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Islamic Perspectives on Age of Consent: An Analytical Study in the Contemporary World

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Setting and harmonizing the minimum age for sexual relations has become a public outcry led by international humanitarian organizations. Neither the classical religious laws nor the laws of ancient societies, as seen today in many Muslim and non-Muslim countries, had a harmonized age of consent. Although the idea dates back to the Industrial Revolution, its goal has traditionally been attributed to individual societies to protect children from sexual exploitation and deprivation of basic human rights. Recent research into child abuse and exploitation has shown that the number of child abuse cases is increasing rapidly. This consequence has led to United Nations humanitarian organizations calling for the age of consent to be harmonized to 18 years. However, this idea has not found global consensus. Different countries and states have different ages of consent, which are influenced by factors such as individual maturity, cultural differences, parental rights, legal clarity and social norms. This article conducts an in-depth documentary analysis to examine the age of consent from an Islamic perspective in today's society, based on the Islamic Maqasid Sharia. Literary works suggest that early marriage and the protection of girls from exploitation and fundamental rights are the main reasons for the global demand for harmonization of the age of consent. However, the paper notes that age of consent harmonization alone cannot adequately address child exploitation. Studies have shown that child abuse, including rape, occurs at the early stages of learning and voluntary sexual relationships between children often begin as early as primary school. Given these findings, the paper recommends that age of consent determination should be delegated to countries or states in consultation with their religious institutions. The aim is to ensure that setting the age of consent benefits and does not harm individuals, as traditional norms and cultural realities are best understood by local citizens and religious leaders. Furthermore, the paper emphasizes that moral values should be a primary concern in solving this problem, supported by faith-based teachings and behaviour education through schools and religious gatherings.

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INTRODUCTION

Age of consent to sexual relations is the most common debate prevailing globally. By law, especially from human rights organisations' perception, it's debated and argued that children cannot consent to sexual conduct with adults. Proposals to recognize otherwise should be classified as what they are: an attempt to advocate for revising the age of consent law based on age and development, since children – even adolescents – cannot fully appreciate the nature and consequences of serious decisions, which is why many areas of law general medical care, contracts, military services do not ordinarily allow children to consent (Katherine Drabiak, 2023).

The establishment and harmonization of the age of consent to sexual relations has become a significant public concern, driven by international humanitarian organizations such as UNICEF (2016) and UNFPA (2020). Historically, neither religious classical laws nor the laws of ancient societies, as observed in many Muslim and non-Muslim countries today, had a unified age of consent to sexual relations (Parrot 2021). Although the concept of the age of consent dates back to the Industrial Revolution, its determination and setting were entrusted to individual societies with the aim of protecting children from sexual exploitation and

deprivation of basic human rights (UN Convention on Age of Marriage 1964).

Recent research on child abuse and exploitation has shown a rapid increase in child violations. The persistence of these acts has compelled humanitarian organizations under the United Nations to advocate for the harmonization of the age of consent to 18 years. However, this idea has not achieved consensus since its inception. Different countries and states have varying ages of consent, as revealed in studies conducted worldwide (UNFPA 2020, ageconsent.net/world). Reasons for these differences include individual maturity, cultural differences, parental rights, legal clarity, and social norms.

This paper employs an in-depth documentary analysis to examine the age of consent from an Islamic perspective in contemporary society, focusing on Islamic Maqasid Shari'ah. Literary works indicate that early marriages, protecting the girl child from exploitation, and ensuring basic rights are the primary motivations for the global call to harmonize the age of consent. However, the paper concludes that child exploitation cannot be effectively addressed solely by harmonizing the age of consent, as studies have shown that child abuse related to rape cases occurs even at early stages of learning. Additionally, other studies have found that

voluntary sexual relations among children begin as early as primary school.

Despite the global advocacy for harmonizing the age of consent, there remains a gap in achieving a universal consensus due to varying cultural, social, and religious perspectives. The main objective of this research is to analytically determine the reality of harmonizing the age of consent globally. The guiding research questions are:

- i. What is meant by the age of consent and its historical background?
- ii. Why should the age of consent be harmonized globally?
- iii. What are the major religions' rulings on the age of consent?

By answering these questions, the paper aims to provide a comprehensive analysis that can inform policy decisions and promote a better understanding of the complexities surrounding the age of consent.

MATERIALS AND METHODS

The researcher used an ontological qualitative design to explore the complex realities surrounding the age of consent. This methodological approach is based on the understanding that reality is socially constructed and varies in different cultural and social contexts. By focusing on ontological questions, the research aims to uncover the underlying beliefs, values and assumptions that shape perceptions of the age of consent. In this study, the researcher systematically analyzed a large number of articles and documents on the topic of the age of consent. This analysis included peer-reviewed journals, reports from international organizations, and existing literature on the topic. The aim was to gain a comprehensive understanding of the various factors that influence the age of consent, such as cultural norms, legal frameworks and societal attitudes (UNICEF, 2016; UNFPA, 2020). In addition, the researcher examined the current social realities regarding the age of consent and revealed differences in how different societies approach this issue. Using Islamic Maqasid Sharia as a theoretical lens, the research examined how

Islamic principles and values intersect with contemporary debates about the age of consent. This framework provided a nuanced perspective on how Islamic teachings can influence and guide the harmonization of the age of consent in different cultural contexts (Parrot, 2021). The methodological process involved rigorous document analysis, where each document was carefully reviewed and coded to identify key themes and patterns. This qualitative approach enabled the researcher to capture the richness and complexity of the data, thereby gaining deeper insights into the complexities of the age of consent. Using this ontological qualitative design, the researcher was able to shed light on the different dimensions of the age of consent debate and provide a detailed and culturally sensitive analysis that contributes to the broader discourse on child protection and human rights.

FINDINGS AND DISCUSSION

Age of Consent to Sexual Relations

The minimum age for sexual relationships is a much-discussed topic around the world. From the perspective of human rights organizations, it is argued that children cannot consent to sexual behaviour towards adults. Proposals to recognize otherwise are often viewed as attempts to advocate for revisions to the age of consent laws based on age and development. This is because children, including adolescents, cannot fully appreciate the nature and consequences of serious decisions. This principle is reflected in many areas of law, such as general medical care, contracts, and military service, where children's consent is not normally permitted (Katherine Drabiak, 2023). Although the age of consent for sexual relations is not specified in medieval classical laws, the protection of children from violence and exploitation was observed within social norms. Religions have always advocated preserving human dignity and only engaging in sexual relationships during puberty and maturity.

Sexual acts before maturity and outside of marriage are considered violations and are punished (James 1:27, Ephesians 6:4, Quran 24:2, 18:22). Most countries have complied with the request to harmonize the age of consent. They have enshrined the age of consent in their marriage laws through their constitutions. However, the debate over harmonizing the age of consent continues. For example, India increased its age of consent from 16 to 18 by passing the Child Sexual Abuse Act in 2012 and made significant changes to the rape law in 2013. Several reforms have been introduced to improve gender sensitivity in rape trials (Amita Pitre & Lakshmi Lingam, 2022). In the United States, as in other countries in Europe, Asia and Africa, the determination and determination of the age of consent is left to individual states. Each state sets the age of consent (worldatlas.com/society/age-consent, 2024, [vesrsustexas.com/blog/age of consent by state](http://vesrsustexas.com/blog/age-of-consent-by-state), 2024). Various countries have followed suit and set the age of consent in their marriage laws as required by their constitutions. Religious organizations hold different opinions on setting an age of consent and see it as a violation of individual rights. Therefore, this article addresses the age of consent in contemporary society from an Islamic perspective based on Maqasid Shariah and uses an ontological qualitative research design.

Religion and Age of Consent

Historically, the age of consent for sexual relations in the world is found neither in religious classical laws nor in general temporary laws of ancient societies, such as those seen in many Muslim and non-Muslim countries today. The appropriate age of consent in traditional premodern societies was determined and determined either by individual families or by local customs, which were often associated with signs of physical puberty such as menarche and pubic hair. There has been no uniformity in this area of law as societies' circumstances, resources, concerns and even priorities differ. For example, the 12th century Decretum Gratiani placed consent at an unspecified

age of discretion and recognized that sexual relations and marriage could occur as early as seven years of age (John T. Noonan & Augustine Thompson, 1993). Some Christian sources state that Mary was married to the ninety-year-old Saint Joseph when she was twelve or fourteen (Charles G. Herbermann, 1913). As late as the mid-19th century, British offences against the person law legally permitted sexual relations with twelve-year-olds (Matthew Waites, 2005). Around the same time, each state in the United States established its own criminal law, with the age of consent being between ten and twelve years old. It was only at the beginning of the late 19th century, driven by the rapid economic growth and technological development of the Industrial Revolution, that attitudes changed to set the age even higher (Stephen Robertson, 2021).

The Minimum Age for Marriage According to Islam and Christianity

Marriage in Islam and Christianity is a marital agreement and a union that involves sexual intercourse between a woman and a man for the purpose of procreating children, spreading love, mercy, passion, secure togetherness and the existence of families known as such apply, legalizes an integral unity in society (Quran 30:21). Just like the Hindu religion, Islam and Christianity are also great supporters of marriage. In both Islam and Christianity, marriage is a divine obligation. A person marries to fulfil the desire to legitimately produce children in addition to sexual satisfaction in order to preserve the genealogy. In fact, through marriage, Almighty Allah ensures the continued existence of all living beings (Said Sabiki 2:7). In both Islam and Christianity, an age of consent has not been established and established for either men or women, although cases confirming early marriages have been cited.

In Christianity, it is reported that the 12th century Decretum Gratiani mandated consent at an indefinite age of discretion and recognized the

possibility of sexual relations and marriage occurring as early as the age of seven (John T. Noonan & Augustine Thompson, 1993). The opinion of this judgment was probably derived and inferred from the Bible verse which states: "Joash was seven years old when he began to reign, and he reigned in Jerusalem for forty years." His mother's name was also Zibiah of Beersheba. And Joash did that which was right in the sight of the LORD, as long as Jehoiada the priest lived. And Jehoiada took two wives; and he begat sons and daughters" (2 Chronicles 24:1-3 [KJV]). It is also reported that Mary, the mother of Jesus, was married to a ninety-year-old Saint Joseph when she was 12 to 14 years old (Charles G. Herbermann, 1913). In Islam, Aisha, the daughter of Abubakar Swidiq (peace and blessings of Allah be upon them), was given to Prophet Muhammad (peace and blessings be upon him) at the age of nine (Ibn Kathir 4:327-8).

Alternatively, both religions have recommended marriage at an early age. It's argued religiously that marriage at an early age prevents one from committing sins making him/her both physical and moral chastity. Allah says: - *"And they who guard their private parts. Except from their wives or those their right hands possess, for indeed, they will not be blamed."* (Qur'an 23:5-6)

Marriage saves one from committing serious sins such as fornication, which is the root cause of many other problems such as sexually transmitted diseases, unwanted pregnancies, children born out of wedlock and school dropouts. Since people undoubtedly feel certain impulses when meeting the opposite sex, most religions recommend early marriage if someone is unable to effectively satisfy their sexual needs. Marriage serves as an escape route for sexual urges and controls them so that one's desires do not become such a subject. From the above evidence, it can be easily judged and deduced that puberty, general maturity, intelligence, the ability to distinguish between good and evil and the ability to accept or reject important life decisions are the determining factors for the age of consent.

In fact, the Bible teaches that a woman must go through puberty before she can marry, as shown in the following stories in both the Old and New Testaments: "I have multiplied you like the bud of the field, and you have grown and grown." great, and you have attained to splendid adornment; your breasts are adorned, and your hair has grown while you were naked and naked. As I passed by you and looked at you, behold, your time was the time of love; and I spread my garment over you and covered your nakedness. Yea, I have sworn unto thee, and made a covenant with thee, saith the Lord God, and thou hast become mine." (Ezekiel 16:7-8 [KJV]) In the above Old Testament passage from Ezekiel we read of God's love story with Israel. He presents himself as a wealthy man who finds a little girl who has just been born and leaves her lying in a field. He takes her into his home as a ward and when she reaches puberty (growing breasts and pubic hair), he declares that "your time was the time of love" and takes her as his wife (<https://Biblicalgenderroles.com-consent>). In the New Testament, the Apostle Paul tells a similar story of a man with a young woman who is his ward and to whom he is attracted: "But if anyone thinks that he is behaving indecently towards his virgin when she passes by. " the flower of her age, and must demand it, let him do what he will, he sin not: let her be married." (1 Corinthians 7:36 [KJV]) When it says "survive the flower of her age" that is what it means literally "ripe," as in when a fruit is ready to be picked and eaten. Like Ezekiel 16:7-8, it refers to the fact that she has reached puberty and is now ready for marital love. So, according to both the Old and New Testaments, a girl must first reach puberty before she can marry, and when a girl reaches puberty, she is no longer considered a child but is now a woman (<https://Biblicalgenderroles.com-Approval>). Islamic Relief, an international aid organization, considers 18 to be the minimum age at which young people today have sufficient maturity to assume marital responsibilities, create healthy families, and protect

themselves from the harm caused by early marriage (www.islamic-relief.org 2018).

The Bible Says a Father Determines When His Daughter Marries

There was a second factor in determining a woman's age at the time of her marriage, and we find this in the book of Exodus: 16 And if a man entices a maidservant who is not betrothed, and sleeps with her, he will marry her the gift of security is being his wife. 17 If her father utterly refuses to give her to him, he shall pay money according to the dowry of the virgins. (Exodus 22:16-17 (KJV) Today, the culture views a father's blessing for his daughter's marriage as a kind tradition and nothing more. Fathers are expected to put their stamp on any man their daughter says she wants to marry because, after all, it is her life, her body and the right of her choice that God has fathers given authority over whom their daughters may marry, although a father's authority over his daughter varies in some important respects. Raise her and prepare her for her future husband's lifetime, just as a man's authority is supposed to be for life. So, if a father prevents his daughter from marrying until adulthood, if he keeps her in his home, he has, in the role God has given him, failed. He sins against God and his daughter by preventing his daughter from following God's first command to \ be fruitful and multiply\ (Genesis 1:28) (Biblical Gender Roles).

Arguments for and against Setting a Specific Age of Consent

Reasons debated on whether setting or not setting a specific age of consent for sexual relations

Several international organizations, whether governmental or non-governmental, have come up with several reasons in support of setting the age of consent for sexual relations or not. The reasons considered in their arguments while debating this issue are as follows:

- Protection from exploitation. It is believed that by establishing a legal age of consent, the

protection of minors from sexual exploitation and abuse by adults will be achieved.

- Legal clarity. Establishing a specific age of consent will provide clear legal guidelines, making it easier to prosecute offenders and protect victims.
- The health and well-being of younger individuals may not be emotionally or physically ready for sexual relationships, and a set age can help safeguard their health and well-being.
- Consistency: A uniform age of consent ensures consistency in the application of the law, reducing ambiguity and potential misuse.
- Social norms which is the symbol that reflects societal norms and values, promoting a standard of behaviour that aligns with the community's expectations.
- Individual maturity varies at different rates, and a fixed age may not accurately reflect an individual's readiness for sexual activity.
- Cultural differences have varying beliefs about appropriate ages for sexual activity, and a single legal standard may not respect these differences.
- Parental rights; who should have the right to guide their children's decisions about sexual activity rather than the state imposing a specific age.
- Criminalization of consensual relationships between peers who are close in age can lead to unjust legal consequences by setting a specific age.
- Lastly, historical context provides historical evidence proving that the age of consent has varied widely, and some argue that modern laws should be more flexible to accommodate different historical and cultural contexts.

Balancing the Arguments

Many countries attempt to balance these arguments by setting an age of consent that reflects both the need to protect young people and the recognition of individual maturity. Some jurisdictions also provide age exceptions to avoid criminalizing consensual relationships between peers.

The age of consent to sexual relations in the Shade of *Maqasid Shari'a* (Objectives of Islamic Law)

The question of whether harmonization of the age of consent for sexual relations is clearly in the interests of minors or not. The evidence to support this can be easily deduced from the points and reasons presented above by both proponents and opponents. Islamically, the intent of Maqasid Sharia, which represents the higher aims and objectives of Islamic law, is limited to the benefit and interests of the people. Therefore, Sharia is based on the advantages of the individual and the community, and its laws are designed to protect these advantages and to facilitate the improvement and perfection of the conditions of human life on earth. The Qur'an expresses this when it highlights the main purpose of Muhammad's (peace be upon him) prophethood in the following words: "We did not send you as a mercy to the world" (21:107). This is also evident in the Qur'an's self-characterization, which is "a healing of the (spiritual) suffering of the hearts, guidance and mercy for the believers (and humanity)" (10:57). The two primary goals of compassion (rahmah) and guidance (huda) in the preceding verses are then supported by other provisions in the Qur'an and Sunnah that aim to establish justice, eliminate prejudice, and alleviate hardship. Justice itself is a manifestation of God's mercy and a goal of Sharia in its own right. Compassion (rahmah) is manifested in the realization of benefit (maslahah), which scholars generally consider to be the all-pervasive value and goal of Sharia and is in all respects equivalent to rahmah (M. Hashim Kamal, 2008).

The Evolution of the Divine Law, Marriage, and Maturity under the guise of benefits

Citing an example from Islam's second caliph, Umar al-Khattab (Allah be pleased with him), punishment for theft was suspended in response to a devastating famine that claimed many lives. Umar (Allah be pleased with him) realized that his citizens were starving and had to steal food to survive and banned punishment in the interest of his people's survival as an exemplary act of justice (Azhar Wan Ahmad, 2003). This decision was not arbitrary but rather was based on principles inherent in Islamic law itself: istihsan (judicial preference) and maslahah mursalah (public interest) with the intention of upholding Maqasid Sharia to protect the lives of citizens (Mohammad Kamali, 1991). Although not all potential moral dilemmas are addressed in the primary Islamic sources (Quran and Sunnah), these principles are mentioned and allow for a significant degree of independent reasoning when a moral question is ambiguous (mujmal) or can only be determined within specific contexts (Mohammad Kamali, 1991). Although conventional wisdom holds that a divine law must be outdated and unable to adapt to changing circumstances, Islam takes a very different perspective: if particular moral dilemmas depend on historical circumstances, then the Creator of all existence would naturally provide one suitable for them; moral codes formulate reality. To claim otherwise would be to limit God to a particular time, place and culture - something clearly uncharacteristic of Almighty Allah. Thus, a succinct definition of how Islam views law is a system with unchanging moral principles but flexible application. This can be examined by looking at how Muslim jurists derived their decisions regarding marriage from the Quran and Sunnah.

Starting with the primary source of Islamic jurisprudence, the Qur'an clearly sets a standard age for marriage, which excludes anyone outside of those parameters, Allah says: "*Test orphans until they reach marriageable age; then, if you find they*

have sound judgment, hand over their property to them. Do not consume it hastily before they come of age: if the guardian is well off he should abstain from the orphan's property, and if he is poor he should use only what is fair. When you give them their property, call witnesses in; but God takes full account of everything you do". (Al-Qur'an, 4:6)

From the above text, it is clear that the Quran has set an age limit for marriage. Unfortunately, the text remains unclear regarding a specific number. Muslim scholars, particularly in the field of Qur'anic exegesis (tafsir), already understood this ambiguity and what was meant by it. And from the commentaries of the exegete and jurist Ibn Kathir (d. 1373), it appears that he developed the consensus that the "marriage age" does not refer to a specific number, but to a physical development, namely the age of puberty (Ibn Kathir, 4:6). However, there are other nuances at play here regarding marriage and maturity. First, Islamic jurists distinguished two types of marriage: a contractual marriage and a consummated marriage. The former could be legally established at any point in a person's life and later revoked of his own will, regardless of whether he had reached legal maturity or not (Mahdi Zahraa, 1996). However, such a marriage prohibited any intimate contact between the engaged couple and would be comparable to an engagement today (Lynn Welchman, 2000). However, the latter form of marriage (or "full marriage") required that both parties be physically capable of engaging in sexual relations, as such a union would logically lead to that outcome. Although these two ideas may seem similar and redundant considering that the former is marked by the onset of puberty (i.e. menarche or pubertal hair growth), jurists generally viewed physical signs of adulthood as just that - signs; not de facto evidence of reproductive function. In other words, although the legal majority was often accompanied by the permissibility of sexual relations, this was not always or necessarily the case. Even feminist critics of Islamic law such as

Professor Judith Tucker have recognized this nuance:

A marriage could be contracted before either party was ready for sexual intercourse, but a marriage could not be consummated until both bride and groom were physically mature. Such maturity was not equated with puberty (the marker of legal majority), but rather could be reached before its onset. For a girl, readiness for sexual intercourse was signaled in large part by her appearance, by whether or not she had become an "object of desire," "fleshy" (samrna), or "buxom" (dakhmap), physical attributes that signified that she could now "endure intercourse." Until such time, the marriage, although legally contracted, clearly lacked an essential element (Judith Tucker, 1994).

In determining a person's physical maturity, lawyers often relied on physical characteristics, most commonly whether the person looked like an adult. Many lawyers even went so far as to specify an average age by which such physical maturity should be achieved (i.e. 15-17 years). In other words, what determined maturity depended entirely on a society's normative judgments about sexual attractiveness and functionality (Asadullah Ali Al-Andalusi & Jonathan Brown, 2018). However, these nuances have been lost on Islamophobes who, in their absolute desperation to denounce Islam and its followers, interpret certain passages of the Quran as condoning paedophilia or child abuse. For example, many critics often reference the following verse to support their accusations:

If you are in doubt, the period of waiting will be three months for those women who have ceased menstruation and for those who have not [yet] menstruated; the waiting period of those who are pregnant will be until they deliver their burden: God makes things easy for those who are mindful of Him. (Al-Qur'an, 65:4)

Critics conclude that the waiting period for girls who have “not yet menstruated” suggests that sexual relations with prepubescent girls are permissible. However, this is an invalid conclusion because it neglects the different types of marriages and maturation periods in Islamic law. The fact that a girl had not yet reached menarche was only evidence that she had not yet shown the usual signs of legal adulthood - not that she was physically immature. A girl could still technically be considered mature based on other physical characteristics, such as her biological age. Regarding this particular possibility, the leading 12th-century Central Asian jurist Ali ibn Abu Bakr al-Marginani (d. 1197) provided this legal context behind the above verse (Asadullah Ali Al-Andalusi & Jonathan Brown, 2018), Allah says:

“And similarly those who have attained puberty (balaghat) by age, but have not menstruated, based on the end of the verse [“And those who have not menstruated” (65:4)], meaning those who have reached puberty by age, but not by menstruation; [those who have attained puberty] by reaching the age of 15 years according to the opinion of both (Abu Yusuf and Muhammad ibn Hasan al-Shaybani) or 17 years according to the opinion of Abu Hanifah and Malik, but have not yet menstruated; when they divorce they observe a waiting period based on months as well” (Imam ibn al-Humam, Fath al-Qadir, Vol. 4 (n.d.)).

If Islam had permitted the sexual exploitation of children, many of these nuances would not exist. In fact, the Quran would never have provided clarifications about the types of women who have waiting periods or even mentioned a “marriage age” if it had allowed every woman, regardless of her maturity, to enter into sexual relations. And if the lawyers had allowed such actions, they would never have bothered to distinguish between girls who were physically mature and those who were not. More importantly, however, if the Prophet, peace and blessings be upon him, had himself been

perceived as a promoter of child exploitation, the scholars would simply have considered the age of nine as the only necessary condition for a young girl to be considered mature. However, the age of nine has never been mentioned in the Islamic tradition as a condition for assessing maturity. Rather, jurists derived a completely different understanding from the relationship between the Prophet (peace and blessings be upon him) and Aisha (may Allah be pleased with her): that he had entered a contractual marriage with her when she was six years old and then consummated the marriage after she reached maturity three years later. Simple logical deductions led scholars to conclude that if Islam permitted child abuse, the Prophet, peace and blessings be upon him, should not have waited three full years before consummating his marriage. He waited because he knew that otherwise his wife would have been harmed, and one of the main objectives (maqasid) of Islamic law is “the prohibition of harming oneself (darar) or harming others (dirar)” Al-Shatibi, Muwafaqat,)

Examining Islamic history, it became clear that this principle was generally applied in deciding several complex legal issues, particularly those relating to marriage. The best example can be cited from the period of the Mamluk Sultanate of Egypt (1250–1517 AD). In 1470 AD, a woman petitioned the Grand Qadi (judge) of Cairo to marry her 12-year-old niece due to financial difficulties as the young girl had no means of subsistence after her parents abandoned her three years ago. The Grand Qadi then delegated the case to his deputy Ibn al-Ṣayrafī, who described the incident in his diary. After al-Ṣayrafī assessed the situation, he had the girl married to a soldier's servant in the hope that this would solve her precarious situation. However, since she had not yet reached puberty, he made sure to include a clause in the contract prohibiting her husband from consummating the marriage until she had reached the appropriate maturity. Unfortunately, her husband violated the agreement and the couple subsequently divorced. The girl's

aunt then complained to the chief dawadar (an assistant of the Sultan), Yashbak min Mahdī. Al-Ṣayrafi was finally summoned by Min Mahdi to explain why he had allowed such a young girl to marry. His answer was simple and to the point: "Because the Prophet (peace and blessings of Allaah be upon him) married Aisha (may Allah be pleased with her) when she was nine years old." However, the Dawadar was not satisfied with his reaction and a few days later ordered the ex-husband to be whipped 100 times and publicly humiliated as "an example for anyone who deflowers young girls." Interestingly, al-Ṣayrafi agreed to the punishment because the husband violated the limits set in the contract (Yossef Rapoport, 2012).

This incident clearly proves that the concern for welfare was not only for Qadis but that senior government officials were also concerned. Both tried to minimize possible harm and punished those who harmed minors. Therefore, examining such examples (in conjunction with traditional Islamic teachings) contributes significantly to the presumption that Islam supports any ideal concept directed against the abuse and exploitation of minors.

The history of human development has gone through many phases. Empires have risen and fallen, plagues have swept entire populations, droughts have starved generations, and natural disasters have buried the most advanced metropolises - a testament to the fragility of human civilization, which has had a major impact on the age of consent for sexual relations in various human eras; civilization. While people sometimes lived to older ages in the past, this was not the norm. For example, the average life expectancy of a working-class Roman citizen in late antiquity was around 35 to 40 years - provided they were past infancy. Skeletal remains show that most workers suffered from chronic arthritis, fractures, dislocations and even bone cancer before their deaths. This was due to their very poor diet; mainly stale bread, rotten grain, low protein and harsh

working conditions (Patrick Browne, 2015). And if they didn't die from their work, they still had to contend with war, disease and famine. The female half of society didn't have it any easier. The average life expectancy of women was between 34.5 and 37.5 years if they managed to live past infancy (Kyle Harper, 2015). Due to high infant mortality rates, women had to endure five to seven full-term pregnancies to keep the population stable (Nathan Pilkington, 2013). Added to this is the high maternal mortality rate during childbirth due to iron deficiency caused by a combination of continuous pregnancies and poor nutrition. The situation was extremely fragile. High mortality rates forced society to reproduce early (Daniel Nettle, 2011). In wealthier families, young people's marriage also guaranteed the preservation and acquisition of wealth and secured the future of the family legacy through a type of corporate merger (Lisa A. Alberici and Mary Harlow, 2007). Likewise, political elites used early marriage to form alliances between opponents, a useful alternative to war. For this reason, the average marriage age for young girls in ancient Rome was around 14/15 years, with the legal minimum age being 12 years (M.K. Hopkins, 1965). However, the Romans did not consider the age of marriage to be synonymous with the age of consent for sexual relations, which could be as young as seven (Vern L. Bullough, 2005). Young girls who, at the onset of puberty, were expected to transition directly from childhood to adulthood. In other words, there were no family vacations, no recess, no Girl Scouts, no school trips, no graduation ceremonies, no air-conditioned movie theatres, no gluten-free meals in crowded supermarkets, no modern healthcare facilities, no vaccinations, no running water and, as a result, far fewer guarantees, that you would survive the next morning. All of these factors contributed to child abuse and exploitation in ancient times.

In today's dynamic world full of science and technology, children are expected to complete several years of primary and secondary education

and at least four years of university to provide them with economic and social opportunities. And that is a completely rational expectation, given the average global life expectancy of over 70 years and the increasing complexity of the global world. Such conditions did not exist 1400 years ago. This prompts the Muslim jurists to clarify the age of consent for sexual relations with complete rigour within the framework of Maqasid Sharia, as discussed in this article.

Legal maxim: no harm or returning harm

The religious aims or purposes of Sharia, which represent the highest goals of Islam, have been summarized by Muslim scholars into five categories: preservation of religion, life, progeny, intellect and wealth. All of this is guided by the principle of the benefits and interests of religion derived from Rahma, namely mercy and compassion. Therefore, the discussion on the age of consent in relation to the historical revolution should base its facts on the lofty goals of Islam - Maqasid Sharia. Any careful efforts by Muslim jurists to clarify the age of consent for sexual relations must be guided by these goals. In this way, they can achieve the interests and benefits of minors. Imam Jalaluddin al-Suyut clearly stated that all classical jurists, regardless of one's opinion on the age of consent, fundamentally accepted the illegality of causing harm to another person without a legitimate reason (al-Suyut, 1990). The Prophet had issued a decree: "Do no harm and do no harm in return" (Ibn Majah, 1975). Lawyers explicitly applied this principle to sexual relationships. Yahyá ibn Sharaf al-Nawawī (d. 1277), representative of the Shafi'ite school, calls this a necessary condition when it comes to the wife's right to subsistence and maintenance: "If it is possible to have sexual intercourse with her without her to harm, he can do that. If he is unable to have sexual intercourse with her other than harming her, he has no permission to have sexual intercourse with her" (al-Nawawi and Taqi al-Din Subki, 1991). There is no valid interpretation of Islamic law in any school of

thought that permits the abuse of children in any way, sexual or otherwise. The Prophet said: "He is not one of us who is not merciful to his young ones" (Sunnan al-Tirmidh, 1921). Therefore, it is essential to alleviate distress, according to the Islamic legal maxim "Distress must be alleviated (al-mashaqqah tajlib al-taysīr)" (Taj Subki, 1991).

CONCLUSION

In conclusion, Allah has revealed that Islam is relevant to all people at all times and places. He revealed it as a mercy and compassion towards people who respond to hardship with flexibility, as shown in the two legal principles that allow social customs, in general, to be restricted by the commandment not to do harm, allowing Muslim societies some flexibility to set appropriate limits on sexual relationships as they evolve. It is not a coherent Islamic legal argument to claim that because the Prophet married his youngest wife, Aisha, at the age of nine, there is an age limit of consent that is permissible or beneficial for Muslims in very different social circumstances in life. There are other considerations in divine law that cannot be ignored. It is of utmost importance for Muslims to address the issue of child marriage, which leads to abuse, and through consultations to achieve a stable legal framework appropriate to the context of each region. This law can be achieved by governments in consultation with religious institutions according to the environment, guided by existing factors such as social, economic, traditions, etc.

Declaration

I, Juma Chibololo, declare that this manuscript is my original work and has not been submitted for publication elsewhere. All research, analysis, and writing have been conducted independently, ensuring that the work presented is entirely my own. This manuscript reflects my thorough investigation and commitment to academic integrity, and I have adhered to the highest standards of research ethics throughout the process.

Conflict of Interest

The author declares that there is no conflict of interest. I have no financial, personal, or professional affiliations that could be perceived as influencing the content or conclusions of this manuscript. All findings and interpretations presented in this manuscript have been derived impartially, with the sole aim of contributing to academic discourse and advancing knowledge in the field. Any potential conflicts of interest have been fully disclosed, and all necessary measures have been taken to maintain transparency and objectivity in this research.

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