixed.[47] So that it looks far away or impressed does not provide the right solution.

The problem of underage marriage that exists in several hamlets in the village of Kalirejo, can not be translated by taking the law for granted through the texts of classical jurisprudence as the traditional textual way, which is usually done by religious figures in the village so far.[48] The background of the problem or the trigger and the development of Science and human development in each era must be different, so that the current society cannot be directly reflected in the same as the society in the past, especially the beginning of Islam. The development of Science and the needs of different communities in each tribe or region will affect the paradigm and behavior of the people. The more problems in society, the more it will encourage and urge people to solve problems as soon as possible., so that the increase in Insight also increasingly must be intensified.

The views of the local community who still understand the verdict or *fatwa* of the previous scholars or previous *Ulama'* are taken for granted, without any criticism with the context of the time at the time, making the benchmark and consideration does not fit the context of their needs. In this research activity of 20 informants (perpetrators of underage marriages, parents and several families involved), after the study was conducted and then given insight into the story telling approach to the development of legal contextualization of jurisprudence to be easily understood. Analogies that are easy to choose, are used to compare the background of events in the past the beginning of Islam (which still holds the standard of puberty from physical growth, due to cultural factors and harsher life demands) and the present (which has shifted to the standard of emotional readiness, adequate health, financial readiness, insight into parenting and so on), so that it is easily understood by the audience. In fact, it explained the existence of pre-marital health screening tests and marriage guidance or "*Bimbingan Perkawinan*" (Bimwa) and the marriage examination process or "*Pemeriksaan Nikah*" (Rapak Nikah) held by KUA, as a check of readiness and seriousness of the bride and groom. Give an example of the comparison of marriage under the age of pre-Islam (*jahiliyah* period) with the present. Where in pre-Islamic times women were not given the same rights as men, especially in marriage, such as not having the right to choose a future husband, related to whom and at what age a girl can marry, all are the rights of her father. When Islam came to regulate more firmly and provide absolute protection for women free to make their choices, whether against their potential partner, dowry, even the decision to accept or reject an arranged marriage was her absolute right of choice. While the minimum age limit for marriage in general at that time, both in Islamic and international groups, as the culture of maturity at that time was measured by physical readiness, and did not have more detailed standards as now.

[47] K. M. Mahfudh, *Dialog Dengan Kiai Sahal, Solusi Problematika Umat* (Surabaya: Ampel Suci & LTN NU Jawa Timur, 2003), Hal. 31–32.

[48] Nurmahmudah, *Observations and research interviews Kalirejo Village.*

Hadith that is often used as the legal legitimacy of underage marriage by local religious leaders is the phenomenon of underage marriage in Arabia at the beginning of Islam. The marriage of the Prophet With 'Aisha r.a. at that time, it was not a big problem, because the socio-cultural factors that provided the standard of physical development were the benchmark for a person's maturity, so they could not be compared with today's social standards. Comparing the past with the present is disproportionate and as a form of contextual injustice and historical anachronism, the cause is a shift in socio-economic values, a change in the structure of laws and Biological Standards, a different cultural context. Of the many ways the Quraysh were hostile to the Prophet, not one used this excuse to bring him down. Criticism of the Prophet's marriage only came from Orientalists, long after the time of the Prophet's life. This means that this event was not a problem at that time.[49] Legal marriage for women at that time was measured only by the beginning of "menstruation" and for men the first "wet dream" or nocturnal emission. The standards of underage marriage then and now cannot be equated due to different backgrounds. In the past, the benchmark was only physical maturity with family-based education. Now, the standard is shifting to mental readiness, financial, health, parenting, and formal education. So the legitimacy of underage marriage is not only based on the history of early Islam, but also looks at the problem of the facts of the problem in the present. A contextual approach to the texts of classical jurisprudence is essential to produce more just and relevant laws.

The use of methods from the tradition of madhhab qauli to madhhab manhaji

The characteristics of Sahal Mahfudh's social jurisprudence are related to methodology. This methodology is a form of awareness that listening to a verdict is not just 'he said', but whoever speaks must be filtered and criticized first. This custom is to be revised in making decisions by religious leaders, this additional task becomes heavy when religious leaders are unable to make changes to the internal criticism of the *fatwas* of classical jurisprudence. Internal criticism is criticism made independently by religious leaders against their own legitimate methods of issuing laws for their citizens.

The *Qauli Madhhab* follows the product of the thoughts or decisions of the scholars or *Ulama'*, whether the imams of the school or their followers. While the *Madhhab Manhaji* focus on the method of the scholars or *Ulama'* in establishing the law, not on the product of his mind but on the way the process they take in producing a law. Meaning follows *Madhhab Manhaji* is the focus of following the method of the scholars or *Ulama'* in establishing the law, following *uhsul fiqh* as a method in *istinbath*. At the national assembly (*Musyawarah Nasional*) NU in Lampung in 1992, follows *manhaji* was the choice decided at that time. When there is a problem, people not only demand answers to their problems instantly, which are only considered based on aqwal or opinions, but also reformulate social reality in the principles of *maqashid shari'ah* and *maslahah 'ammah*. The dialectic between theory and social reality will lead Islamic law to its existence and substance in front of society. The way to seek the support of Islamic law based on the *Madhhab Qauly* must be revised, this method

[49] e-Repository UIN Walisongo, "Bab II," Pdf, n.d., https://eprints.walisongo.ac.id/id/eprint/7510/3/125112075_bab2.pdf.

of legitimacy in the village of Kalirejo must be encouraged towards a better change. Researchers tried to apply Fiqh Social Sahal Mahfudh to the problem of underage marriage in the village Kalirejo with this method approach. There is a rule "*idza ta'aradha mafsadatani ru'iya a'dhamuhuma dhararan bi-irtikabi akhaffihimina*", it means "if there are two opposing damages, then the most dangerous damage is maintained by choosing the least dangerous damage". So in this context of promiscuity or courtship that leads to adultery when the problem occurs, then resolved by underage marriage taking into account the negative side of social and protection of the self and the child's soul from adverse environmental threats, the Social Fiqh law justifies the marriage. If left unchecked, it will plunge them into adultery which will lead to other more destructive problems, such as the spread of venereal diseases, child neglect, unclear status of children, parental responsibility in the eyes of the law, and no protection for women who become pregnant out of wedlock. But still explain the consequences of what might happen as a result of underage marriage, so they can anticipate by preparing themselves more mature, such as coming to a pre-wedding counseling expert, preparation for strong physical readiness and targeted financial planning. The law of marriage was originally permissible (*mubah*), in the sense that it was not required but also not prohibited. Based on the change of *illat* or circumstances of each person who wants to do marriage, the marriage law can be *sunnah*, obligatory, *makruh*, and *haram*.[50] In this case, the ruling is *mubah* or permissible, meaning that if it is done or abandoned, it does not get a reward or there will be no sin.

Legal marriage becomes Sunnah when a person is seen in terms of his body is already possible to get married. In terms of material has been sufficient and can finance another life, then it becomes Sunnah. Whereas Shafi'i scholars consider it Sunnah for people who do it with the intention of gaining peace of mind and continuing offspring. Legal marriage becomes mandatory when viewed in terms of the cost of living is sufficient and in terms of physical already urgent. So if he does not marry, he will fall into adultery or other harm to himself and others, then for such a person it becomes obligatory. The ruling becomes *makrooh* if a person who is considered physically fulfilled, but not very urgent, and not ready financially, resulting in neglect of his wife and children. Marriage becomes haram when a person realizes that he is not able to carry out married life, carry out mental and biological obligations such as interfering with his wife..[51]

The scholars or *Ulama'* agree that the period of puberty in boys and girls is the limitation of their obligation to perform obligatory worship and other Shari'a. The male's puberty begins with *ihtilam* which is the first time semen comes out. Abu Hanifa said "the age limit for puberty is 19 or 18 years for boys and 17 years for girls". While the majority of scholars or *'Ulama* of the Maliki *Madhhab* argue that the age limit for puberty in boys and girls is 17 or 18 years. Imam Shafi'i, Ahmad, Ibn Wahab and Jumhur *Ulama'* argue that the age limit of both is after the perfect 15 years.[52] In this case, the teenagers who were married

[50] I. Sudiyat, *Asas-Asas Hukum Adat Bekal Pengantar* (Yogyakarta: Liberty, 1991).

[51] Hamdani, *Risalah Al-Munakahah*, Hal. 21.

[52] Al-Asqolani Ibnu Hajar, *Fathul Ba'an, Penjelasan Kitab Shahih Al-Bukhori*, Jilid 15 (Jakarta: Pustaka Azzam, 2006), Hal. 105–7.

were between 15-18 years old, and they admitted that they had passed their first puberty,[53] so they decided to get married at the end of their youth.

It is a condition of marriage unless the person marrying her is her guardian. So in this view, underage marriage is permissible as long as the one who marries is his guardian, the consequence of this kind of argument is logical because a minor has not been able to choose a life partner and therefore the guardian has a responsibility in choosing his life partner. Related to this, the concept of ijbar rights is known. In the jurisprudence of Shafi'i *Madhhab*, Maliki and Hambali, the right of *ijbar* is the right of *wali* (marriage guardianship for women, consisting of the father, grandfather, uncle, older brother or younger brother of the Paternal Line party). In Shafi'i *Madhhab*, the father or grandfather is the right of the guardian who can marry his daughter to his prospective bridegroom, as long as she is not a widow. According to the *Madhhab* of Maliki, Shafi'i and Hambali, the right of *ijbar* is applied to adult women. The right of *ijbar* other than because of the will of the daughter herself, can also be done by her father or grandfather on condition that there is indeed a benefit (good interest). Syafiiyah *Ulama'* say that to be able to marry underage boys required the existence of benefits. As for women, there are several requirements, including: 1. There is no real animosity between her (female) and her guardian, namely her father or grandfather; 2. There is no real animosity between her and her future husband; 3. The candidate must be Sufi (suitable or equivalent); 4. The husband is able to provide a suitable dowry; 5. Based on the Civil Code (KUHP).[54] In this case, the pelau underage marriage in the village of Kalirejo syarata-these requirements have been met by each party of the bride and her family. So with full awareness of the prospective bride and groom agree and agree to these conditions, and submit fully to their father as a guardian so that their marriage is valid in the eyes of religious law.

This wali mujibur concept application requires many ways. Among other things, there is no obvious enmity between the guardian and the child, the child does not engage in enmity with a potential partner who is either overt or not, the candidate must be equal or sekufu and rich. The definition of rich is being able to fulfill obligations as a husband and being able to pay dowry. If these four conditions are not met, the marriage is invalid. Sahal Mahfudh overlaid it with philosophical thought, namely the purpose of marriage in order to build a household mahligai sakinah mawaddah warahmah. This great purpose must be accompanied by a process of compassion and humanization of man. Sahal Mahfudh drives a Hadith that explains that the prophet gave freedom for women to determine the husband of her choice, should not be forced by his parents. This Hadith shows that the consent of the child is very important in the process of marriage, as it relates to one's life in the long run. This opinion is reinforced by the assumption that every human being has the right to determine his own destiny. Man does not only consist of a body but a soul and feelings, so his happiness becomes perfect if both elements are fulfilled in a balanced way. Both elements influence each other, so in any decision-making must be considered. Included in this problem

[53] Nurmahmudah, *Observations and research interviews Kalirejo Village.*

[54] H. Muhandid, *Fiqh Perempuan "Refleksi Kyai Atas Wacana Agama & Gender"* (Yogyakarta: Kertas LKIS, 2021), Hal. 70–71.

is marriage.[55] Hadith of the Prophet Muhammad, which emphasizes the process of humanization by giving rights to the physical design of man, his feelings and soul. The substance of thought highlighted Sahal is *sakinah, mawaddah warahmah,* then this concept should color the entire legal product. Progressive ideas deserve to be appreciated because they aim to establish substantial benefits, not just artificial-symbolic. This is in accordance with the rules *taghayyurul ahkam bi taghayyuril amkinah wal azminah wal ahwal,* namely changes in law due to changes in place, time, and circumstances.[56]

Dispensation of marriage age is regulated in Article 7 Paragraph 1 and Paragraph 2 of Law No.1 of 1974. Dispensation as referred to In Law No. 1 of 1974. This means that the minimum age of marriage has been set by law, which is at least 19 years for men and 16 years for women. Therefore, if a man or woman who has not reached the age but wants to enter into a marriage, the court or other official appointed by both parties may provide the determination of the dispensation of the age of marriage if the application has met the specified conditions. If it is seen from the review of Fiqh law from the opinions of the scholars or *Ulama'* and the law, taking into account the conditions and context that are being experienced by these teenagers, then they are legitimate to submit an application for an increase in age, so that the marriage is officially accepted and in accordance with the requirements of the state administration.

Rules *adz-dzara'i,* that is a Fiqh rule which states that the law of an act is closely related to the consequences that it entails. So Islam forbids adultery and all acts that are close to adultery, although not everything that is close to adultery will certainly commit adultery and not everyone who commits adultery is caused by something that leads to adultery. However, in this context, preventive measures are needed, on the basis of the assumption that everything is caused by a process or steps and stages that precede it, in addition to supportive situations.[57] One of them is promiscuity, frequent intercession, not covering the ' awrah properly, then all this is haram, because it causes them to fall into adultery, and it is experienced by some of these teenagers who apply for a dispensation of marriage. Reinforced with rules *lil-wasa'il hukm al-maqasid,* the law of actions that are intermediate in nature is the same as the goal, because it is the intermediary or means that will be used to achieve the goal. If the goal is prohibited, then using the means in the direction of the goal is also prohibited. This application is very wide, especially in demoralizing conditions, so that promiscuity that can not be repaired, then the anticipation that can save the most that should be chosen.

The purpose of reflection and application of this method of jurisprudence in the case of underage marriage in the village of Kalirejo, namely to provide an understanding to the public at large, that efforts to explain Islamic law in a simple manner should be sought and widely disseminated, especially against legal terms that are foreign to ordinary people. Explanation using a simple analogy is very helpful to facilitate the delivery of understanding

[55] Mahfudh, *Dialog Dengan Kiai Sahal, Solusi Problematika Umat.*

[56] Asmani, *Mengembangkan Fikih Sosial KH. MA. Sahal Mahfudh Elaborasi Lima Ciri Utama*, Hal. 128–29.

[57] Mahfudh, *Dialog Dengan Kiai Sahal, Solusi Problematika Umat.*

to citizens. The method by explaining the cause-and-effect of an event and an interrelated law is also very helpful.

Verification of ushul and furu': perspective of Islamic law reform

The dynamics of the Times and changes in globalization bring serious challenges to the existence of Islamic law. *Ushul* is a fundamental teaching, while *furu'* is an instrumental teaching. The teachings that fall into the category of usul are teachings that are born from the arguments of *qath'i* and are in accordance with the *maqashid of shari'ah*. The proposition that *qath'i* is that shows the meaning clearly and there is no possibility of another meaning, as in the case of punishment for the perpetrator of adultery, for inheritance and *zakat nisab*. While *furu'* is a teaching that was born from the postulate of *dhzanni* that is flexible and dynamic. The evidence of *dhzann* is evidence that shows one meaning but there are other possible meanings, such as the pronunciation of *musytarak, 'am, mutlak* and guidance *amar* or *nahi*.

This principle is a way to find out which ones enter the territory of *uhsul* (which cannot undergo changes or *taghyir* and does not become *majalul-ijtihad* or the object of *ijtihad*), and *furu'* (which can undergo changes, according to the demands of space and time and is *majalul-ijtihad*). According to the theory of Islamic law, the law is divided into two. *First*, the law that the method of taking it by way of *ijtihad*. *Second*, the law that takes it with a definite way (*qath'i*), do not use *ijtihad*. Discussions that do not use *ijtihad* are like Allah is one, obligatory prayers five times a day, zina is *harama*, etc. This second law is not discussed in jurisprudence or Fiqh.[58] *Ijtihad* in the Organization of Nahdatul Ulama as something sacred, because it became the authority of the mujtahid with high scientific qualifications,[59] even now it is almost impossible to find a *mujtahid* who has the competence of *ijtihad*. Therefore, the best step is *taqlid* on the results of the *mujtahid's ijtihad* that has been written in the books of *mu'tabar* (competent) which is commonly studied in boarding school and become a reference in the *bahtsul masail* forum. The *imams* of the *madhhab* have been tested for their credibility and sophistication of thought in history. However, *taqlid* also has a weakness, the weakening of the creativity of the scholars or *'Ulama'* as a consequence of the very strong dominance of *Madhhab* thought that is believed to be able to face change and development of the times.[60] So the verification of *ushul* and *furu'* is a compromise between *ijtihad* and *taqlid* (following blindly).

Sahal Mahfudh argues that there is almost no permanent law unless the arguments extracted from the agreed arguments called *qath'i* are limited in number. The Qur'an and Hadith do not increase in quality and quantity. While the problems continue to develop after the Prophet's death, the laws established are based on the Qur'an and Hadith and refer to the formulation of *maqashid shari'ah*. In social life in all aspects, except those that are pure

[58] M. b. al-Maliki, *Fikih Sosial Kiai Sahal Mahfudh, Antara Konsep Dan Implementasi* (Surabaya: Khalista, n.d.), Hal. 11.

[59] K. M. Mahfudh, *Nuansa Fikih Sosia* (Yogyakarta: LKIS, 1994), Hal. 40–41.

[60] Ahmad Arifi, *Pergulatan Pemikiran Fikih Tradisi Pola Madzhab*, Cetakan ke-2 (Yogyakarta: eLSAQ press, 2010), Hal. 169–73.

ubudhiyah, the benefit must be taken into consideration. This is because the duties of worship can be carried out properly by maintaining the stability of the benefit.[61] So to understand the contextual teachings of Islam requires the ability to understand the situation objectively, the development of formal law, the development of science and social standards, all *mujtahids* are people who care about social welfare. When viewed from this discussion, usul is a law established by the definite postulate of *qath'i* in Islamic studies, such as the obligatory prayer 5 times a day, *haram* stealing, *haram* usury etc. So if there is a case that leads to adultery which is illegal, then it must be prevented. Such a thing no longer needs to be discussed and debated, as well as in *ijtihad* and *taqlid*, there are areas where *taqlid* is a necessity, as is known religion with certainty (*ma'ulima min al-din bi al-dharurah*), for example, adultery is haram, then there is no need to argue again. The reason is if *ijtihad* is done on this issue it will cause controversy, and deviates from the specified corridor. Thus causing the division of the *ummah*, because this issue has been agreed by the scholars or *Ulama'* across generations (*ijma'*).[62] It is different with forced marriage, because it is included in the *furu'*. Separation like this must be understood, for ordinary people who do not understand this method of course they can not participate in the making of the law because they do not have these skills. So their understanding rationally and based on the study of scholars or *Ulama'* based on empirical evidence and scientific data jurisprudence law is considered sufficient as an anticipation of the *taqlid* (follow blindly). So for religious leaders in the village of Kalirejo, can follow this middle ground that is legal verification *ushul* and *furu'* in deciding a case, so that the decision is not subjective, and impressed "pampering" in accordance with the wishes of the community.

Integration of child marriage social jurisprudence paradigm towards national sdgs targets

Sustainable Development Goals (SDGs) or also known as Sustainable Development Goals or "*Tujuan Pembangunan Berkelanjutan*" (TPB) undertaken by local governments as a key player in the achievement of the 2030 Agenda. The Localise SDGs Program, implemented since 2018, seeks to strengthen the capacity of local governments and local government associations and DPRD to improve governance and develop more effective development policies, as well as promote inclusive and sustainable regional development through the achievement of TPB. The programs they discussed aim to strengthen the capacity of local governments and their associations in implementing TPB throughout Indonesia, as well as networking with local and foreign governments and other development actors.[63]

Historically, classical jurisprudence generally did not set a specific minimum age for marriage because maturity indicators were measured through puberty. The results of the

[61] K. M. Mahfudh, *Wajah Baru Fikih Pesantren, Edt. Aziz Hakim Saerozi* (Jakarta: Citra Grafika, 2004), Hal. 38–39.

[62] Asmani, *Mengembangkan Fikih Sosial KH. MA. Sahal Mahfudh Elaborasi Lima Ciri Utama*, Hal. 66.

[63] "Tentang Kami - Localise SDGs Indonesia," accessed October 26, 2026, https://localisesdgs-indonesia.org/tentang-kami.

study of marriage age limit based on Law No.16 of 2019 and Q.S. al-Talaq verse 4, with the approach of *maqasid syariah* Jasser Auda found that between positive laws that set an age limit of 19 years and Islamic law does not provide an age limit of 19 years or explicitly limit it, but emphasizes physical, mental and emotional maturity. Social jurisprudence, pioneered by the scholar Sahal Mahadh, emphasizes that Islamic law should be oriented to the benefit of the Ummah (*maslahah*) and sensitive to real social problems. When integrated with the National SDGs, this concept becomes a powerful religious instrument to support state policy.

Contemporary scholars agree on the concept of *taqyidul mubah* (restriction of *mubah* by the government for the public benefit). Relation in realizing the National SDGs targets in the principles of *maqasid syariah*, including:

a. The right of the government as *Waliyyul Amr*: as for the term, ulil amri is every person who has legitimate power according to Islamic law both power in the scope of large and small, general and special. *Ulil amri's* core obligation is to achieve the leadership goal of upholding the religion of Islam and regulating the affairs of Muslims with Islamic law. The right of *ulil amri* is obeyed and defended as long as he does not leave the prayer and as long as he judges by the law of Allah. *Ulil amri* criteria as the highest leader in the Islamic State are: Muslim, independent, *baligh*, intelligent, male, knowledgeable, *'adālah* (justice), have skills. The main source of this study is the *"Jāmi' Al-Bayān fi Ta'wīl Āyi Al-Qur'ān"* by imam Ibn Jarīr Al-abarī and other data from various references including books of *tafsir*, Hadith, *aqidah* and others relevant to the theme to be studied. So in this case, the government has the right to be respected as long as the rules issued do not violate the law of Public Interest (*an-nas*).

   The government has the right to regulate regulations, such as the age limit of 19 years in Indonesia. If the argument is avoided, so it (*mubah*) can lead to widespread social damage (*mafsadah*). So that the limitations in realizing the SDGs 5 target to achieve gender equality and empower all women and girls are valid, and need to be supported as widely as possible. The consideration is of course welfare for others, Justice and protection for women and children themselves for their future.

b. Financial and physical readiness (*Ba'ah*). The obligation of maintenance (financial support) in Muslim marriages has been firmly established in classical Islamic jurisprudence and nonetheless remains a central aspect of contemporary Islamic Family Law debates. Prophet ordered marriage for those who already have a *ba'ah* (inner-born ability). Children are not considered to have the comprehensive ability to assume household responsibilities. The law of jurisprudence: *"A leader's policy towards his people should be based on the benefit"* (*Tasharruful imam 'alar ra'iyyah manuthun bil maslahah*), from this principle, government policies, including judges representing the government, must decide cases based on context, to avoid problems that arise and avoid the impact of problems that are increasingly widespread and entrenched so that they are more difficult to overcome. Of course, the solution is also adapted to a just humanist approach, aimed at the good of others. Imam Al-Shafi'i's *fatwa* on the principles of the rule: the benefit of

religion, the benefit of the soul, the benefit of reason, the benefit of heredity and the benefit of wealth.[64]

c. When underage marriage is medically and socially proven to bring structural poverty (SDG 1) and hunger/malnutrition (SDG 2), then preventing underage marriage becomes mandatory by Sharia regulations in order to avoid tyranny against children's rights. For example, in terms of the health of young mothers who are pregnant at a young age are more susceptible to disrupting their mental and physical health.[65] Divorce lawsuit Data is indeed some due to living problems, especially during the Covid-19 pandemic, which puts more pressure on households.[66]

SDGs Target point 5.3 focuses on eliminating all harmful practices, such as the negative consequences of underage marriage. On the Islamic perspective, this target is in line with *maqasid syariah* (the main objective of Islamic law), explained below:

a. *Hifdzun-Nafs* (Safeguarding the psyche): underage marriage provokes a high risk of maternal and infant mortality and mental disorders. Jurisprudence forbids all actions that endanger one's life, so if this marriage actually results in damage to the body and soul, then it is better to avoid and the law can be makrooh and even haram, depending on the reasons proposed. Some of the problems in underage marriage include factors that drive the rise of child marriage, its effect on education, the occurrence of domestic violence, the impact on reproductive health, children born and the psychological health of children, as well as legal review related to child marriage.[67] Findings Fitriyani Bahriyah, et al. studies show that feelings of loneliness, love, respect, and lack of independence have pushed adolescents to engage in underage marriage. Other evidence suggests that underage marriage contributes to limited access to health services, lack of autonomy in decision-making, miscarriage, divorce, domestic violence, poverty, school dropout, and psychological disorders. It can be concluded that underage marriage has negative health and psychological consequences for adolescents.[68]
b. *Hifdzul-Aql* SDGs targets encourage girls to stay in school in order to get education and general knowledge as a means of life when they grow up. Islam itself requires seeking knowledge for men and women. So marrying a child to cut off his right to education is contrary to Islamic principles. Young women with low knowledge are 2 to 3 times more

[64] Achmad Musyahid Idrus, "Kebijakan Pemimpin Negara Dalam Perspektif Kaidah Fikih : Tasarruf Al-Imam Manutun Bil Maslahah," *Al-Daulah : Jurnal Hukum Pidana Dan Ketatanegaraan* 10, no. 2 (December 2021): Hal. 123–37, https://doi.org/10.24252/ad.v1i1.26278.

[65] Dini Fadilah, "Tinjauan Dampak Perkawinan Dini Dari Berbagai Aspek," *Jurnal PAMATOR Jurnal Ilmiah Universitas Trunojoyo* 14, no. 2 (2021): Hal. 88–94.

[66] Nurmahmudah, "Analysis Of Causing Factors Divorce In Indramayu District, 2018 (Case Study In The Religion Court Of Indramayu District In 2018).," *Mahakim: Journal of Islamic Family Law,* 2, no. 2 (2018).

[67] Elisabeth Putri Lahitani Tampubolon, "Permasalahan Perkawinan Dini di Indonesia," *Jurnal Indonesia Sosial Sains* 2, no. 05 (May 2021): Hal. 738–46, https://doi.org/10.59141/jiss.v2i05.279.

[68] Fitriyani Bahriyah, Sri Handayani, and Andari Wuri Astuti, "Experience of Early Marriage In Developing Countries: Scoping Review," *MIDWIFERY AND REPRODUCTION* 4, no. 2 (March 221 AD), https://library.binahusada.ac.id/index.php?p=fstream-pdf&fid=709&bid=2920.

likely to marry underage.[69] Higher education will affect the mindset of women in solving problems, they will be more independent and more valued. Conversely low knowledge tends to focus himself to marry young.[70]

c. *Hifdzun-Nasl* (Guarding offspring): Islam commands to give birth to strong offspring physically, mentally, and economically. Underage marriages that are not ready often give birth to children who experience stunting and neglect, so if it is not accompanied by mental, physical and economic readiness, then underage marriages become makrooh, and may even become haram, depending on the resulting consequences, the more negative or severe the consequences, then the law will increasingly limit it. The purpose of Islamic law is to protect the ummah from all harm, both that which it knows now, and that which it does not know in the future. Organ production of women who conceive at an early age resulted in several problems, including: low newborn weight; injury at birth; complications of childbirth that have an impact on mortality; resulting in the child's education is not guaranteed due to economic factors that have not been established from each spouse; psychological health of the child is disturbed due to trauma and psychological because; the child will be at risk of delays in development.[71] Pregnancy in adolescence also has an influence on malnutrition.[72]

The above targets have the same principles as Islamic social jurisprudence, in anticipating risks as a form of protection. These programs will not run smoothly at the lowest level, especially in villages that are still very strong in their religious attitudes, if religious leaders are not invited to take a role in the awareness of their community from the religious side. Then the driving force of religious figures became very important as the spearhead of the movement for change in society. Changing the perspective of religious counseling or Kiai in the community, as well as to actively campaign for the Prevention of underage marriage through a humanist and transformative religious approach will greatly support the success of achieving the SDGs targets.

The support must also be accompanied by cultural deconstruction through emancipative education, such as increasing equality literacy, justice and women's empowerment to become independent. Socializing the importance of maintaining personal

[69] Eka Yuli Handayani, "Faktor Yang Berhubungan Dengan Perkawinan Usia Dini Pada Remaja Putri Di Kecamatan Tambusia, Kabupaten Rokan Hulum," *Jurnal Maternity and Neonatal* 1, no. 5 (2014): Hal. 203, https://www.neliti.com/id/publications/138444/faktor-faktor-yang-berhubungan-dengan-perkawinan-usia-dini-pada-remaja-putri-di.

[70] Rima Hardianti and Nunung Nurwati, "Faktor Penyebab Terjadinya Perkawinan Dini Pada Perempuan," *Jurnal Pekerjaan Sosial* 3, no. 2 (2020): Hal. 118, https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://journals.unpad.ac.id/focus/article/download/28415/14867&ved=2ahUKEwjPkdKs9NaXAxUdxKACHTjZMOkQFnoECCEQAQ&usg=AOvVaw2BuxORS7Y36_ZRUZy1vO_6.

[71] Mubasyaroh, "Analsis Faktor Penyebab Perkawinan Dini Dan Dampaknya Bagi Pelakunya. J," *Jurnal Pemikiran Hukum Dan Hukum Islam* 7, no. 2 (2016): Hal. 404–9, https://journal.uinsuku.ac.id/index.php/Yudisia/article/view/2161.

[72] Syahrul Mustofa, *Hukum Pencegahan Perkawinan Dini* (GUEPEDIA, 2019), Hal. 144, https://books.google.co.id/books?id=c8yPDwAAQBAJ&printsec=frontcover&hl=id&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.

health both mental and physical in carrying out the role of housekeeping, campaigning for financial and emotional independence to bring about mutual well-being. For the sake of the common good, cooperation between institutions and the support of all parties is important in the success of government programs..

D. Conclusion

The results of this study show that underage marriage in Kalirejo village is caused by several things, first the system built by the community that they are not aware of, becomes a deep-rooted social "fairness", secondly the role of religious leaders is the most fundamental, which provides the strongest verbal and practical legitimation to the community most affected by the practice of underage marriage.

Application of social jurisprudence Sahal Mahfudh in the settlement of cases of underage marriage in this village, several methods of jurisprudence are recommended to be applied: 1. The change from textual to contextual towards classical Fiqh texts that are often used by the village religious leaders in issuing "*fatwas*" as the social and cultural legitimacy of the local community. 2. Changing the method from the *Qauli Madhhab* tradition to the *Manhaji Madhhab*, so that the religious leaders in the village have a rational basis and a scientific method in Fiqh in the formation of law. 3. If the difficulty in following *ijtihad*, then the religious leaders at least able to verify the law *furu*' of the law *Ushul*.

The integration of social jurisprudence based on maqashid Shari'ah in its legal essence supports SDGs programs, especially on the pillars of gender equality (SDG 5), welfare (SDG 3) and quality education (SDG4): *Hifdzun-nafs* (safeguarding the soul), *Hifdzul-Aql* (safeguarding reason/Education), *Hifdzun-Nasl* (safeguarding offspring).

Recommendations from the results of this study: 1. Spread of Islamic law by analogy and easy to understand language, 2. There is a need for an increase in the level of knowledge and skills of religious leaders in the Fiqh method. 3. Deconstructing culture through emancipative education. 4. The reconstruction of social jurisprudence law can be used as a basis for public policy and social ethics that are more bottom-up, so that the law remains alive with the values of society that are more practical, humanist and philosophical.

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