

**HADITS ON AISYA MARRIAGE  
(HERMENEUTICAL HADITS APPROACH OF KHALED  
ABOU EL-FADL)**



**THESIS**

**Submitted to Ushuluddin and Humaniora Faculty for Partial Fulfillment of the  
Requirements of Undergraduate (S-1) degree of Islamic Theology on Tafsir-Hadits**

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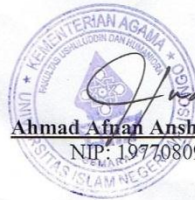
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## RATIFICATION

The mini thesis of Ahmad Yusuful Adamy 094211041 entitled **HADITS ON AISYA MARRIAGE (HERMENEUTICAL HADITS APPROACH OF KHALED ABOU EL-FADL)**, was examined by Thesis Examination Council of Ushuluddin and Humanity Faculty of University of Islamic Studies (UIN) Walisongo Semarang, and passed on: **June 15, 2016**

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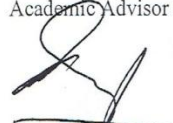
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**DEDICATION:**

Highest dedication goes to:

All human being who tries to build humanize social order

## MOTTO

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَنِّي وَتِلْكَ وَرُبَعٌ  
فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةٌ أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ أَذْنَىٰ أَلَّا تَعُولُوا

### An-Nisā':3

*And if you fear that you cannot act equitably towards orphans, then marry such women as seem good to you, two and three and four; but if you fear that you will not do justice (between them), then (marry) only one or what your right hands possess; this is more proper, that you may not deviate from the right course.*

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I also feel so grateful to be part of FUPK family member to meet special people in positive environment of FUPK dormitory. Therefore I would like to say thank very much to all “family” especially to Dr. H. Fakhruddin Aziz, Lc., PgD., MSI,. And all FUPK family, may our brotherhood be everlasting.

Semarang, 30 Mei 2016

The Writer

Ahmad Yusuful Adamy

## TRANSLITERATION

### VOWEL LETTERS

ā	a long spelling
ī	i long spelling
ū	u long spelling

ARABIC LETTER	WRITTEN	NAME
ا	No symbol	Alif
ب	B	Ba
ت	T	Ta
ث	ṡ	ṡa
ج	J	Jim
ح	ḥ	ḥa
خ	Kh	Kha
د	D	Dal
ذ	ẓ	ẓal
ر	R	Ra
ز	Z	Zai
س	S	Sin
ش	Sy	Syin
ص	ṣ	ṣad
ض	ḍ	ḍad
ط	ṭ	ṭa
ظ	ẓ	ẓa
ع	‘	‘ain
غ	G	Gain
ف	F	Fa
ق	Q	Qaf
ك	K	Kaf
ل	L	Lam
م	M	Mim
ن	N	Nun
و	W	Wau
ه	H	Ha
ي	Y	Ya



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## **ABSTRACT**

Two main sources of Islamic teachings, Quran and Hadits also can not be separated from the process of transmission. Various theories to understand Hadits has been formulated by the scholars for gaining what called as divine of will. Quran has certain status competence, but, hadits is different matter. Some times hadits, as the second source of muslim guidance, has some problem to be applied in other social and moral structure. As hadits relating to Aisyah marriage. Most of the orientalist consider it as an abnormality on Muhammad. But for some who considers it as doctrine, that information is considered as a privilege of Aisyah but become a guidance of a doctrine to be executed even more to limit other people right. It become problem to find the gods will, how ever hadits has been kind of history also guidance. To test the authenticity of the text, historical critic is really need to approve. While, knowing the vision of the text also needed in order to be wise in live.

Aboul Fadl has formulated the theory for approaching that covers both historical and to determine the will of divine. Hadits relating to Aisyah marriage was a part of prophet mission to save muslim. While, marrying Aisyah is not considered as problem if the man knows the social structure of arab at that time. It has not big impact to tease the consciousness in arab structure. It has different matter in now days. In islam, talking about religion is talking about humanity and to be wise based on god endorses. So, Marriage in islam is talking readiness to humanize and wise based on god endorses. Not talking about age.

Key word: Khaled Abou el Fald, Aisyah marriage, and prophetic mission.

## CHAPTER I

### INTRODUCTION

#### A. Background

Before the appearance of what is claimed by Nasr Hāmid Abu Zayd as "civilization of text" (*Haḍarah al-Naṣ*), the development of scientific tradition in the early days of Islam relies on oral tradition or narration. Two main sources of Islamic teachings, Quran and Hadits also cannot be separated from the process of transmission. However, even though it is the same in the term of the process of transmission, there are significant differences both in terms of quality and quantity of narrations.

Qur'an was transmitted *Mutawātir* so that its authenticity is certain (definitive), while Hadits is not always transmitted in *Tawātur* way, many of them are *ahad* which feels *a Ḍanny* source.<sup>1</sup> Hadits narration has a long history before finally codified in the time period of Caliph Umar bin Abdul Aziz (13H). This long process involved the experts of Hadits to create strict criteria in the validation of Hadits, from authentic to *dlaif* classification, according to the quality of Sanad. This turn also affect the role of the Hadits as a source of a second after the Quran.

The Problem in the issues of Hadits, then, becomes complex. The authenticity, as an important source of religion still needs to be the tested. In addition, to understand the message contained by the text of Hadits is also very important. If the authenticity of Hadits has been well tested and regarded as good Sanad, the next process is to understand the message behind it.

Various theories to understand Hadits has been formulated by the scholars from the classical period to the contemporary. The theories from

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<sup>1</sup> Prof. Dr. H. Zainul Arifin, M.A. in book preface of ”, Dr. Kasman, “*Hadits dalam pandangan Muhammadiyah* (Yogyakarta: Mitra Pustaka, 2012) p. xv

classical period were still used in the modern era until the emergence of big critics from scholars who tried to criticize the problems in the Hadits and try to reformulate new concepts and theories.

One of the scholars whom the writer is interested in because of his “fresh” approach on Hadits’s is Khaled M. Abou El El-Fadl, a contemporary moderate intellectual from Kuwait. The thought of Abou el-El-Fadl, to some intellectuals is rated as fairly “valued” for what he did behind his thought was quite exceptional in the face of most Muslim scholars. All he does is known as an effort on interdisciplinary study of Islamic sciences. So the study of religion, in this case also the Hadits, is not only with the normative approach of religious knowledge, but also, combined with other scientific disciplines, such as sociology, psychology anthropology, and some other approaches.<sup>2</sup>

In the understanding of Abou el- El-Fadl, tradition is the end of a process for authorship. The Sunnah, however, is different matter. The history of tradition of the prophet and companions as narrated by Muslim scholar is far more complex and contested than the history of Quran. Furthermore, Muslim dogma does not assert that the Hadist literature is immutable or definitely protected from the possibility of corruption. In addition, there is a considerable degree of creative subjectivity in the process of authenticating, documenting, organizing and transmitting the report attributed to the prophet and the companions.<sup>3</sup>

The chain of the transmission was to be its own problem for the Hadits. With the chain of transmission that consists of companions, Tābī’in and the next generation who claimed to have heard from the Prophet, companions and so on up to the collector of Hadits makes Abou

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<sup>2</sup> Amin Abdullah, in Preface Of, Abou El-Fadl, *Atas Nama Tuhan, Dari Fikih Otoriter Ke Fikih Otoritatif*, Trans, (Jakarta, PT Serambi Ilmu Semesta 2003) p.X

<sup>3</sup> Khaled M. Abou el-El-Fadl, *Speaking in God’s Name, Islamic law, authority and women*,. (Oxford. Oneworld 2010), p. 105

el-El-Fadl argued that the Sunnah is amorphous corpus of report about the prophet's action, history (ṣīrah) and his statement, and also includes numerous reports about companions of the prophet.<sup>4</sup>

.Therefore, regarding to transmission problems, according to Abou el-El-Fadl, it should be realized in addition to the possibility of forgery is the question of memory and creative selection of people involved in the process of transmission. Those who live with the Prophet, interact and communicate with the Prophet does not position the Prophet in an objective framework but within the framework of subjective. This subjectivity influence on how they see and hear, and to what end they remember and pass on to someone else.<sup>5</sup>

It must be underlined, the narrators after companions of Muhammad, that each generation of transmitters has the subjectivity of each influencing certain narration. Therefore, for Abou el-El-Fadl, every tradition attributed to the Prophet is the end result of a process of authorship. The main author of this process may be a prophet, but this process involves many people who choose, remember and convey history. That is, in researching a Hadits, every chain of history in its path need to be studied historical conditions.

Concretely after researching the overall historical conditions, according to Abou el-El-Fadl may be inferred that a certain history tells a lot about the Prophet or can also contain more of the historical context of the transmitters. The process of authorship, according to Abou el-El-Fadl forced to understand the traditions of the Prophet are not just a Sunnah but also as a history.<sup>6</sup>

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<sup>4</sup> Khaled M. Abou El Fadl, *Speaking in God's Name....*, p.100-101.

<sup>5</sup> *Ibid* p.88

<sup>6</sup> *Ibid* p. 88

As a revolutionary thinker who worked in the field of Human Rights, Abou El-Fadl very concerned in terms of the problems of moral and humanity.<sup>7</sup> According to him, the problems of anything, including within the framework of religion, should be placed in a humane and moral insight. Religion, he said there is another aim to enrich humanity, and instead of destroying it. Therefore, there would be no justification at all in Islam to violence and discriminatory attitudes towards each other.

The views are clearly implemented by Abou El-Fadl when he is assessing a Hadits. For example in the interpretation Hadits of prostration wives against husbands, Abou El-Fadl considers that this Hadits would have broad impact both morally and socially. Among the breadth visible impact is on the pattern of the marital relationship in marriage and gender relations in society. According to Abou El-Fadl, this Hadits has been through a long historical journey, and therefore also has undergone a long process of authorship of the era of the Prophet until today.

The structure of that Hadits according to Abou El-Fadl was inelegant. Actually, the context of the Hadits is the questions of the companion posed to the Prophet about bowing down to him, is it allowed or prohibited. The Prophet replied: "No. But if a man should bow down to each other, then who should bow down is the wife to her husband ". At this point, the structure of Hadits feels inelegant, because the Prophet did not answer linearly to the questions of companions. The answer is also considered as not logic, because it has contradiction with the principle value of marriage in the Quran that explicitly wants the equality, mutual respect, and protection between husband and wife each other's. In

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<sup>7</sup> Beside teaching in some prestigious universities in the world (Yale university, Texas University dan University of California Los Angles), Abou El-Fadl also devote himself in avocation of human right, immigrant rights, and leading an organization concern in human right issues in Amerika. From 2003-2005, he has been being decelerated by George Walker Bush as the one of commissioner of International Religious Freedom. Yusriandi, *Hermeneutika Hadits Khaled M. Abou El Fadl*, in "Hermeneutika Al-Qur'an dan Hadits, (Yogyakarta: eLSAQ Press, 2010), p. 414

addition, according to researcher of transmission, it has single chain (Hadits Ahad) and it has varieties quality of Sanad between Ḍa'if to hasan Garīb.<sup>8</sup>

His principle, examining religious text with multidisciplinary approach, and also the emphasis on moral and humanity aspects, makes his thought looks unique and comprehensive to be used as a reading of the Hadits which contain elements of gender sensitivity, like what we will discuss on this research.

In this research, the researcher is interested in reviewing the Hadits of Aisyah's age when marrying the Prophet. This Hadits is still very debatable. Even so, the understanding that the Prophet married Aisyah when she was a child, causing negative stereotypes on Prophet is also sometimes used as a justification for imposing some early marriage in the present context.

Most of the orientalist consider it as an abnormality on Muhammad. Muhammad is accused pedophile, sexual violence on minors. For example, Lamens accuse Muhammad had illness in imagination. This accuse was based on the married of Muhammad and Aisyah.<sup>9</sup> But for some who considers it as doctrine, that information is considered as a privilege of Aisyah but become a guidance of a doctrine to be executed.

The most common view among Muslims is, Muhammad married Aisyah when she was 6 years old, even though, generally, they are still not sure between 6 or 7 years.<sup>10</sup> One of the Muslim scholars who hold this view is Aisyah Fatimah bintu Assyati '. Moreover, such a view is also

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<sup>8</sup> Yusriandi, *Hermeneutika Hadits Khaled M. Abou El Fadl*, in the "*Hermeneutika Al-Qur'an dan Hadits*, (Yogyakarta: eLSAQ Press, 2010), p422-423

<sup>9</sup> Abdullah Abu as-Saud Badr, *Tafsir Umm Al-Mu'minin 'Aisyah Radhiallahu 'Anha*, trans.Ghozi Saloom and Hamad Syaikhu. p.28

<sup>10</sup> Aisyah Fatimah Bintu Syaati', *Istri-Istri Rasulullah*, trans, Chadijah Nasution p.63

supported by the history contained in the book of Şahih Bukhari which reads as follows:

حَدَّثَنَا قَبِيصَةُ بْنُ عُقْبَةَ، حَدَّثَنَا سُفْيَانُ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ عُرْوَةَ، " تَزَوَّجَ النَّبِيُّ عَائِشَةَ وَهِيَ بِنْتُ سِتِّ سِنِينَ، وَبَنَى بِهَا وَهِيَ بِنْتُ تِسْعٍ وَمَكَّثَتْ عِنْدَهُ تِسْعًا<sup>11</sup>

In addition, the history presented by Bukhari, the disagreement between the leaders of the great scholars of Muslim classical period is still going on. Even sometimes there is a contradiction of what it presents as an assessment of data. For example, according to Ibn Hajar, Fatimah is five years older than the Aisya. Meanwhile, Fatimah was born when the temple was rebuilt and at that time the Prophet was 35 years old.<sup>12</sup> If Muhammad married Aisya when she was 52 then it means that Aisya was married to the Prophet at the age of twelve.

There are still many other opinions which describe differences Aisya age at marriage. The study of it is mostly done by creating a historical chronology that is based on a number of histories. Actually, what Aisya age at marriage would not be so important if indeed there is no impact psychological and social impact caused by the information in the Hadits.

The rise of early marriage these days would be of particular concern for the world community. However there are concerns of its own in the community to address this. Parents are afraid if his child's life when it was proposed or groom in domestic relationships is not rare. Such concerns arise because parents understand exactly how his or her attitude and lifestyle. The most common reason is their nature of infantile

Indeed, in general, childishness less determined by age, perhaps with when someone is considered as proper man to be adult according to the

<sup>11</sup> Bukhari, *Shohih Bukhori*, vol.5 book. 58 no. 238

<sup>12</sup> Ibnu Hajar al Asqolani, *Al Ishabah fi Tamyīzi as Shohabah* . (Dār Al Kutub Al-Ilmiyah. 1415H) vol.8 p.263



age, but, unfortunately he or she are still childish. But at least, there is a minimum standard is not possible for someone to peak at the maturity stage. Even today appears a assumption of maturity is represented by the age of 19 years for men and 16 years for women.<sup>13</sup>

Personally, the author does not want to offend the issue is whether someone is allowed to marry under the age of 16 years in view of the law. However, the concerns of this research will be about justification of early marriages claimed on named of Gods' command by taking Aisya wedding story that has still debatable and read textually as a justification of its propriety, While, the aim of that justification is the personal satisfaction. Evermore, it's for limiting the rights of others in the name of religion.

#### B. Reseach Problem

Based on the background that have authors describes above, the problem that will be answered in this study is

1. How is hadits on aisya marriage if it is approached by hermeneutical reading of Khaled Abou El-Fadl?

#### C. Aim and significant of research

The aim and significant of this research as follows:

1. In particular, this research is expected to sheds light on the history of Aisya marriage.
2. Academically this research is expected to become an intellectual and cultural sustainability on an assessment of the scientific treasures of Islam university, especially those Walisongo University
3. As the material for the research can be continued, developed, and even criticized again by further research.

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<sup>13</sup> Look at Indonesian law relating to the minimum age for married, *UU perkawinan No 1 tahun 1974 Bab 2 pasal 7*

#### D. Prior of Research

A study on Hadits relating to Aisya marriage is not a new thing. Among the studies that have been past studies are:

1. *Hadist-Hadist tentang umur pernikahan aisyah* (Hadits About Age Marriage of Aisya R.A,) compiled by Binti Khasanah as task of thesis at UIN Kalijaga. In his research, Binti Khasanah tries to assess the Hadits about marriage age Aisya is only one narrator narrated by Muslim only by methods Ma'ani al-Hadits. So, it is clear this study is very different from the research that the author will do; the authors will examine the Hadits Relating to Aisya Marriage with hermeneutical Hadits approach offered by Abou El-Fadl. (Khasanah: 2008).
2. *Age of Aisya*, Allaham Habib Rahman Siddiqui Kandhalvi. This book contains a refutation of the charges orientalist that the Prophet was a pedophile, in this book Kandhlvi perform critical studies of honor by revealing the 24 arguments that refute the age of 6 or 7 years of marriage Aisya. (Kandhalvi: 1997)
3. *Benarkah Aisyah Menikah Dengan Rasulullah Di Usia Dini?* Is it true that the Prophet married Aisya at an Early Age? O. Hashem. O. Hashem is an Indonesian scientist, he was moved to write a book about marriage age Aisya due sympathy to the case of marriage or Sheikh Puji Pujiono with Ulfa few years ago. The contents of this book are not much different from the argument in the form of rebuttal Kandhalvi early age marriage Aisya. (O. Hashem: 2009)
4. *Isteri-Isteri Rasulullah SAW*, prof. Dr. Bintusy Syathi'. (Wives of the Prophet Muhammad) Prof. Dr. Bintusy Syathi'. This book contains the history of the wives of the Prophet include Aisya. Disclosed that

Arabic women marriage at the age of the child is a matter of course, a lot of the Arab people married women who had small age.

5. *Wanita-Wanita Penyebab Turunnya Ayat*, (Women Cause fall in Verse), Abdurrahman Umairah. Explaining life Aisyah as a woman who really loved his family, and eventually married to the Prophet. (Umairah: 1992)
6. *Analisis Kritis Terhadap Hadis Pernikahan Dini Antara 'Aisyah R.A Dengan Nabi Muhammad Saw (Perspektif Sejarah Sosial Budaya)* the thesis of post-graduate in UIN Walisongo. Zahra tries to assess the Hadits about marriage age Aisyah uses historical, social and culture approach methods. So, it is clear this study is very different from the research that the author will do, the authors will examine the wedding tradition Aisyah with Hadits hermeneutical approach offered by Abou El-Fadl Abul El-Fadl. (Fatimatuzzahra: 2016)
7. *Studi Kritik Hadis-Hadis Tentang Usia pernikahan 'Aisyah R.A*, compiled by Ahmad Syaidzit Umar as task of thesis at UIN Walisongo Semarang. In his research, Ahmad Syaidzit Umar tries to asses the Hadits on marriage age of Aisyah in particular chain of transmission using common method formulated by same scholar of hadits that focus on Sand criticism. So, it is clear this study is very different from the research that the author will do; the authors will examine the Hadits Relating to Aisyah Marriage with hermeneutical Hadits approach offered by Abou El-Fadl.

Base on the studies that have been viewed, that the assessment still could be developed with other approaches. And this is an intellectual task to develop Islamic studies with a variety of approaches. And the writer chooses the hermeneutical approach of Khaled Abou El El-Fadl to study these problems.

## E. Theoretical Framework

In view of Khaled, Sunnah is amorphous corpus of history of behavior, history, and words and also includes diverse history of the prophet. The outlook is based on the fact that the chain of transmission of a Hadits which consists of Companion, Tābi'īn, and the next generation who claimed to have heard from the prophet, until the time of the collection of Hadits. Whereas, the chain of transmission has become its own problems for the Hadits.<sup>14</sup>

According to Khaled, the historical process that occurs in the Sunnah is much more complex than in the history of the Quran. Besides the absence of guarantee of safety from human interference there is also a level of creative subjectivity in authenticity testing process, documentation, preparation and submission of the reports are said to come from the Prophet and Companions.<sup>15</sup>

In his view, what is known about the Prophet is information that was heard by narrators who have narrated to us, through historical reports of humans and be able to cause problems such as the possibility of a variety of sources on a history.<sup>16</sup>

Sunnah originally was spoken orally. In oral form, Sunnah records the living tradition of the Early Muslim community. Meanwhile, in written form, these traditions are no longer changed and evolved but the record in the form of "structured" and "organized". In other words, the Sunnah collected through the chain of narrators is long, ranging from the Prophet,

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<sup>14</sup> Khaled M. Abou El El-Fadl, *Speaking in God's Name, Islamic law, authority and women, one world*. Oxford. 2010, page100-101

<sup>15</sup> *Ibid* p. 105.

<sup>16</sup> *Ibid* p. 105

the Companions, *Tābi'īn* and led to the narrators of Hadits last before it is recorded.<sup>17</sup>

Therefore, with regard to transmission problems, according to Khaled, thing that must be recognized in addition to the possibility of forgery is the question of memory and creative selection of people involved in the process of transmission. Those who live with the Prophet, interact and communicate with the Prophet does not position the Prophet in an objective framework but within the framework of subjective. This subjectivity influence on how they see and hear, and what they remember and pass on to someone else. Therefore, in view of Khaled, personal character conveys a strong history embedded in history they convey.<sup>18</sup>

According to Khaled, this can also be seen on the narrators after companions, that each generation of transmitters has the subjectivity of each influencing certain to remember history. Therefore, for Khaled each tradition attributed to the Prophet is the end product of an authorial enterprise. The main author of this process may be a prophet, but this process involves many people who choose, remember and convey the history.<sup>19</sup>

In other words, according to Khaled, it may be inferred that a certain history tells a lot about the Prophet or can also contain more of the historical context of the transmitters. The process of authorship, according to Khaled, forcing researchers to understand Hadits is not just as a Sunnah (in common understanding), but also as a history.<sup>20</sup>

Technically, what to do in researching a Hadits is associated with four points, which include; First, an investigating the substance of (Matn) Hadits , second, with regard to transmission, the third, the investigation

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<sup>17</sup> *Ibid p.* 100-101

<sup>18</sup> *Ibid p.* 88.

<sup>19</sup> *Ibid p.* 88.

<sup>20</sup> *Ibid p.* 88.

of the historical circumstances and the fourth, the investigation of the moral and social consequences.<sup>21</sup>

### 1. Investigation the Substance of Matn

According to Khaled, Matn analysis attempts to match the meaning of textual and non-textual meaning of knowledge and seeks to evaluate the authenticity of the text from other texts corner opposite. Matn analysis does not apply to text that authenticity is certain. It applies to the traditions that its authenticity is doubtful, as part of the overall evaluation aimed at determining the proper weight is given to a certain report.<sup>22</sup>

Analysis of the Matn is not new in the study of Hadits. This can be seen from the already formulated the rules of criticism and understanding of honor, although there are also differences. In the science of Hadits, a history that has been determined there is no defect in sanad be refused if the text matn Hadits is not strong. This rejection could be due to an error in the grammatical structure of the language or the fault history, contrary to the Quran, the laws of nature, human experience in general or contrary to reason. These traditions known as Hadits which have defects in Matn (*'ilal al-qaḍīḥah fī al-Matni*).<sup>23</sup>

By no means reject what has been formulated by the scholars of Hadits, in researching Matn, according Khaled, history should be more in touch with reality. These studies must be taken seriously and be more critical in examining the evidence and facts. The consideration that must be considered in the analysis of Matn, according to researchers, is not

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<sup>21</sup>*Ibid p.*217. Relating to the idea of social impact, as methodological tool is conceptually notion of Umum *al balwa* (the widespread affliction) used to evaluate the necessity for exceptional law. Look at Abou El-Fadl, *Ibid*. page..217..

<sup>22</sup>*Ibid p.*227-228.

<sup>23</sup>*'Illat* in the term ilmu hadis is fake in hadits. The study of this is called by *Ilmu 'Ilal al-hadīth*.. Subhi al-Salih, *Membahas Ilmu-Ilmu Hadis*, trans. Tim Pustaka Firdaus (Jakarta: Pustaka Firdaus, 1995), page.162.

much different from what has been formulated by the previous scholars. Criterion validity of a Hadits by Khaled is (1) not conflict with al-Quran (2) Not contrary to reason / ratio (3) should consider other traditions is more authentic or less authentic (4) should be viewed in a historical context Hadits (5) should consider the practice of the Prophet and the companions in related contexts (6) conform to legal considerations, moral teachings and higher (7) is not contrary to human experience (8)<sup>24</sup> the structure of the language is not problematic.<sup>25</sup>

## 2. Investigation the Chain of Transmition

In the science of Hadits, it is well known that the scholars of Hadits have developed a research process chain of narrators, known as *Ilmu rijālul hadist*. The result of this study is to determine the authenticity of Hadits or the status of a chain of transmission (Sanad).

Hadits scholar has also formulated the rules of the validity of the receipt of sanad Hadits.<sup>26</sup> But for Khaled, these rules are considered less in touch with reality history. In view of Khaled assess the narrators in the chain of transmission by trustworthy or untrustworthy is quite helpful, but less convincing.<sup>27</sup> But, which is more important to emphasize the sanad criticism is not a "strong" or "weak". But more importantly in the

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<sup>24</sup> Khaled M. Abou El Fadl, *Speaking in God's Name....*, page222

<sup>25</sup> *Ibid* p..213.

<sup>26</sup> For example, instance, in indonesia, H.M syuhudi ismail clasifaied the the theory of hadist credibility by two catagory, mayor and minor. Mayor is in the term of credibility of sanad is uncutted sanad, all the entire of tranmitter is 'adl, dzabit, the sanad is avoided from syā and illat. While minor is relating to tranmission, it has three condition: 1)for uncutted sanad the minor is: muttasil, marfu' mahfud and and has no illat (2) for adl, the minor is islam, mukallaf, keeping his dignity (3) for dhobit, the minor is well memorize what he convoy, avoid from syudūd an illat. see H.M. Syuihudi Ismail, *Ibid*, p.119-151.

<sup>27</sup>Such problem as what stated by Musahadi ham, he assume that in the process of historical critic, although to use the method of authenticity (compound of uncut chain in, all transmitter is trusted, *Dzabit*, and has no *illat*) is a must, but in the term of operational, such method still have problem. For instance, is the parameter to give the value of transmitter credibility is valid enough, how far the credibility of transmitter can be measured atc. Other thing is some conflict of politic, theology schools which came along with codification of hadits. See Musahadi Ham, *Evolusi Konsep Sunnah* (Semarang: Aneka Ilmu, 2000), page.157.

context of the prophet have a position as to what, in succession to the prophetic mission.<sup>28</sup>

Analysis of the chain of transmission is just one of the elements that should be investigated. Therefore, for Khaled, a study of Sanad, must be critical and thorough, and must look also at other facts about the narrators of both negative and positive sides. According to Khaled who must take into consideration is the consideration of the social, political and theological past associated with narration.<sup>29</sup>

### 3. Investigation into Historical Circumstances

Considering the historical conditions of a tradition is to see the whole historical background to the emergence of a tradition, both of reasons, due to a Hadits, and the condition of the historical cultural environment of the past when the Hadits appears. Research is essential in order to understand the Hadits, not arbitrary. Consideration the historical conditions Khaled relation to the concept of the need to balance between the author, the text and the reader in understanding the activities is to determine the context of a tradition that appears. It also can be known from the specific meanings of a word in the past. So that past cultures that surround the future emergence of a tradition can strive approachable. All of this is in an attempt to avoid an arbitrary meaning. This is exemplified by Khaled that the culture of patriarchal Arab society has roots in the past that should also be considered, in addition to the immediate context of the emergence of traditions in view the tradition of prostration to husband.<sup>30</sup>

### 4. Investigating social and moral consequences

Khaled criticism, against classical and modern scholars, is not any attempt to link the authenticity of a Hadits with theological and social

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<sup>28</sup> Khaled M. Abou El Fadl, *Speaking in God's Name....*, p. 88

<sup>29</sup> *Ibid* p. 88.

<sup>30</sup> *Ibid* p.. 226.



consequences, which of course, moral values are concerned. The scholars of Hadits, by Khaled, were not involved in historical research on various traditions or analyze coherence logic or social impact. Thus, as a result, they often accept the authenticity of the various traditions that have a theological and social impact that triggered the problem.

These considerations made with regard to the concept of proportionality. That should be an imbalance between the authenticities of a tradition and the likely impact. Whether a Hadits based on standard time and place humanitarian or moral standards, Khaled initiated to something called the "*wakhz al-ḍamīr*" (interrupt consciousness) or not.

As was the case in the Hadits "misogynist", really bringing the normative enormous impact and influence that exceeds other traditions that define a specific legal obligation.<sup>31</sup>

Relating to hadist on Aisya marriage, it is likely to know how the historical condition of these hadits appeared, and to know that, historical study is really needed. By knowing the historical condition, the orientation of aysya marriage will be answered.

#### F. Research Methodology

The method researcher will use in this study include the following:

##### 1. Type of research

This research is qualitative research that is the object of research is Hadits relating to Aisya marriage age. This research is descriptive analysis, to analyze and describe the Hadits relating to Aisya marriage. This is also known as library research.

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<sup>31</sup>*Ibid* p.217. Relating to the idea of social impact, as methodological tool is conceptually notion of *Umum al balwa* (the widespread affliction) used to evaluate the necessity for exceptional law. Look at Abou El-Fadl, *speaking in god's name*. page. 252. 212.

## 2. Source of data

The data on this study will be dividing into two classifications as follows:

### - Primary data

The primary data is *Kutub al-Sittah* (*Şahih Bukhari, Şahih Muslim, Musnad Ahmad, Musnad al-Darimi, Musnad Dawud*) and other books of hadits

### - Secondary data

The secondary data is some historical book such as: *Venture of Islam, Classical Age* which is written by Marshal Hudson as the historical book written by non muslim scholar. Other book is *Muhammad, his life based on the earliest sources* written by martin lings and *Membaca Sirah Muhammad* written by Quraish Shihab that describe the history of Muhammad based on early sources of Muslim scholars. And also other books and journal which support this research

## 3. Collecting Data method

Data collected by the researcher in this thesis is theatrical hadits on Aisya marriage which helped by *Gawami Alkalem* application. As supporting data, this will be taken from the several historical books relating to aisyak marriage. *Speaking in God's Name, Islamic Law, Authority and Women*, will be the primer data also, regarding to the method used to approach the problem of this research. Because, Aboul El-Fadl's hermeneutical approach is contained on that book. Besides, it will be supported also by other books relating to methods used by Khaled Abou El-Fadl in understanding the Haditss as *Atas Nama Tuhan Dari Fikih Otoriter Ke Fikih Otoritatif*.

#### 4. Analyzing data method

The method the researchers use in this case is the method hermeneutic of Hadits formulated by Khaled Abou El-Fadl that empesice on historical critics. As a form of praxis of the concepts that have been described above, it is technically the things that must be done in researching a Hadits is associated with four points, which include; First, an investigation the substance of of matn Hadits, second, with regard to transmission, the third, the investigation of the historical circumstances of *Zarf al-riwāyah* and the fourth investigation into moral and social consequences.<sup>32</sup>

#### G. Systematic of Writing

To give a general overview of the contents of the discussion presented in this study, this study used systematic as follows:

Chapter I is an introduction that includes the background of the problem, research objectives, literature review, theoretical framework, research methodology and systematic of writing

Chapter II is marriage and social structure that will discribes terminology of marriage, the marriage in global history, marriage in pre-islamic tradion, and merriage in early Muslim era.

Chapter III is the data of research that will describe hadits on aisyaa marriage, the background and the comment of the expert on this hadits

Chapter IV is the critics on hadits on Aisyaa marriage by Khaled Abou el Fadl theory. Definitely, it contains: First, investigation of the substance of the Hadist relating to Aisyaa marriage due to the principle value of

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<sup>32</sup> Khaled M. Abou El Fadl, *Speaking in God's Name....*, Page.217. Relating to the idea of social impact, as methodological tool is conceptually notion of *Umum al balwa* (the widespread affliction) used to evaluate the necessity for exceptional law. Look at Abou El-Fadl, *Ibid.* page. 252.

Quran. Second, regarding to the chain of transmission by criticize it.  
Third, investigating the historical circumstances (*Zarf al-Riwāyah*).  
Fourth, investigation into moral and social consequences

Chapter V is an epilogue, which describes the conclusion of the final result of entire chain of research, this conclusion contain the answer of the problem of statement. In addition, it also contains the suggestion from the researcher.

## CHAPTER II

### MARRIAGE AND SOCIAL STRUCTURE

#### A. Marriage and Its Goal in Islam

##### 1. Marriage

Word marriage in Arabic is *nikāhun* which is modifier of *nakaha*. Its synonym is *tazawwaja*. In the term of etymology, marriage is relation and togetherness. In the term of Quran and al-hadits, marriage express in the word of *al-nikāh* dan *alziwāj*. Textually, *al-nikāh* means *al watu* (walking above, passing, stepping, entering, riding, and having sex), *al-zammu* (collecting, touching, holding, gathering, and summing) and *al-jam'u* (collecting, gathering, summing and arranging). While *az-ziwāj*, textually, means to merry, gathering, companying, having sex, and take someone as a wife.<sup>1</sup>

Terminologically, the scholars of *fiqh* have some different opinion of married. Imām syafi'i definy it as:

عَقْدٌ يَتِمُّ مِمَّنْ إِبَاحَةَ الْوَطْءِ بِلَفْظِ النِّكَاحِ أَوِ التَّزْوِيجِ أَوْ مَعْنَاهُمَا

*Meaning:* "The contract or agreement which had the purpose to allow sexual relationships by using word *na-ka-ḥa* or *za-wa-ja* or convey the same to both."<sup>2</sup>

While Imām Hanafi interpret it as an agreement which is determined to give legitimacy to a man enjoying the fun with a woman deliberately. In addition to these two definitions, there are many different definitions of marriage. If those opinions are classified, there are three groups that differ on the definition of

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<sup>1</sup> Muhammad Amin Summa, *Hukum Keluarga Islam di Dunia Islam*, (Jakarta ; Raja Grafindo Persada, 2004), p 43-43

<sup>2</sup> Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia (Antara Fiqh Munakahat dan Undang-undang Perkawinan)*, page 37.

marriage. The first opinion states that essential meaning of marriage is *watha'* (having sex), whereas in the sense *majāz*, marriage is a contract. The second opinion states that the essential meaning of marriage is a contract, while the *majāz* meaning is *Watha*. Understanding this is the opposite of sense according *luḡawi*. The third opinion says that the meaning of marriage in essence is *musytarak* (combined) of understanding agreement and *Watha'*.<sup>3</sup>

Meanwhile, according to Law No. 1 of 1974 definition of marriage is physically and mentally bond between a man and a woman as husband and wife with the aim of forming a family (household) were happy and everlasting based on God.<sup>4</sup>

Marriage is something sacred. God's provision in this regard is not only reflected in His statutes on who can and can not marry, or pillars and requirements set him but even the wording used in the contract. The Prophet said as a message to prospective husbands, "*Mutual intestate concerns women (wives) because you take it with a message from God, and your relationship to be lawful in the name of God.*"

The basic law of marriage is permissible, but this law could turn out to be obligatory, *sunnah*, *haram* or *makruh* for a person, according to the condition of a person who is getting married. The Qur'an does not explicitly affirm the law of marriage; however, the Koran encourages married for all creatures, including humans, created in pairs. And to unite in pairs legally for a pair of men, then it takes the marriage bond.

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<sup>3</sup> Abdurrohman al Jaziri, *Kitab al- Fiqh Ala Mazahib al- Arba''ah, jilid 4*,(Beirut ; Dar al-Kutub al Ilmiyah, 1990),p. 2

<sup>4</sup> Mohd. Idris Ramulyo,S.H, M.H, *Hukum Perkawinan, Hukum Kewarisan, Hukum Acara Peradilan Agama, dan Zakat menurut Hukum Islam*, (Jakarta ; Sinar Grafika, 1995), Hlm. 43

Married in the Qur'an is described as a safeguard against humanity.

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ وَاللَّهُ وَسِيعٌ عَلِيمٌ ٣٢

Meaning: *And marry those among you who are single and those who are fit among your male slaves and your female slaves; if they are needy, Allah will make them free from want out of His grace; and Allah is Ample-giving, knowing.*

Other verse express:

وَإِنْ خِفْتُمْ أَلَّا تَقْسِطُوا فِي الْأَيْتَامَىٰ فَأَنْكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَثُلَاثَ وَرُبُعًا فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ أَدْنَىٰ أَلَّا تَعُولُوا ٣

Meaning: *And if you fear that you cannot act equitably towards orphans, then marry such women as seem good to you, two and three and four; but if you fear that you will not do justice (between them), then (marry) only one or what your right hands possess; this is more proper, that you may not deviate from the right course.*

Both verses above appeared in Arabs which at that time experiencing a humanitarian crisis. At that time, the system of slavery is still valid. Slave status makes a person lose the degree of humanity and should be treated arbitrarily by the owner. Then verses advocating marriage to marry a slave to liberate and elevate their human dignity.

In verse tree of *Surah an-Nisa* above Qur'an gives choice to the people who are able to do justice to marry two, three or four women. This shows that the basis of marriage in Islam is justice,

and to qualify the justice there is a set of terms and the pillars of marriage that must be met.

## 2. Requirement and pillar of marriage

The requirement is something that should exist in marriage, but does not belong to one part of the pillars of marriage. While the pillar is something or components that must be present in a marriage.<sup>5</sup>

The requirement of marriage is as follows:

- a. Women are lawful marriage by men to be his wife, she is not the unlawful to marry, either forbidden to temporarily or permanently.
- b. The presence of the witnesses in the implementation of the wedding<sup>6</sup>

According to Sayyid Sābiq, the principal pillar in marriage is the pleasure of both sides to implement the contract.<sup>7</sup> Therefore, the core pillar is contract. For the legality of a marriage, scholars have formulated what became the pillars of of a marriage are: the candidate's wife, a husband, a guardian, two witnesses, dowry and implementation of *Ijab* and *Qobul*.<sup>8</sup>

## 3. Lessons and destination marriage

Lessons and destination marriage are as follows:

- a. To maintain the type of man; with human marriages can resume survival of types of offspring.
- b. To the breeding; with marriage as where it has been regulated by the Shari'a of Allah to his servants. It seems clear that the

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<sup>5</sup> A. Zuhdi Muhdlor, *Memahami Hukum Perkawinan*, (Bandung ; Mizan, 1994, fist publish.) page15

<sup>6</sup> Sayyid Syabiq, *Fiqh As-Sunnah*, (Beirut ; Beirut Dar-al Fikr, 1981, fourth publish vol.2) p 78

<sup>7</sup> Sayyid Syabiq, *Fiqh As-Sunnah*, ... p..29

<sup>8</sup> A. Zuhdi Muhdlor, *Memahami ...* p..52



lineages form of education that can perpetuate the glory for all offspring.

- c. Morals save humanity from destruction; with marriage saved society from moral decay and the securing of every individual from any social damage.
- d. to appease the soul of every person; marriage can reassure every soul love to soften the feelings between husband and wife, when the husband finishes work during the day and then return to his house in the afternoon she can gather with his wife and children. It can wipe out all melting and misery during the day.
- e. Husband and wife to establish cooperation in fostering the family and educate children. harmonious cooperation between the husband and wife work together to achieve good results, educating pious child who has a strong faith and strong spirit of Islam was born households peaceful and happy.
- f. Connecting the kinship between the family of the husband and wife. With this kinship families and communities will create a peaceful and prosperous.<sup>9</sup>

Generally, the verses use to explain the purpose of marriage is surah ar-rum verse 30

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً  
وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

Meaning: And one of His signs is that He created mates for you from yourselves that you may find rest in them, and He put between you love and compassion; most surely there are signs in this for a people who reflect.

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<sup>9</sup> Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia*, (Jakarta ; Kencana, 2009), p 46-47

The verse shows three things relating to the purpose of marriage are *sakinah*, *mawadah* and *Rahmah*. Quraish Shihab explains the word *mawaddah* with toleration and emptiness of the soul of ill will. In a heart condition *mawaddah* no longer be disconnected to the beloved, because his heart was so airy and empty of evil, outwardly and inwardly (which probably came from partner)<sup>10</sup>

While *rahmah* is physiologies condition that arises in the heart due to witness the powerlessness that encourages concerned to empower them. Because it was in family life, each husband and wife will earnestly even struggle for the good of the spouses and reject any that disrupt and disturb.<sup>11</sup>

## B. Marriage in Global History

In history, women are often placed as an object of suffering, as well as in the issue of marriage. Discussions about marriage in history can not be separated from the discussion on women's rights in the history of world civilization. How to treat women in history, also contributed significantly in the discourse of early marriage.

At the time of Greek civilization, women were not given the education and role in social life. They despised, called unclean and filled with Satanic. In terms of the Law of the women equated with property that may be sold or purchased openly in the markets. All his life, the woman was under the rule of men and not be given independence at all to get their rights.

While the ancient Roman civilization, her rights are fully in the hands of the father. As the head of a family, a father full right to

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<sup>10</sup> Quraish shihab, *Wawasan al-qur'an, Tafsir Maudhu'i Atas Pelbagai Persoalan Umat*, Mizan Bandung 1996, Thirteenth publish, page. 207

<sup>11</sup> *Ibid* p. 207-208

determine whether children born to his wife should never be part of the family, or must be discarded. A child, in particular girls, did not have the right to himself. If the father dies, the power over girls are given to boys as trustee for life. He could only escape from the confines of a guardian when married to another man, and automatically, lives under the authority of her husband. In the Law of the state, women seen as inferior because they are considered weak in rationality.<sup>12</sup>

Among the people of Israel, women are considered as a waitress. Child's father has the right to sell his daughter absolutely. Women are viewed as a creature cursed. Because, in the past when in Heaven, women have been misled Adam so until he was thrown into the earth. Belief in this myth, causing women are considered inferior or inferior creature in the life of the people of Israel.

It is not much different from the ancient Indian woman offered as a sacrifice to the Lord. Women do not have the right to live after her husband died. While the laws of Hammurabi, women accounted for at the farm animals that are free to be killed.<sup>13</sup>

Considering how women were treated in ancient civilizations, it can be concluded that in terms of choosing a life partner, women did not have freedom. This means, they also do not have the right to determine when they want and deserve to get married, for the right itself completely in the hands of the father.

Considering the studies in this thesis focused on hadith relating to Aisya marriage with the Prophet, then the discussion about marriage in the tradition of pre-Islamic Arabic and Arabic when the time of the Prophet, it is important to also described in this chapter.

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<sup>12</sup> Musthafa As-siba'iy, *Wanita di Antara Hukum Islam Dan Perundang-Undangan*, tran. Chadijah Nasution (Jakarta: Bulan Bintang, 1997) p.27

<sup>13</sup> *Ibid.* p.31

### C. Marriage and Social Structure in Pre-Islam

Regarding to the pre-Islamic tradition in Arab, It has three aspects should be describe here; Social Structure, Political Structure, and Economic Structure and Values

#### a. Social Structure and values

The people of Arab before arriving Islam had two kinds of lifestyles: nomadic (badāwah) and sedentary (hadārah) which persisted after the genesis of Islam.<sup>14</sup> Sedentary people was centered mainly in sporadic oases and on the caravan routes of trade between the north and the south of the peninsula;<sup>15</sup> however, nomadism was the most usual way of life although there were some differences between these two major lifestyles, tribal socio-political structure was their rule. Arab Bedouins on the peninsula were living in major and minor tribes whose members were tied together in a “tribal sentiment of unity” namely ‘Asabiyyah.<sup>16</sup> It is a twin image of individualism in Arabia. The Boudin had strong loyalty of the clan, as he would be protected and would engage in any clan.<sup>17</sup> Individual identity was rejected in favor of tribal collective identity<sup>18</sup> and the social position of the tribe or clan among Arabs defined the position of tribesmen and clansmen. A clash between two persons from different tribes led to conflict of tribes. The tribe also made decisions about certain

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<sup>14</sup> Tareq Y. Ismael, and Jacqueline S. Ismael.. *Government and politics of the contemporary Middle East: Continuity and change*. (Abingdon: Routledge 2011) page.44

<sup>15</sup> Marshal Hudson, *Venture of Islam "classical age"* (The University of Chicago Press, 1977) p. 5

<sup>16</sup> Abbas Morgan, *Islamic-Arabic and women laws*. Published online: 15 February 2016, Springer Science Business Media Dordrecht 2016 page 407

<sup>17</sup> Ahmed el-asker and Rodney Wilson, *Islamic Economic a Short History* p. 7

<sup>18</sup> Nurfadzilah yahya. 2008. *Arabia, pre-Islamic*. In *Encyclopedia of World History: The Ancient World Prehistoric Eras to 600 c.e.* eds..... p. 21

momentous individual issues. Aside from some cases, even converting to Islam was the decision of tribes.<sup>19</sup>

Bedouin life had its particular social norms and values, some of which have retained their validity and importance even in now days of Arab societies. This reality indicates that these characters had been a deep root of Arab. That is why, scholars have mentioned revenge, rivalry, and pride, dignity and loyalty, rectitude endurance, courage, self-respect, and generosity, collectivity, commitment, subordination, and coordination, “lineage, eloquence, paternalism. Abbas Morgan quote from Al-’Asma’ī (d. 828) about characteristics, morals, and values in social and political spheres that Arab leaders before Islam had found important and wrote in their will that their sons act in accordance with them.<sup>20</sup>

Tribesman has any violation of the value system endorse to harming the tribe and was punished by the tribe. Mention should also be made, of course, of the fact that Arabia had a solid patriarchal social structure. In this system, women were subordinated to men in both family and public spheres. At the family level, authority was vested in the senior male family members and other members recognized this as their right. At the societal level, patriarchy could be observed in the division of labor, the division of power, and the distribution of resources.<sup>21</sup>

In the Arabian customary value system, women were “second class citizens”. Their status was inferior and their rights were negligible in tribal life, women had no independent

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<sup>19</sup> Abbas Morgan, Islamic-Arabic and women laws. Published online: 15 February 2016, Springer Science Business Media Dordrecht 2016 p.405

<sup>20</sup> *Ibid* p. 407

<sup>21</sup> *Ibid* p. 408

existence or recognized place a part from men.<sup>22</sup> They were identified as “wives, mothers, or daughters” because they had no “jurally identity”. Their status of subjection was according to their nearest male kinsman or the father, brother, son or husband, whose rights over them were regarded as their rights over any other property”.<sup>23</sup>

According to Abbas Morgan that quoted from Fatima Mernissi, “Women were traded in the society not very courteously and respectfully, but rather in a humiliating manner, they were considered unreliable and not trustworthy.”<sup>24</sup> For some people opposition to the opinions of women was a sign of sagacity. The closed tribal society norms severely prohibited women to interact with stranger male within or outside the tribe. Male members of family decided who they could marry. In most cases, marriage took place inside the tribe. The marriage of paternal cousins was obligatory or at least preferred.<sup>25</sup>

The meaning of marriage was a possession for men and girls were considered as a part of their husband’s assets. A mother only attained a position in her spouse’s family after giving birth to a son. In patriarchal Arab society “male pride” was valued as a venerated cultural asset. To have many sons was considered as a sign of virility. Conversely, having many daughters was often seen as a lack of virility”. Even female genocide was prevalent in Arabia. In the pre-Islamic, epoch men had right to have as many wives as they wish.<sup>26</sup> It should

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<sup>22</sup> K. Ali, *Studi of Islamic History*, (IAD Religio Philosophy Reprint Series, 1980) p 21

<sup>23</sup> Abbas Morgan, Islamic-Arabic and women laws. Published online: 15 February 2016, Springer Science Business Media Dordrecht 2016 page.410

<sup>24</sup> *Ibid* p.408

<sup>25</sup> *Ibid* p 409

<sup>26</sup> *Ibid* p 403

be added that the patriarchal customs were not limited to nomads. There is some evidence that patriarchal norms became stronger when Arabs developed an urban lifestyle.

#### b. Political Structure

In pre-Islamic times the Arabian Peninsula possessed neither “central political authority” nor any “central ruling administrative center”. Because of this, the tribe played a significant political as well as an extensive social role in pre-Islamic society. The covenant of commitment to a tribe, which was the symbol of political loyalty, was a kind of alternative to an authoritative state, and the only way to ensure security for the extended family in a society in which fighting constituted a part of ordinary life.<sup>27</sup>

The only elective office in the tribe was the election of Sheikh, the leader of the tribe or clan. The Sheikh, as the “titular head” of the tribe, was selected according to his age, intelligence, wisdom and individual competence that represent the clan in relation to other clan. But he did not have absolute authority in all matter regarding to the clan.<sup>28</sup> They alone decided about what was or was not permitted. Outside the tribe or clan, they were the representative and the voice of all its members. Inside the group their position was as judges, arbiters, and models. The decisions made by tribal leaders were binding on all those within the tribe. It should be noted that the Sheikh “was chosen from the male membership of the tribe”. Oligarchy was another power structure in some regions.

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<sup>27</sup> Nurfadzilah yahya, *Arabia, pre-Islamic. In Encyclopedia of world history: The ancient world prehistoric eras to 600 c.e. eds.* Marsha E. Ackermann, Michael J. Schroeder, Janice J. Terry, Jiu- Hwa Lo Upshur, Mark F. Whitters, Vol. I, 21–22. (New York: Facts On File, Inc. 2008) page. 21

<sup>28</sup> Ahmed el-Asker and Rodney Wislson, *Islamic Economic a Short History* p. 7

Mecca, the pilgrimage center of polytheism in pre-Islamic times, had an oligarchical political system as a result of its unique trade location.<sup>29</sup> Indeed, politics and all decision-making processes were based on male domination sphere. As some historians report, women never undertook the control and management of a tribe.<sup>30</sup>

c. Economic structure

The Bedouin existence was the main feature of society among the inhabitants of Arabia, which shaped their thinking and determined their way of life.<sup>31</sup> Pre-Islamic Arabian Peninsula reveals that Arabs utilized various economic ways of life depending on the natural environment and geographical location of the tribe or clan, it was nomadic or sedentary lifestyle, and the strategic location of it was cities. Some of these economic life style lead to retain their significance after the advent of Islam while others were rejected by the new religion. Agriculture was the main means of earning a livelihood for the inhabitants and it remains one of the most important elements of the economy in some sections of Arabia.<sup>32</sup> Agriculture was thriving in some parts of Arabia such as the southwestern region of the Peninsula which was “fruitful” and could be called “happy Arabia”. Farming was

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<sup>29</sup> Ismael Y. Tareq and Jacqueline S. Ismael.. *Government and politics of the contemporary Middle East: Continuity and change*. (Abingdon: Routledge. 2011) P.45

<sup>30</sup> Abbas Morgan, *Islamic-Arabic and women laws...*p 412

<sup>31</sup> Ahmed El-Ashker and Rodney Wilson.. *Islamic economics: A short history*. (Leiden: Brill. 2006) P.5

<sup>32</sup> Abbas Morgan, *Islamic-Arabic and women laws...*p 413



also the main economic activity in cities such as Najrān and Yatsrib.<sup>33</sup>

Another economic activity in Arabia was trade. “The commercial network in Arabia was facilitated mainly by the caravan trade in Yemen, where goods from the Indian Ocean in the south were transferred on to camel caravans, which then traveled to Damascus and Gaza”.<sup>34</sup> Spices, gold, slaves, myrrh, and frankincense as well as some luxury goods were the main mercantile goods in Arabia. Indeed, Mecca, which was a sacred shrine even before Islam, had an outstanding status among these marketplaces because of both its strategic mercantile and pilgrimage location, and was known as a commercial and spiritual hub. Three famous Arab bazaars namely ‘Ukkāz, Dhulmajāz, and Majannah were safe places for traders especially in the time of hajj. Animal husbandry was another way through which Arabs earned livelihood for themselves. Furthermore, pastoralism and hunting were economic sources of Arab nomads to provide meat for tribesmen.<sup>35</sup>

It should be noted that a considerable economic activity as characteristic of the economic behavior of Bedouins was “invasion for economic gains”. Ghazw (plunder) was one of the most common methods of getting booty and creating wealth.<sup>36</sup> Because of limited economic resources in the Arabian Desert many tribal members did not have enough to

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<sup>33</sup> Ahmed El-Ashker and Rodney Wilson.. *Islamic economics: A short history*. (Leiden: Brill. 2006) P.5

<sup>34</sup> Yahaya, Nurfadzilah. *Arabia, pre-Islamic*. In *Encyclopedia of world history: The ancient world prehistoric eras to 600 c.e.* eds. Marsha E. Ackermann, Michael J. Schroeder, Janice J. Terry, Jiu- Hwa Lo Upshur, Mark F. Whitters, Vol. I, 21–22. (New York: Facts On File, Inc. . 2008) page 21

<sup>35</sup> Abbas Morgan, *Islamic-Arabic and women laws*.....p.414

<sup>36</sup> *Ibid* p 413

eat. As a result, in order to feed hungry members of tribe, *Ghazw* is a most reasonable way. It should be stressed that the aim of these military invasion was completely economic. “Ambush and surprise attacks” were historically launched against rich caravans. The harsh living conditions in the desert made “raiding the herds of other tribes” as a method of survival.<sup>37</sup>

Arabia was placed between Sassanid and Roman Empire. With such desert location and tribalism condition, camel was the most effective transportation. Relating to Sadernity power, for nomad, camel was very important. Camel was such elite part of Arabia.<sup>38</sup> However trading was still was the most primer of Arabian people. Beside as trader boudin was also as the soldier. It was because the Boudin people have the master of desert. Other ways, the area of Boudin was the road of caravan trading between other areas to the mecca. So it was really important for mecca people to supply the need of Boudin people to save their trading road.<sup>39</sup>

The participation of women in this economic structure was negligible. From an economic perspective which was the most important reality of life, women were seen mainly as consumers and not producers. They were looked upon with disfavor and as a kind of economic and social burden”. Consequently, female genocide and various kinds of divorce were common, largely as a result of destitution or hunger. The acquisition and maintenance of such economic means required physical strength as well as a considerable amount of wealth which most women lacked at that time. One of the minor but

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<sup>37</sup> Abbas Morgan, *Islamic-Arabic and women laws*.....page 409

<sup>38</sup> Marshal Hudson, *Venture of Islam "classical age"* .....page 147- 150

<sup>39</sup> *Ibid* p. 151-154

valuable economic roles of females was bearing more sons because a son had significant economic as well as social importance.<sup>40</sup>

Nevertheless, the existence of various kinds of marriages and reproduction reduced the value of this economic role. Consequently, females were not only marginalized from the economic sphere but also became the subject of possession. Economic inequality was the rule in this period. Women did not even have the power to decide about their dowry and assets.<sup>41</sup>

Abbas Morgan explains the condition of women at that time was “The distribution of inheritance followed a “patrilineal” system in which inheritance belonged to male inheritors only. Even the widow did not receive portion of inheritance from her husband; rather she was also regarded as a personal possession to be inherited. The first son of a deceased father had the right to marry the wife of his father and he could give this right to his brother. The second brother could also give this right to other inheritors. Likewise, a daughter got no share from the property of her deceased father or the mother from her deceased son. According to Arab law, inheritance belonged to horseman and swordsman who could earn a living for the family and defend the tribe. But, It should be noted that the history of the Arabian Peninsula has recorded some economically or politically powerful women. “Hind bint Utba, the wife of Sufyan bin Harb, and Leila, mother of Amr bin Kalthum” are some instances of this.

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<sup>40</sup> Abbas Morgan, *Islamic-Arabic and women laws*.....p 411

<sup>41</sup> *Ibid* p 415.

Nevertheless, this extraordinary position was an exception which was related to a close kinship with a powerful man.”<sup>42</sup>

Married at an early age has become a natural part of the pre-Islamic Arab civilization. Abdul Muttalib, the grandfather of the Prophet, Married to a woman named Halah when halah very young age. Halah is the older cousin of Aminah binti Abdul Wahab, the mother of the Prophet.<sup>43</sup>

Women did not have the right to choose a husband. Only noble Arabian tribe who can refuse or negotiate, in case of his daughter on the matter of marriage proposal. Related to whom and at what age a girl getting married is the full authority of his father.<sup>44</sup>

#### **D. Marriage and Social Reconstruction in Early Muslim**

The theory of mutual relationship between society, culture and law obviously reveals that contemporary modern social and cultural foundations could produce a more female friendly Islamic women’s law. Nevertheless, the obstacles of issuing more female friendly Islamic faith was and laws should not be forgotten. Without doubt, Muslim ulama are concerned with the holiness of Islamic law which, from their perspective, relies only on Kitab (Book: Qur’an) and Sunna. In the faith of Muslim, Qur’an and sunnah has special position. Qur’an verses the first main source of muslim act, while sunnah is the secondary source. These two war delivered by Muhammad as the last chosen one to get the revelation.

Supporting by its own territory and spiritually independent, Islam could begin to develop its own social order in earnest. It was scarcely as yet an independent culture in most respects, to be sure; but increasingly

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<sup>42</sup> *Ibid* p.409

<sup>43</sup> Bintu Syathi’, *Istri-istri Rasulullah saw*, trans. Chadijah Nasution p.66

<sup>44</sup> Musthafa As-siba’iy, *Wanita diantara Hukum* ..... p27

many aspects of culture among the Muslims were differentiated in the new social context. This was sometimes a matter of detail.<sup>45</sup>

Muhammad's family arrangements were based on Qur'anic rules on marriage, which universalized one existing type of Arab marriage, with modifications. The nuclear family-man, wife, and children-was stressed as a self-sufficient unit, with every marriage given equal status at law. This was largely achieved through strengthening the position of the individual adult male. The man retained wide authority over the wife to the exclusion of either his family or hers. The children were to be the husband's, who was responsible for maintenance of wife and children. Inheritance was to be primarily within the immediate family, not diffused through the clan.<sup>46</sup>

In surah An-Nisā', described details of how Quran explains many things related to the rules of marriage. Starting with the explanation that man was created from that one, and then make a couple to get married to each other to build relationships (*silaturrahīm*). The verses and then went on to explain the relationship with orphans and advocated polygamy. Then proceed again with the obligation to provide *shadaqoh* to his wife he has married.

Such kind of rules mostly revealed in the city of Medina. This is in line with the gradual process of prophet preaching. Perhaps at the heart of any social structure is its family law. Certainly in the Medina community it was in this field that the most explicit. Innovations were made; so far as the Qur'an contains legislation, it largely regards family relationships. The regulations were made piecemeal during the rest of Muhammad's life, but here again the tendency was persistently toward asserting individual rights on the basis of equality before God.

In sociological point of view, the mutual relationship between culture and law is the source of the formation of a legal discourse and its

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<sup>45</sup> Marshal Hudson, *Venture of Islam "classical age"* .....page.190

<sup>46</sup> *Ibid*.186

legitimacy in society. The action relation between culture and law results in shaping a particular cultural discourse of law and which legitimizes the authority of legal discourse. Law and culture are deeply intertwined so that the separation of law from culture as an independent sphere leads to the distortion of both law and culture. The mutual relationship is also the source of hermeneutics and the interpretation of controversial legal issues. On the other side, cultural mediums have particular legal statuses which enable them to be effective. Thus, the interaction of law and culture plays a substantial role in the shaping, legitimacy, and interpretation of law.<sup>47</sup>

The contract has affecting marriage have led the courts into a conflict of divinities. But contracts, although undoubtedly of less celestial origin, also have been surrounded with a "sacred" aura. The conflict has usually been resolved in favor of marriage, and there has crystallized a rule that any contract which discourages or interferes with that relation is void as against public policy.<sup>48</sup>

In reforming pre-Islamic tradition, not all practice of pre Islamic Arab was deleted from. In some cases the man acquired the woman very nearly as property and brought her to live with his own clan; in some cases the man seems to have retained but a casual relation to his woman, who remained completely dependent on her parental clan. What dignity either a man or a woman had in the family relationship depended on status at birth, family circumstances, and wealth.<sup>49</sup> Such:

وَالَّذِينَ هُمْ لِأُزْوَاجِهِمْ حَافِظُونَ ۚ ۲۹ إِلَّا عَلَىٰ أَرْوَاحِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ  
غَيْرُ مَلُومِينَ ۚ ۳۰

<sup>47</sup> Abbas Morgan, *Islamic-Arabic and women laws*..... P.406

<sup>48</sup> Marriage, Contracts, and Public Policy Source: Harvard Law Review, Vol. 54, No. 3 (Jan., 1941), pp. 473-482 Published by: The Harvard Law Review Association

<sup>49</sup> Marshal Hudson, *Venture of Islam "classical age"* ..... p187

And those who guard their private parts, Except in the case of their wives or those whom their right hands possess-- for these surely are not to be blamed,

Other verse that has the same tradition of marriage was polygamy, but Quran has the new meaning in polygamy such verse

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِّنَ النِّسَاءِ مَثْنَىٰ وَثُلَاثَ وَرُبْعَ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ آدَنَىٰ أَلَّا تَعُولُوا<sup>50</sup>

And if you fear that you cannot act equitably towards orphans, then marry such women as seem good to you, two and three and four; but if you fear that you will not do justice (between them), then (marry) only one or what your right hands possess; this is more proper, that you may not deviate from the right course.

Like what has been quoted by Abbas Morgan from Sha'rāwi in his writting. "It is said that the social cause of polygamy in ancient history was war and the high number of men who died in war resulting in a higher proportion of women than men. Polygamy was a solution for surplus women"<sup>51</sup>

But Islam do criticized, and refused a part of the norms and values of run before and on the other hand, it implicitly endorsed or modified another part of these principles. Those are based Quran. For example: Qur'an reports that pre-Islam Arabs were extremely angry when their newborn child was a girl:

وَإِذَا بُشِّرَ أَحَدُهُم بِالْأُنثَىٰ ظَلَّ وَجْهُهُ مُسْوَدًّا وَهُوَ كَظِيمٌ ٥٨ يَتَوَرَّىٰ مِنَ الْآلَمِ مِنَ سُوءِ مَا بُشِّرَ بِهَا أَيَسِيكُهُ عَلَىٰ هُونٍ أَمْ يَدُسُّهُ فِي التُّرَابِ أَلَّا سَاءَ مَا يَحْكُمُونَ ٥٩

And when a daughter is announced to one of them his face becomes black and he is full of wrath.<sup>59</sup> He hides himself from the people because of the evil of that which is announced to him. Shall he keep it with disgrace or bury it (alive) in the dust? Now surely evil is what they judge.

Besides, Qur'an presented a more considerate attitude in relationships with wives:

<sup>50</sup> Q.S. An-Nisā' [4]:3

<sup>51</sup> Abbas Morgan, *Islamic-Arabic and women laws*..... p.410

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ ٢١ 52

And one of His signs is that He created mates for you from yourselves that you may find rest in them, and He put between you love and compassion; most surely there are signs in this for a people who reflect.

Qur'an stresses the equality of men and women before God:

مَنْ عَمِلَ صَالِحًا مِمَّنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ فَلَنُحْيِيَنَّهٗ حَيَاةً طَيِّبَةً وَلَنَجْزِيَنَّهُمْ أَجْرَهُمْ بِأَحْسَنِ مَا كَانُوا يَعْمَلُونَ 53

Whoever does good whether male or female and he is a believer, We will most certainly make him live a happy life, and We will most certainly give them their reward for the best of what they did.

In the above verses Qur'an represent different values which has totally different from value system of Arabs in the pre-Islamic era; however, there is various verses which completely or partially confirms or modifies the established structure and traditional order of the patriarchal tribal society at the time of revelation of the Quran.

For example: verse about inequality of men and women, while the former refers to the other-worldly reward. It appears that the Quran also endorse this patriarchal rule:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَىٰ بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَأَهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَأَضْرِبُوهُنَّ فَإِنِ اطَّعْتُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا 54

34. Men are the maintainers of women because Allah has made some of them to excel others and because they spend out of their property; the good women are therefore obedient, guarding the unseen as Allah has guarded;

<sup>52</sup> Q.S. Ar-Rūm [30]:21

<sup>53</sup> Q.S. An-Nahl [16]: 97

<sup>54</sup> Q.S. An-Nisā' [4]:34



and (as to) those on whose part you fear desertion, admonish them, and leave them alone in the sleeping-places and beat them; then if they obey you, do not seek a way against them; surely Allah is High, Great.

وَالْمُطَلَّاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ حَكِيمٌ<sup>55</sup>

And the divorced women should keep themselves in waiting for three courses; and it is not lawful for them that they should conceal what Allah has created in their wombs, if they believe in Allah and the last day; and their husbands have a better right to take them back in the meanwhile if they wish for reconciliation; and they have rights similar to those against them in a just manner, and the men are a degree above them, and Allah is Mighty, Wise.

But in other side Quran also give inequality to be witness stated as:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ وَلْيَكْتُب بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ وَلَا يَأْب كَاتِبٌ أَنْ يَكْتُبَ كَمَا عَلَّمَهُ اللَّهُ فَلْيَكْتُبْ وَلْيَمْلِكِ الَّذِي عَلَيْهِ الْحَقُّ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلَا يَبْخَسَ مِنْهُ شَيْئًا فَإِنْ كَانَ الَّذِي عَلَيْهِ الْحَقُّ سَفِيهًا أَوْ ضَعِيفًا أَوْ لَا يَسْتَطِيعُ أَنْ يُمِلَّ هُوَ فَلْيَمْلِكْ وَلِيَّهُ بِالْعَدْلِ وَاسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ مِمَّن تَرْضَوْنَ مِنَ الشُّهَدَاءِ أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكَّرَ إِحْدَاهُمَا الْأُخْرَىٰ وَلَا يَأْب الشُّهَدَاءُ إِذَا مَا دُعُوا وَلَا تَسْمُوا أَنْ تَكْتُمُوهُ صَغِيرًا أَوْ كَبِيرًا إِلَىٰ أَجَلِهِ ذَلِكُمْ أَقْسَطُ عِنْدَ اللَّهِ وَأَقْوَمٌ لِلشُّهَدَةِ وَأَدْنَىٰ أَلَّا تَرْتَابُوا إِلَّا أَنْ تَكُونَ تِجْرَةً حَاضِرَةً تُدِيرُونَهَا بَيْنَكُمْ فَلَيْسَ عَلَيْكُمْ جُنَاحٌ أَلَّا تَكْتُمُوهُمَا وَأَشْهَدُوا إِذَا نَبَايَعْتُمْ وَلَا يُضَارَّ كَاتِبٌ وَلَا شَهِيدٌ وَإِنْ تَفَلَّوْا فَإِنَّهُ فَسُوقٌ بِكُمْ وَأَنْقُوا اللَّهَ وَيُعَلِّمُكُمُ اللَّهُ وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ<sup>56</sup>

O you who believe! when you deal with each other in contracting a debt for a fixed time, then write it down; and let a scribe write it down between you with fairness; and the scribe should not refuse to write as Allah has taught

<sup>55</sup> Q.S. Al-Baqarah [2]:3228

<sup>56</sup> Q.S. Al-Baqarah [2]:282

him, so he should write; and let him who owes the debt dictate, and he should be careful of (his duty to) Allah, his Lord, and not diminish anything from it; but if he who owes the debt is unsound in understanding, or weak, or (if) he is not able to dictate himself, let his guardian dictate with fairness; and call in to witness from among your men two witnesses; but if there are not two men, then one man and two women from among those whom you choose to be witnesses, so that if one of the two errs, the second of the two may remind the other; and the witnesses should not refuse when they are summoned; and be not averse to writing it (whether it is) small or large, with the time of its falling due; this is more equitable in the sight of Allah and assures greater accuracy in testimony, and the nearest (way) that you may not entertain doubts (afterwards), except when it is ready merchandise which you give and take among yourselves from hand to hand, then there is no blame on you in not writing it down; and have witnesses when you barter with one another, and let no harm be done to the scribe or to the witness; and if you do (it) then surely it will be a transgression in you, and be careful of (your duty) to Allah, Allah teaches you, and Allah knows all things.

However, it must be noted that the position of women before and Islam highly different. By these rules, the women actually have the higher status than before. It can be assumed that the orientation of these verses is part of shaping a new humanized social order.

The absence of females from chief social positions before and after the dawn of Islam could partly correlate with their minor responsibility in socio-political and economic domains which, in turn, resulted in their relatively low skills in these fields. In a society in which the most usual occupation of women was working at home and the most frequent part they played was the roles of wife and mother, the expectation of getting substantial sociopolitical tasks is totally unrealistic.<sup>57</sup>

وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ كَتَبَ اللَّهُ عَلَيْكُمْ وَأَجَلَ لَكُمْ مَا وَرَاءَ  
ذَلِكَ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ غَيْرَ مُسْفِحِينَ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ

<sup>57</sup> Abbas Morgan, *Islamic-Arabic and Women Laws*. .....page 2016

أُجُورَهُنَّ فَرِيضَةً وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا تَرْضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيضَةِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا<sup>58</sup>

And all married women except those whom your right hands possess (this is) Allah's ordinance to you, and lawful for you are (all women) besides those, provided that you seek (them) with your property, taking (them) in marriage not committing fornication. Then as to those whom you profit by, give them their dowries as appointed; and there is no blame on you about what you mutually agree after what is appointed; surely Allah is Knowing, Wise.

وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَ وَلَأَمَةٌ مُؤْمِنَةٌ خَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ  
وَلَا تُنكِحُوا الْمُشْرِكِينَ حَتَّى يُؤْمِنُوا وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ وَلَوْ أَعْجَبَكُمْ  
أُولَئِكَ يَدْعُونَ إِلَى النَّارِ وَاللَّهُ يَدْعُو إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ وَيُبَيِّنُ آيَاتِهِ  
لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ<sup>59</sup>

*And do not marry the idolatresses until they believe, and certainly a believing maid is better than an idolatress woman, even though she should please you; and do not give (believing women) in marriage to idolaters until they believe, and certainly a believing servant is better than an idolater, even though he should please you; these invite to the fire, and Allah invites to the garden and to forgiveness by His will, and makes clear His communications to men, that they may be mindful.*

Quran prohibit the marrying step mother, it was also different from pre Islamic tradition that the step mother such

وَلَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ مِنَ النِّسَاءِ إِلَّا مَا قَدْ سَلَفَ إِنَّهُ كَانَ فَحِشَةً وَمَقْتًا وَسَاءَ  
سَبِيلًا ٢٢ حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ وَعَمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ  
الْأَخِ وَأُمَّهَاتُ الْأَخِ وَالَّذِينَ فِي حُجُورِكُمْ مِّنْ نِّسَائِكُمُ اللَّاتِي أَرْضَعْنَكُمْ وَأَخَوَاتُكُمْ مِّنْ الرِّضَاعَةِ وَأُمَّهَاتُ نِسَائِكُمْ  
وَرَبِّبَاتُكُمْ اللَّاتِي فِي حُجُورِكُمْ مِّنْ نِّسَائِكُمُ اللَّاتِي دَخَلْتُمْ بِهِنَّ فَإِنْ لَّمْ تَكُونُوا دَخَلْتُمْ بِهِنَّ

<sup>58</sup> Q.S. An-Nisā' [4]:24

<sup>59</sup> Q.S. Al-Baqarah [2]: 221

فَلَا جُنَاحَ عَلَيْكُمْ وَحَلَالٌ أَبْنَائِكُمُ الَّذِينَ مِنْ أَصْلَابِكُمْ وَأَنْ تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا  
 قَدْ سَلَفَ ۗ إِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا<sup>60</sup>

And marry not woman whom your fathers married, except what has already passed; this surely is indecent and hateful, and it is an evil way.<sup>23</sup>. Forbidden to you are your mothers and your daughters and your sisters and your paternal aunts and your maternal aunts and brothers' daughters and sisters' daughters and your mothers that have suckled you and your foster-sisters and mothers of your wives and your step-daughters who are in your guardianship, (born) of your wives to whom you have gone in, but if you have not gone in to them, there is no blame on you (in marrying them), and the wives of your sons who are of your own loins and that you should have two sisters together, except what has already passed; surely Allah is Forgiving, Merciful.

That verse was a huge critic of pre-islamic tradition that the widow of his father can be a husband of the son. By this role, the mother is finally to be mother, not to be heritance any more. It was kin of humanize rule from being a warty to a humen.

In the early days of Islam, marry off girls at the age when they are still very young, is a tradition that considered reasonable. Ali bin Abi Talib married his daughter named Umm Kulthum by Urwah ibn Zubayr at the age of Umm Kulthum was a child. Urwah bin Zubair married niece with her nephew when they are still small.

In addition, there is also a man who donated his daughter is still small at Abdullah bin Hasan bin Ali, and Ali radliyallahu 'anhu allow it. Ibn Mas'ud wife to marry his daughter is still small by Ibn Musayyab bin Nukhbah, and her husband allows it.<sup>61</sup>

Umar Offering a young douter, Hafsa, the same age as Aisha, to marry 'Uthman ra. Also Umar bin al-Khattab married the daughter of Ali bin Abi Talib, which can be considered as a kind of marriage between

<sup>60</sup> Q.S. An-Nisā' [4]:22-23

<sup>61</sup> Wahbah Zuhaili, *Fiqh Islam Wa Adillatuhu*, ., Maktabah syamilah, vol 9 page.173

"grandfather to grandson," as well as wedding Zaid ibn Haritha, a former foster child Prophet., With Um Ayman nurturing the Prophet as a child. It is similar to a marriage "grandmother" with her grand daughter.<sup>62</sup>

The case of marriage in the Muhammad was not consider the age. Various reasons underlie the practice of early marriage. Even some people borrowed argument of religion, such hadits on Aisya age of marriage, as legitimacy. Though certainly social, cultural context that surrounded is much different.

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<sup>62</sup> Quraish Shihab, *Membaca Sirah Muhammad*, Lentera Hati,( Ciputat, 2011), first edition p.530

## CHAPTER III

### HADITS ON AISYA MARRIAGE

#### A. Hadits on Aisya Marriage and Its Quality

In study of *hadits*, to search the text of *hadist* what to do is *takhrij*. *Takhrij* is modified from *kharaja* (خَرَجٌ) which means “clear”. Other meaning of this term is *al-istinbath* (to determination), *al-tadrib* (training) and *al-taujih* (to face). Whit those meaning, simplify, *takhrij al-hadits* means “convoy hadits” which means, searching hadith from its source (books of hadits). Terminologicily, express the hadith whit its own source of *sanad* or expressing the position of *hadits* from the original source and explain its quality (if it is needed).<sup>1</sup>

To search the *hadits*, it is possible to do manually or digitally. To do manually, it can be search by using books of *hadits*. For instance *Mu’jam Al Mufahras Lia- Alfaz Al Hadits* helping by key word.<sup>2</sup>. This way considered has more difficulties than digitalis way. digital methods appears in accord whit the development of technology which is helpful for researcher in innovation of searching hadits effectively and efficiently by using digital device such as CD of *mausu’ah al-hadits al-syarif* by *jawami’ al kalim* application.

Considering affectivity and efficiency in effort of searching *hadits* digitally, then, the writer chose this way as a method of searching *hadits* relating to the age of Aisya married. Buy this method, using *bint tis’a* as key word, the writer found for about 83 hadits talking about the age of Aisya marriage. Those hadiths are narrated by various chains of transitions.

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<sup>1</sup>A. Hasan Asy’ari Ulama’I, M.Ag, *Melacak Hadi Nabi Saw Cara Cepat Mencari Hadis Dari Manual Hingga Digital*, RaSAIL, Semarang, 2006 page : 4

<sup>2</sup>A.J Wensick, *Mu’jam Al Mufahras Li-Alfaz Ah Hadits Al Nabawi*, vol. II (Istambul Dar al-da’wah, 1987) p 410

Generally, those hadiths can be classified in four categories based on their chain of transmission.

### 1. Hadiths of Aisyah marriage on Shahih Bukhārī:

حَدَّثَنِي فَرُوءُ بْنُ أَبِي الْمَعْرَاءِ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، قَالَتْ: " تَزَوَّجَنِي النَّبِيُّ وَأَنَا بِنْتُ سِتِّ سِنِينَ، فَقَدِمْنَا الْمَدِينَةَ فَنَزَلْنَا فِي بَيْتِ الْحَارِثِ بْنِ خَزْرَجٍ، فَوَعَكَتُ فَتَمَرَّقَ شَعْرِي فَوَفَى جُمَيْمَةً فَأَتَتْنِي أُمِّي أُمُّ رُوْمَانَ وَإِنِّي لَفِي أَرْجُوْحَةٍ وَمَعِيَ صَوَاحِبٌ لِي فَصَرَخَتْ بِي، فَأَتَيْتُهَا لَا أَدْرِي مَا تُرِيدُ بِي، فَأَخَذَتْ بِيَدِي حَتَّى أَوْقَفْتَنِي عَلَى بَابِ الدَّارِ وَإِنِّي لَأُنْهَجُ حَتَّى سَكَنَ بَعْضُ نَفْسِي، ثُمَّ أَخَذَتْ شَيْئًا مِنْ مَاءٍ فَمَسَحَتْ بِهِ وَجْهِي وَرَأْسِي، ثُمَّ أَذْخَلَتْنِي الدَّارَ فَإِذَا نِسْوَةٌ مِنَ الْأَنْصَارِ فِي الْبَيْتِ، فَقُلْنَ عَلَى الْخَيْرِ وَالْبَرَكَاتِ وَعَلَى خَيْرِ طَائِرٍ، فَأَسَلَمْتَنِي إِلَيْهِنَّ فَأَصْلَحْنَ مِنْ شَأْنِي فَلَمْ يُرْعِنِي إِلَّا رَسُولُ اللَّهِ ضَحَى، فَأَسَلَمْتَنِي إِلَيْهِ وَأَنَا يَوْمَئِذٍ بِنْتُ تِسْعِ سِنِينَ"<sup>3</sup>

(3632)- [3896] حَدَّثَنِي عُبَيْدُ بْنُ إِسْمَاعِيلَ، حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، قَالَ: " تُوَفِّيتُ خَدِيجَةَ قَبْلَ مَخْرَجِ النَّبِيِّ إِلَى الْمَدِينَةِ بِثَلَاثِ سِنِينَ، فَلَبِثَ سَنَتَيْنِ أَوْ قَرِيبًا مِنْ ذَلِكَ وَنَكَحَ عَائِشَةَ وَهِيَ بِنْتُ سِتِّ سِنِينَ، ثُمَّ بَنَى بِهَا وَهِيَ بِنْتُ تِسْعِ سِنِينَ"<sup>4</sup>

(4763)- [5133] حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ، حَدَّثَنَا سُفْيَانُ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، " أَنَّ النَّبِيَّ تَزَوَّجَهَا وَهِيَ بِنْتُ سِتِّ سِنِينَ، وَأَدْخَلَتْ عَلَيْهِ وَهِيَ بِنْتُ تِسْعِ، وَمَكَتَتْ عِنْدَهُ تِسْعًا"<sup>5</sup>

(4764)- [5134] حَدَّثَنَا مُعَلَّى بْنُ أَسَدٍ، حَدَّثَنَا وَهَيْبٌ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، " أَنَّ النَّبِيَّ تَزَوَّجَهَا وَهِيَ بِنْتُ سِتِّ سِنِينَ، وَبَنَى بِهَا وَهِيَ بِنْتُ تِسْعِ سِنِينَ "، قَالَ هِشَامٌ: وَأُنْبِئْتُ أَنَّهَا كَانَتْ عِنْدَهُ تِسْعِ سِنِينَ<sup>6</sup>

(4786)- [5158] حَدَّثَنَا قَبِيصَةُ بْنُ عُقْبَةَ، حَدَّثَنَا سُفْيَانُ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ عُرْوَةَ، " تَزَوَّجَ النَّبِيُّ عَائِشَةَ وَهِيَ بِنْتُ سِتِّ سِنِينَ، وَبَنَى بِهَا وَهِيَ بِنْتُ تِسْعِ عِنْدَهُ تِسْعًا"<sup>7</sup>

<sup>3</sup> Abu Abdillah Muhammad bin Ismā'il, *Shahih al-Bukhārī*. (Dār thūq an-Najāt 1422H) vol 5 p.55

<sup>4</sup> Ibid p. 56

<sup>5</sup> Ibid vol.7 p.17

<sup>6</sup> Ibid p.17

## 2. Hadits in Shahīh Muslim:

(2555)– [1422] حدثنا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلَاءِ، حدثنا أَبُو أُسَامَةَ. ح وحدنا أَبُو بَكْرٍ بْنُ أَبِي شَيْبَةَ، قَالَ: وَجَدْتُ فِي كِتَابِي، عَنْ أَبِي أُسَامَةَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ [ ج 9 : ص 207 ] لِسِتِّ سِنِينَ، وَبَنَى بِي وَأَنَا بِنْتُ تِسْعِ سِنِينَ "، قَالَتْ: فَقَدِمْنَا الْمَدِينَةَ، فَوَعِكَتُ شَهْرًا فَوْقَى شَعْرِي جُمَيْمَةَ، فَأَتَيْتِي أُمُّ رُومَانَ، وَأَنَا عَلَى أَرْجُوْحَةٍ وَمَعِيَ صَوَاحِبِي، فَصَرَخَتْ بِي فَأَتَيْتُهَا، وَمَا أَذْرِي مَا تُرِيدُ بِي، فَأَخَذَتْ بِيَدِي فَأَوْقَفْتَنِي عَلَى الْبَابِ، فَقُلْتُ: هَهُ هَهُ حَتَّى ذَهَبَ نَفْسِي، فَأَدْخَلْتَنِي بَيْتًا، فِإِذَا نِسْوَةٌ مِنَ الْأَنْصَارِ، فَقُلْنَ عَلَى الْخَيْرِ وَالْبِرْكََةِ وَعَلَى خَيْرِ طَائِرٍ، فَأَسْلَمْتَنِي إِلَيْهِنَّ، فَعَسَلَنَ رَأْسِي وَأَصْلَحْتَنِي، فَلَمْ يَرْعُنِي إِلَّا وَرَسُولُ اللَّهِ [ ج 9 : ص 208 ] ضَحَى، فَأَسْلَمْتَنِي إِلَيْهِ"<sup>8</sup>

(2556)– [1423] وحدنا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا أَبُو مُعَاوِيَةَ، عَنْ هِشَامِ بْنِ عُرْوَةَ. ح وحدنا ابْنُ نُمَيْرٍ، وَاللَّفْظُ لَهُ: حدثنا عَبْدُهُ هُوَ ابْنُ سُلَيْمَانَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي النَّبِيُّ وَأَنَا بِنْتُ سِتِّ سِنِينَ، وَبَنَى بِي وَأَنَا بِنْتُ تِسْعِ سِنِينَ"<sup>9</sup>

(2558)– [1424] وحدنا يَحْيَى بْنُ يَحْيَى، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَأَبُو بَكْرٍ بْنُ أَبِي شَيْبَةَ، وَأَبُو كُرَيْبٍ، قَالَ يَحْيَى: وَإِسْحَاقُ: أَخْبَرَنَا، وَقَالَ الْأَخْرَانِ: حدثنا أَبُو مُعَاوِيَةَ، عَنْ الْأَعْمَشِ، عَنْ إِبْرَاهِيمَ، عَنِ الْأَسْوَدِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَهَا رَسُولُ اللَّهِ وَهِيَ بِنْتُ سِتِّ، وَبَنَى بِهَا وَهِيَ بِنْتُ تِسْعِ، وَمَاتَ عَنْهَا وَهِيَ بِنْتُ ثَمَانَ عَشْرَةَ"<sup>10</sup>

## 3. Abu Dāwud as-Sijistāni:

<sup>7</sup> Ibid p.21

<sup>8</sup> Muslim bin al Hajjāj Abu Al Hasan al-Qusairy an-Nisābūry, *Shohīh al-Muslim* (Bairut.Dār Ihyā'I At-Turāts) vol.2 p. 1038

<sup>9</sup> Ibid p. 1039

<sup>10</sup> Ibid 1039



(1814)– [2121] حَدَّثَنَا سُلَيْمَانُ بْنُ حَرْبٍ، وَأَبُو كَامِلٍ، قَالَا: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ وَأَنَا بِنْتُ سَعْدِ بْنِ سَعْدٍ، قَالَ سُلَيْمَانُ: أَوْ سَيْتٍ. وَدَخَلَ بِي وَأَنَا بِنْتُ سَعْدٍ " <sup>11</sup>

#### 4. An-Nasāi

(5183)– [5 : 168] أَخْبَرَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ بْنِ رَاهُوَيْهِ، قَالَ: أَنَا يَحْيَى بْنُ آدَمَ، قَالَ: ثنا أَبُو بَكْرٍ وَهُوَ ابْنُ عِيَّاشٍ، عَنِ الْأَخْلَجِ، عَنِ ابْنِ أَبِي مُلَيْكَةَ، عَنْ عَائِشَةَ، أَنَّ النَّبِيَّ : " تَزَوَّجَهَا وَهِيَ بِنْتُ سَيْتِ سَيْنِينَ، وَدَخَلَ بِهَا وَهِيَ بِنْتُ سَعْدِ بْنِ سَعْدٍ "، [ ج 5 : ص 170 ] قَالَ لَنَا أَبُو عَبْدِ الرَّحْمَنِ: أَبُو بَكْرٍ بْنُ عِيَّاشٍ اخْتَلَفَ فِي اسْمِهِ فَقِيلَ: اسْمُهُ شُعْبَةُ، وَقِيلَ: مُحَمَّدٌ، وَقِيلَ: اسْمُهُ كُنْيَتُهُ <sup>12</sup>

(5184)– [5346] أَخْبَرَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، قَالَ: أَنبَأَنَا أَبُو مُعَاوِيَةَ يَعْني مُحَمَّدَ بْنَ حَازِمِ الضَّرِيرِ، قَالَ: حَدَّثَنَا هِشَامُ بْنُ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، أَنَّ رَسُولَ اللَّهِ: " تَزَوَّجَهَا وَهِيَ بِنْتُ سَيْتٍ، وَبَنَى بِهَا وَهِيَ بِنْتُ سَعْدٍ " <sup>13</sup>

(5186)– [5348] أَخْبَرَنَا مُحَمَّدُ بْنُ الْعَلَاءِ الْكُوفِيُّ، قَالَ: حَدَّثَنَا أَبُو مُعَاوِيَةَ، عَنِ الْأَعْمَشِ، عَنْ إِبْرَاهِيمَ، عَنِ الْأَسْوَدِ، عَنْ عَائِشَةَ " تَزَوَّجَهَا رَسُولُ اللَّهِ وَهِيَ بِنْتُ سَعْدٍ، وَمَاتَ عَنْهَا وَهِيَ بِنْتُ ثَمَانِي عَشْرَةَ " <sup>14</sup>

(5188)– [5350] أَخْبَرَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ بْنِ رَاهُوَيْهِ، قَالَ: أَنَا يَحْيَى بْنُ آدَمَ، قَالَ: ثنا إِسْرَائِيلُ، عَنْ أَبِي إِسْحَاقَ، عَنْ أَبِي عُيَيْدَةَ، عَنْ أَبِيهِ، قَالَ: " تَزَوَّجَ رَسُولُ اللَّهِ عَائِشَةَ وَهِيَ بِنْتُ سَيْتِ سَيْنِينَ، وَبَنَى بِهَا وَهِيَ بِنْتُ سَعْدٍ "، قَالَ لَنَا أَبُو عَبْدِ الرَّحْمَنِ: مُطَرِّفُ بْنُ طَرِيفِ الْكُوفِيِّ أَثْبَتَ مِنْ إِسْرَائِيلَ، وَحَدِيثُهُ أَشْبَهُ بِالصَّوَابِ، وَاللَّهُ أَعْلَمُ <sup>15</sup>

<sup>11</sup> Abū Dāwud Sulaimān bin As'ats bin Ishāq bin Basīr bin Sidād bin Umar al-azdī as-Sijistānī, *Sunan Abī Dāwud*, Dar al-Risālah al-'Ālamyah, 2009) vol. 3 p. 458

<sup>12</sup> Abū 'Abdurrahman Ahmad ibnu su'aib bin 'Ali al-Khurasāni, *as-Sunan al-Kubrā li an-Nasāi*, Bairūt, muassasah al-risālah: 2001 vol. 5 p. 169

<sup>13</sup> *Ibid* p. 170

<sup>14</sup> *Ibid* p. 170

<sup>15</sup> *Ibid* p. 171

(5378) - [5541] أَخْبَرَنَا مُحَمَّدُ بْنُ آدَمَ، عَنْ عَبْدِ عَنِ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ وَأَنَا بِنْتُ سِتِّ سِنِينَ، وَدَخَلَ عَلَيَّ وَأَنَا بِنْتُ تِسْعِ سِنِينَ، وَكُنْتُ أَلْعَبُ بِالْبَنَاتِ " <sup>16</sup>

(5379) - [5542] أَخْبَرَنَا مُحَمَّدُ بْنُ رَافِعٍ، قَالَ: أَنَا عَبْدُ الرَّزَّاقِ، قَالَ: أَنَا مَعْمَرٌ، عَنِ الرَّهْرِيِّ، عَنْ عُرْوَةَ، وَهَشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، قَالَ: " [ ج 5 : ص 243 ] نَكَحَ النَّبِيُّ عَائِشَةَ وَهِيَ بِنْتُ سِتِّ سِنَوَاتٍ أَوْ سَبْعٍ، وَزُفَّتْ إِلَيْهِ وَهِيَ بِنْتُ تِسْعِ سِنِينَ وَلَعِبَهَا مَعَهَا، وَمَاتَ عَنْهَا وَهِيَ بِنْتُ ثَمَانٍ عَشْرَةَ سَنَةً " <sup>17</sup>

## 5. Sunan Ibnu Mājah

(1866) - [1876] حَدَّثَنَا سُؤَيْدُ بْنُ سَعِيدٍ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، حَدَّثَنَا هِشَامُ بْنُ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ وَأَنَا بِنْتُ سِتِّ سِنِينَ، فَقَدِمْنَا الْمَدِينَةَ فَتَزَلْنَا فِي بَنِي الْحَارِثِ بْنِ الْخَزْرَجِ، فَوَعَكْتُ فْتَمَرَّقَ شَعْرِي حَتَّى وَفَى لَهُ جُمَيْمَةٌ، فَأَتَيْتَنِي أُمِّي أُمُّ رُومَانَ وَإِنِّي لَفِي أَرْجُوْحَةٍ وَمَعِيَ صَوَاحِبَاتٌ لِي، فَصَرَخَتْ بِي، فَأَتَيْتُهَا وَمَا أَذْرِي [ ج 2 : ص 426 ] مَا تُرِيدُ، فَأَخَذَتْ بِيَدِي، فَأَوْقَفْتَنِي عَلَى بَابِ الدَّارِ، وَإِنِّي لَأَنْهَجُ حَتَّى سَكَنَ بَعْضُ نَفْسِي، ثُمَّ أَخَذَتْ شَيْئًا مِنْ مَاءٍ فَمَسَحَتْ بِهِ عَلَيَّ وَجْهِي وَرَأْسِي، ثُمَّ أَدْخَلْتَنِي الدَّارَ، فَإِذَا نِسْوَةٌ مِنَ الْأَنْصَارِ فِي بَيْتٍ، فَقُلْنَ: عَلَى الْخَيْرِ، وَالْبِرْكَهَ، وَعَلَى خَيْرِ طَائِرٍ، فَأَسْلَمْتَنِي إِلَيْهِنَّ فَأَصْلَحْنَ مِنْ شَأْنِي، فَلَمْ يَرُعْنِي إِلَّا رَسُولُ اللَّهِ ضَحَى فَأَسْلَمْتَنِي إِلَيْهِ، وَأَنَا يَوْمَئِذٍ بِنْتُ تِسْعِ سِنِينَ " <sup>18</sup>

(1867) - [1877] حَدَّثَنَا أَحْمَدُ بْنُ سَنَانَ، حَدَّثَنَا أَبُو أَحْمَدَ، حَدَّثَنَا إِسْرَائِيلُ، عَنْ أَبِي إِسْحَاقَ، عَنْ أَبِي عُبَيْدَةَ، عَنْ عَبْدِ اللَّهِ، قَالَ: " تَزَوَّجَ النَّبِيُّ عَائِشَةَ وَهِيَ بِنْتُ سَبْعٍ، وَبَنَى بِهَا وَهِيَ بِنْتُ تِسْعٍ، وَتُوْفِّيَ عَنْهَا وَهِيَ بِنْتُ ثَمَانِي عَشْرَةَ سَنَةً " <sup>19</sup>

(2190) - [2261] أَخْبَرَنَا إِسْمَاعِيلُ بْنُ خَلِيلٍ، أَخْبَرَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ وَأَنَا بِنْتُ سِتِّ سِنِينَ، فَقَدِمْنَا الْمَدِينَةَ، فَتَزَلْنَا فِي بَنِي الْحَارِثِ بْنِ الْخَزْرَجِ فَوَعَكْتُ، فَتَمَرَّقَ [ ج 3 : ص 1452 ] رَأْسِي، فَأَوْفَى جُمَيْمَةٌ، فَأَتَيْتَنِي أُمُّ رُومَانَ وَإِنِّي لَفِي أَرْجُوْحَةٍ وَمَعِيَ صَوَاحِبَاتٌ لِي، فَصَرَخَتْ بِي فَأَتَيْتُهَا وَمَا أَذْرِي مَا تُرِيدُ، فَأَخَذَتْ

<sup>16</sup> Ibid p.242

<sup>17</sup> Ibid p.243

<sup>18</sup> Ibnu Mājah Abū ‘Abdillāh Muhammad bin Yazid al-Qazwaini, *Sunan Ibnu Mājah*, Dār Ihyā al-Kutūb al-Arabiyyah vol.1 p.603

<sup>19</sup> Ibid p.604

بِيَدِي حَتَّى أَوْقَفْتَنِي عَلَى بَابِ الدَّارِ، وَإِنِّي لَأُنْهَجُ حَتَّى سَكَنَ بَعْضُ نَفْسِي، ثُمَّ أَخَذَتْ شَيْئًا مِنْ مَاءٍ، فَمَسَحَتْ بِهِ وَجْهِي وَرَأْسِي، ثُمَّ أَدْخَلْتَنِي الدَّارَ، فَإِذَا نِسْوَةٌ مِنَ الْأَنْصَارِ فِي بَيْتٍ، فَقُلْنَ: عَلَى الْخَيْرِ وَالْبِرْكَةِ، وَعَلَى خَيْرِ طَائِرٍ، فَأَسْلَمْتَنِي إِلَيْهِنَّ، فَأَصْلَحْنَ مِنْ شَأْنِي، فَلَمْ يَرْغَبْنِي إِلَّا رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَأَسْلَمْتَنِي إِلَيْهِ وَأَنَا يَوْمَئِذٍ بِنْتُ تِسْعِ سِنِينَ<sup>20</sup>

#### 6. Sunan ad-Darimi

(7254)– [7097] أَخْبَرَنَا الْحَسَنُ بْنُ سُوَيْبَانَ، حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعِيدٍ الْجَوْهَرِيُّ، حَدَّثَنَا أَبُو أُسَامَةَ، حَدَّثَنَا هِشَامُ بْنُ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ لِسِتِّ سِنِينَ، وَبَنَى بِي، وَأَنَا بِنْتُ تِسْعِ سِنِينَ، فَقَدِمَ الْمَدِينَةَ وَوَعَدْتُ، فَوَفَّى شَعْرِي جُمِيمَةً، فَأَتْتَنِي أُمُّ رُومَانَ، وَأَنَا عَلَى أَرْجُوْحَةٍ وَمَعِيَ صَوَاحِبٌ لِي، فَصَرَخَتْ بِي، فَأَتَيْتُهَا مَا أَدْرِي مَاذَا تُرِيدُ، فَأَخَذَتْ بِيَدِي، وَأَوْقَفْتَنِي عَلَى الْبَابِ، فَقُلْتُ: هَهُ هَهُ، شِبْهَ الْمُنْبَهَرَةِ، فَأَدْخَلْتَنِي بَيْتًا، فَإِذَا نِسْوَةٌ مِنَ الْأَنْصَارِ، فَقُلْنَ: عَلَى الْخَيْرِ وَالْبِرْكَةِ، وَعَلَى خَيْرِ طَائِرٍ، فَأَسْلَمْتَنِي إِلَيْهِنَّ، فَعَسَلْنَ رَأْسِي وَأَصْلَحْنَنِي، فَلَمْ يَرْغَبْنِي إِلَّا رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ<sup>21</sup>

#### 7. Abu Dāwud:

(1546)– [1557] حَدَّثَنَا حَمَادُ بْنُ سَلَمَةَ، عَنْ هِشَامِ بْنِ عُرْوَةَ، [ ج 3 : ص 66 ] عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ وَأَنَا بِنْتُ سِتٍّ أَوْ سَبْعٍ بِمَكَّةَ، وَبَنَى بِي بِالْمَدِينَةِ وَأَنَا بِنْتُ تِسْعٍ، فَأَتْتَنِي نِسْوَةٌ، وَأَنَا جَارِيَةٌ مُجَمَّمَةٌ، أَلْعَبُ عَلَى أَرْجُوْحَةٍ فَهَيَّأْتَنِي وَأَهْدَيْتَنِي إِلَى رَسُولِ اللَّهِ<sup>22</sup>

#### 8. As-syafi'i

(1288)– [5 : 186] أَخْبَرَنَا سُفْيَانُ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ وَأَنَا ابْنَةُ سَبْعٍ، وَبَنَى بِي وَأَنَا بِنْتُ تِسْعِ سِنِينَ<sup>23</sup> .

<sup>20</sup> Abū Muhammad Abdullah bin Abdu ar-Rahmān bin al-Fadl bin Bahrām bin Abd as-Samad ad-Dārimī, *Musnad ad-Dārimī*, (Bairut, Dar al-Basāir 2013) vol.1 p.540

<sup>21</sup> Muhammad ibnu Hibbān bin Ahmad Bin Hibbān bin mu'ad bin Ma'bad abū Hātim ad-Dārimī, *Al Ihsān Fī Taqrībi ShahīH Ibn Hibbān*, (Bairut, Muassasah al-Risālah.1988) vol. 16 p.9

<sup>22</sup> Abū Dāwud Sulaiman bin Dāwud Bin al-Jārud al-Tiyalisi al-Bashrī, *Musnad abī Dāwud al-Thiyālisi*, (Egypt, dār al-hijr,1999) vol.3 p.65

<sup>23</sup> Abu Abdillāh Muhammad bin Idris bin al-'Abbās bin 'Ustsmān bin Syāfi' bin Abdi al-Muthallib bin abd Manāf al-Muthallibī al-Quraishī al-Makkī, *al-Musnad*, (Bairut, Dar Alkutūb al-Ilmiyah:1400H) vol.1 p.275

(775) - [829] أَخْبَرَنَا سُفْيَانُ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ وَأَنَا بِنْتُ سَبْعٍ وَبَنِي بِي وَأَنَا بِنْتُ تِسْعٍ، وَكُنْتُ أَلْعَبُ بِالْبَنَاتِ، وَكُنَّ جَوَارِي يَأْتِينَنِي فَإِذَا رَأَيْنَ رَسُولَ اللَّهِ تَقَمَّعْنَ مِنْهُ، وَكَانَ النَّبِيُّ يُسْرِ بِهِنَّ إِلَيَّ " <sup>24</sup>

## 9. Imām Ahmad

حَدَّثَنَا أَبُو مُعَاوِيَةَ قَالَ: حَدَّثَنَا الْأَعْمَشُ، عَنْ إِبْرَاهِيمَ، عَنِ الْأَسْوَدِ، عَنْ عَائِشَةَ قَالَتْ: " تَزَوَّجَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهِيَ بِنْتُ تِسْعٍ سِنِينَ، وَمَاتَ عَنْهَا وَهِيَ بِنْتُ ثَمَانٍ عَشْرَةَ " <sup>25</sup>

حَدَّثَنَا مُحَمَّدُ بْنُ بَشِيرٍ، قَالَ: حَدَّثَنَا مُحَمَّدُ بْنُ عَمْرٍو، قَالَ: حَدَّثَنَا أَبُو سَلَمَةَ، وَيَحْيَى، قَالَا: لَمَّا هَلَكَتْ خَدِيجَةُ، جَاءَتْ خَوْلَةَ بِنْتُ حَكِيمٍ امْرَأَةَ عُثْمَانَ بْنِ مَطْعُونٍ، قَالَتْ: يَا رَسُولَ اللَّهِ أَلَا تَزَوِّجُ؟ قَالَ: " مَنْ؟ " قَالَتْ: " إِنَّ شَيْئًا بِكَرًا، وَإِنْ شِئْتَ ثَيِّبًا؟ قَالَ: " فَمَنْ الْبُكَرُ؟ " قَالَتْ: ابْنَةُ أَحَبِّ خَلْقِ اللَّهِ عَزَّ وَجَلَّ إِلَيْكَ عَائِشَةُ بِنْتُ أَبِي بَكْرٍ، قَالَ: " وَمَنْ الثَّيِّبُ؟ " قَالَتْ: سَوْدَةُ بِنْتُ زَمْعَةَ، أَمَتٌ بِكَ، وَاتَّبَعْتِكَ عَلَى مَا تَقُولُ "، قَالَ: " فَأَذْهَبِي فَأَذْكَرِيهِمَا عَلَيَّ "، فَدَخَلَتْ بَيْتَ أَبِي بَكْرٍ، فَقَالَتْ: يَا أُمَّ رُومَانَ مَاذَا أَدْخَلَ اللَّهُ عَزَّ وَجَلَّ عَلَيْكُم مِّنَ الْخَيْرِ وَالْبِرْكََةِ؟ قَالَتْ: وَمَا ذَاكَ؟ قَالَتْ: أُرْسَلَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَخْطَبُ عَلَيْهِ عَائِشَةَ، قَالَتْ: انْتظري أبا بكرٍ حتى يأتي، فجاء أبو بكرٍ، فقالت: يا أبا بكرٍ ماذَا أَدْخَلَ اللَّهُ عَزَّ وَجَلَّ عَلَيْكُم مِّنَ الْخَيْرِ وَالْبِرْكََةِ؟ قَالَ: وَمَا ذَاكَ؟ قَالَتْ: أُرْسَلَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَخْطَبُ عَلَيْهِ عَائِشَةَ، قَالَ: وَهَلْ تَصْلُحُ لَهُ؟ إِنَّمَا هِيَ ابْنَةُ أُخِيهِ، فَرَجَعْتَ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَذَكَرْتَ ذَلِكَ لَهُ، قَالَ: " ارْجِعِي إِلَيْهِ فَقُولِي لَهُ: " أَنَا أَخُوكَ، وَأَنْتَ أُخِي فِي الْإِسْلَامِ، وَابْنَتُكَ تَصْلُحُ لِي "، فَرَجَعْتَ فَذَكَرْتَ ذَلِكَ لَهُ، قَالَ: انْتظري وخرج، قَالَتْ أُمَّ رُومَانَ: إِنَّ مُطْعِمَ بْنَ عَدِيٍّ قَدْ كَانَ ذَكَرَهَا عَلَى ابْنِهِ، فَوَاللَّهِ مَا وَعَدَ وَعْدًا قَطُّ، فَأَخْلَفَهُ لِأَبِي بَكْرٍ، فَدَخَلَ أَبُو بَكْرٍ عَلَى مُطْعِمِ بْنِ عَدِيٍّ وَعِنْدَهُ امْرَأَتُهُ أُمَّ الْفَتَى، فَقَالَتْ يَا ابْنَ أَبِي فُحَافَةَ لَعَلَّكَ مُصِيبِي صَاحِبِنَا مُدْخَلُهُ فِي دِينِكَ الَّذِي أَنْتَ عَلَيْهِ، إِنْ تَزَوَّجَ إِلَيْكَ، قَالَ أَبُو بَكْرٍ لِلْمُطْعِمِ بْنِ عَدِيٍّ: أَقُولُ هَذِهِ تَقُولُ، قَالَ: إِنَّهَا تَقُولُ ذَلِكَ، فَخَرَجَ مِنْ عِنْدِهِ، وَقَدْ أَذْهَبَ اللَّهُ عَزَّ وَجَلَّ مَا كَانَ فِي نَفْسِهِ مِنْ عِدْتِهِ الَّتِي وَعَدَهُ فَرَجَعَ، فَقَالَ لِيخَوْلَةَ: ادْعِي لِي رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَدَعْتُهُ فَرَزَّوَجَهَا إِيَّاهُ وَعَائِشَةُ يَوْمَئِذٍ بِنْتُ سِتِّ سِنِينَ، ثُمَّ خَرَجَتْ فَدَخَلَتْ عَلَى سَوْدَةَ بِنْتُ زَمْعَةَ، فَقَالَتْ: مَاذَا أَدْخَلَ اللَّهُ عَزَّ وَجَلَّ عَلَيْكَ مِنَ الْخَيْرِ وَالْبِرْكََةِ؟ قَالَتْ: مَا ذَاكَ؟ قَالَتْ: أُرْسَلَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَخْطَبُكَ عَلَيْهِ، قَالَتْ: وَدِدْتُ أَدْخُلِي إِلَى

<sup>24</sup> Ibid p.172

<sup>25</sup> Abū ‘Abdillāh Ahmad Muhammad Bin Hanbal Bin Hilāl bin Asad as-Syaibānī, *Musnad Imām Ahmad bin Hanbal*. (Muassasah Risālāh 2001) vol.40 p.183

أَبِي فَاذْكُرِي ذَاكَ لَهُ، وَكَانَ شَيْخًا كَبِيرًا، فَذُ أَدْرَكْتُهُ السَّنُ، فَذُ تَخَلَّفَ عَنِ الْحَجِّ، فَدَخَلْتُ عَلَيْهِ، فَحَيَّتُهُ بِتَحِيَّةِ الْجَاهِلِيَّةِ، فَقَالَ: مَنْ هَذِهِ؟ فَقَالَتْ: خَوْلَةُ بِنْتُ حَكِيمٍ، قَالَ: فَمَا شَأْنُكَ؟ قَالَتْ: أَرْسَلَنِي مُحَمَّدُ بْنُ عَبْدِ اللَّهِ أَخْطَبُ عَلَيْهِ سَوْدَةَ، قَالَ: كُفِّءَ كَرِيمٌ، مَاذَا تَقُولُ صَاحِبَتُكَ؟ قَالَتْ: تُحِبُّ ذَاكَ، قَالَ: ادْعُهَا لِي فَدَعَعْتُهَا، فَقَالَ: أَيُّ بِنْتِئُهُ إِنَّ هَذِهِ تَزْعُمُ أَنَّ مُحَمَّدَ بْنَ عَبْدِ اللَّهِ بْنِ عَبْدِ الْمُطَّلِبِ قَدْ أَرْسَلَ يَخْطُبُكَ، وَهُوَ كُفِّءَ كَرِيمٌ، أُتْحِيَنَّ أَنْ أُرْوَجَكَ بِهِ، قَالَتْ: نَعَمْ، قَالَ: ادْعِهِ لِي، فَجَاءَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِلَيْهِ فَرَزَّجَهَا إِيَّاهُ، فَجَاءَهَا أَخُوها عَبْدُ بْنُ زَمْعَةَ مِنَ الْحَجِّ، فَجَعَلَ يَحْيِي عَلَى رَأْسِهِ التُّرَابَ، فَقَالَ بَعْدَ أَنْ أَسْلَمَ: لَعَمْرُكَ إِنَّي لَسَفِيهَةٌ يَوْمَ أَحْيِي فِي رَأْسِي التُّرَابَ أَنْ تَزَوِّجَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ سَوْدَةَ بِنْتَ زَمْعَةَ، قَالَتْ عَائِشَةُ: فَقَدِمْنَا الْمَدِينَةَ فَنَزَلْنَا فِي بَنِي الْحَارِثِ مِنَ الْخَزْرَجِ فِي السُّنْحِ، قَالَتْ: فَجَاءَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَدَخَلَ بَيْتَنَا وَاجْتَمَعَ إِلَيْهِ رِجَالٌ مِنَ الْأَنْصَارِ، وَنِسَاءٌ فَجَاءَتْ بِي أُمِّي وَإِنِّي لَفِي أَرْجُوحةٍ بَيْنَ عَدَقَيْنِ تَرْجُحُ بِي، فَأَنْزَلْتَنِي مِنَ الْأَرْجُوحةِ، وَلِي جُمَيْمَةٌ فَفَرَّقْتَهَا، وَمَسَحَتْ وَجْهِي بِشَيْءٍ مِنْ مَاءٍ، ثُمَّ أَقْبَلَتْ تَقُودُنِي حَتَّى وَقَفَتْ بِي عِنْدَ الْبَابِ، وَإِنِّي لَأَنْهَجُ حَتَّى سَكَنْ مِنْ نَفْسِي، ثُمَّ دَخَلْتُ بِي إِذَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ جَالِسٌ عَلَى سَرِيرٍ فِي بَيْتِنَا، وَعِنْدَهُ رِجَالٌ وَنِسَاءٌ مِنَ الْأَنْصَارِ، فَأَجْلَسْتَنِي فِي حِجْرِهِ، ثُمَّ قَالَتْ: هَؤُلَاءِ أَهْلُكَ فَبَارَكَ اللَّهُ لِكَ فِيهِمْ، وَبَارَكَ لَهُمْ فِيكَ، فَوَتَّبَ الرِّجَالُ وَالنِّسَاءُ، فَخَرَجُوا وَبَنَى بِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي بَيْتِنَا، مَا نُحِرَتْ عَلَيَّ جُزُورٌ، وَلَا ذُبِحَتْ عَلَيَّ شَاةٌ، حَتَّى أُرْسَلَ إِلَيْنَا سَعْدُ بْنُ عُبَادَةَ بِحِفْنَةٍ كَانُ يُرْسَلُ بِهَا إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، إِذَا دَارَ إِلَى نِسَائِهِ وَأَنَا يَوْمَئِذٍ بِنْتُ تِسْعِ سِنِينَ " <sup>26</sup>

حَدَّثَنَا حَسَنُ بْنُ مُوسَى، قَالَ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ: " تَزَوَّجَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مُتَوَفَّى خَدِيجَةَ، قَبْلَ مَخْرَجِهِ إِلَى الْمَدِينَةِ بِسِتِّينِ أَوْ ثَلَاثِ، وَأَنَا بِنْتُ تِسْعِ سِنِينَ، فَلَمَّا قَدِمْنَا الْمَدِينَةَ جَاءَتْ بِي نِسْوَةٌ وَأَنَا أَلْعَبُ فِي أَرْجُوحةٍ، وَأَنَا مُجَمَّمَةٌ، فَدَهَبَنِي بِي، فَهَيَّأْتَنِي وَصَنَعْتَنِي، ثُمَّ أَتَيْتَنِي بِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَبَنَى بِي وَأَنَا بِنْتُ تِسْعِ سِنِينَ " <sup>27</sup>

<sup>26</sup> Ibid vol.42 p.501-505

<sup>27</sup> Ibid vol.43 p.403

According to Al-Bāni, all hadist on Aisya marriage is Shahih ‘alā Syarti Al-Bukhārī. It means that al hadist which has same text of Matn is considered as Shahih because supported by the authenticity of hadīts reported by Bukhārī.<sup>28</sup>

### B. *Sabābul Wurūd al Hadist*

Actually, there is no specific background literature that express the the begound of prophet marry of aisyah in some *shafh* of hadist. But Referring to the Hadits about the background of why Muhammad married Aisya, Muhammad who Aisya by reason of revelation. That prophet dreamed of meeting with Gabriel for three days in a row and sees a silk shawl. Then Gabriel said to Muhammad: This is your future wife. Rasulullah then open it up and it turns out it is Aisya.<sup>29</sup>

If we look in the history, the prophet got order to marry aisyah in his dream, was accompanying the *‘ām al-khuzn* (years of sadness). That is when the prophet lost two loved ones, Namely Khādīja, his wife, and Abū Thālib<sup>30</sup>, his uncle. Than khaulah binti Utsman over him to marry with two girls. And she asked to Muhammad. “Virgin or widow?” The virgin was aisyah, the daughter of abu bakr, and the widow was saudah daughter of Zam’ah.<sup>31</sup>

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<sup>28</sup> Abū Abdurrahmān Muhammad Nāsir Ad-dīn ibn al-Haj Nūh bin Najātī ibn ādam al-Askūdri al-Albāni. *Shahih Abi Dāwud*. (kuwait, Muassasah linnasri wa at-Tauzi’2002) vol.6 p. 346

<sup>29</sup> As-sunan al-kubra li al baihāqi p. 4843 Gawamiul kalam. In other books says tahat Muhammad dream twice. Abu Muhammad Mahmud ibn ahmad ibn mūsā ibnu husain alghitābi al-hanafi. ‘*Umdātul qārī sharhu shahih al-Bukhārī*. (Bairut, dar ihya’ at-turāth al ‘arabi) vol 17 p.35

<sup>30</sup> It should be noted, Abū tholib was the one who take care of Muhammad after Abdul Muṭallib passed away. He takes care of Muhammad because he was ordered by his father, although Abdul Muṭallib knew that Abu Ṭalib has four children and has no glamour life. That is all because he is the one-blood of Abdullah, The Father of Muhammad. Quraish Shihab, *Membaca sirah Muhammad*, (Lentera Hati, Ciputat, 2011), first edition p. 269

<sup>31</sup> Martin lings, *Muhammads Life Based on The Early Souce*, fondation for tradition studies (Pataling Jaya, 1987) page 106 see also Aisyah Fatimah Bintu Syati’, *Istri-istri Rosulullah*, trans, (Chadijah Nasution, 1974)p. 62 se also : Ahmad Bin Ali Bin Hajar Abu Al-Fadl Al-Asqolani Asyafi’i, *Fath Al-BāRi Syarkhu Shohih Al-Bukhori*. Bairut, (DāR Al-Ma’rifah;1379H) vol.7 p225

### C. The Comments of expert in Hadits on Aisya Marriage

The expertise has some comment to these hadits. Here will be described the comment of the expert and classified into two categorize; Classic scholar and contemporary scholars.

#### 1. Classical scholar

Imām Nawāwī explains that this hadits is the justification of allowable for the *Wali* to married his virgin daughter before his maturity. But there was a different implication after his maturity to have a choice. According to Hijaz people, Malik and Syafi'i, there was no choice for the girl to cancel his marriage, but according to people of Iraq, the girl has choice if she got his maturity.<sup>32</sup>

According to Ahmad bin Hambal, hadist on Aisya marriage was the kind off legitimation of marriage for virgin who has no father and grand father only in the age of nine. Marriage for virgin who has no father under nine is prohibited. It was kind of assumption, that the women of Arab got their maturity in nine years old.<sup>33</sup> His argumentation is always correlated to the statement of Aisya which explain that the woman in the age of nine was not baby anymore.<sup>34</sup> The statement is

ادا بلغ الخارية تسع سنين فهي امرأة<sup>35</sup>

According to Ibnu Hajar, nine was kind of maturity. Nine years old at that time was the first year of maturity. But he still doubted the first sex relation was happen at that time or not. Because, according to him, the expression of love is not always expressed by sexuality.<sup>36</sup> Ibnu Hajar also usually express that the meaning of Banā bī was not means the

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<sup>32</sup> Abū Zakariyah Muhyiddīn Yahyā bin Syaraf An-Nawāwī, *Al-Minhaj Syarkhu Shakhīh Muslim bin Hajjaj*. (Bairut, dār ihyāi at-Turāts al-‘Arabī 1392H) Vol. 9 p.206

<sup>33</sup> Abu Sulaiman Muhammad bin Muhammad bin Ibrahim bin al-Khattab, *Mualim As-Sunan Sharhu Sunan Abu Dawud*. (Almatbaah al-Ilmiyah 1932) vol3 p.314

<sup>34</sup> Wahbah Ibnu Al-Musthafā Al-Zuhailī, *al-Fiqhu al-Islām wa Adillatuhū* (Suriyah, Dār Al-Fikr) vol 9 p. 6697

<sup>35</sup> It is in Musnad Ahmad. *Ibid* p.6697

<sup>36</sup> Ahmad Bin Ali Bin Hajar Abu Al-Fadl Al-Asqolani Asyafi'i, *Fath Al-BāRi Syarkhu Shohih Al-Bukhori*. Bairut, (Dār Al-Ma'rifah;1379H) vol.7 p.141

sexual relation, but it means that living in one home. Like what has been stated by Aisyah “*banā bi rasulullāhi fī baitinā*”.<sup>37</sup>

According to Badruddīn Aini, from this hadist people has different argumentation on the time of husband allowed to have sex first time with his husband. Ahmad and Abu Ubaidah argue that nine years old is allowable based on hadist of Aisyah. But for Abu Hanifah, he said that nine is allowable. But if at that age his physique did not able to do sexual, then his guardian should prohibit.<sup>38</sup> This hadist is also to be justification of the age to be in home together. According to them, nine is the limited age for having home and he did not agree with the Fuqahā' who argues that the importance is readiness. If under age of nine but she was ready, so, to be in one home for women and man never mind.<sup>39</sup>

## 2. The contemporary Muslim scholar

Wahbah Zuhaili explained that Ali bin Abi Talib married his daughter named Ummu Kultsum by Urwah ibn Zubair at the age of Ummu Kultsum was a child. Urwah bin Zubair married his niece with his nephew when they are still small.<sup>40</sup> In addition, there is also a man who donated his daughter whose age was really young is to Abdullah bin Hasan bin Ali, and Ali Radliyallahu 'Anhu allow it. Ibn Mas'ud wife to marry his daughter whose age was still young to Ibn Musayyab bin Nukhbah, and her husband allowed it.<sup>41</sup>

It means that Wahbah Zuhaili not totally supporting to married the young daughter to in young age is allowable. He supports it because the

<sup>37</sup> *Ibid.* p.224

<sup>38</sup> Abu Muhammad Mahmud Ibn Ahmad Ibn Mūsā Ibn Husain Alghitābi Al-Hanafi. ‘*Umdātul qārī sharhu shahih al-Bukhārī*. (Bairut, dar ihya’ at-turāth al ‘arabi) vol. 20 p126

<sup>39</sup> *ibid* p.147

<sup>40</sup> Although it is still not sure. Because Umar bin al-Khattab also married with Ummu Kulthum, daughter of Ali and had two sons. Namely Zaid and Ruqoyyah. The proper one may be Ummu Kulthum daughter of Abu Bakr when Umar tried to marry Ummu Kulthum but Aisyah rejected it by soft reason the age was still young. Then Amr bin Ash offered Umar to marry Ummu Kulthum binti Ali. M. Raji Hasan Kinas, *Kisah Teladan Para Istri Khalifah*. ....p. 70-71.

<sup>41</sup> Wahbah Ibnu Al-Musthafā Al-Zuhailī, *al-fiqhu al-islām wa adillatuhū* (Suriyah, Dār Al-Fikr) vol9, p 173



practice of some companion either Ali and Abdullah bin Mas'ud was practice it. Other explanation that he took was from ibnu Mandhūr argumentation is prophet Muhammad married to his cousin, the daughter of hamzah that he she was in young age. But it is allowed by the quotation of the equality between the guardians of man an women. He explained it from the argumentation of Ibnu Hazm<sup>42</sup>

But he explained also that the marriage in young age is allowable if the man who marriage has got his or her maturity. It was the opinion of ibnu Subramah, Abū Bakr al Asm and Ustmān al-Batī based on sūrah an-Nisā' verse 6.<sup>43</sup>

وَأَبْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ  
وَلَا تَأْكُلُوهَا إِسْرَافًا وَبِدَارًا أَن يَكْبَرُوا وَمَن كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ وَمَن كَانَ فَقِيرًا  
فَلْيَأْكُلْ بِالْمَعْرُوفِ فَإِذَا دَفَعْتُمْ إِلَيْهِمْ أَمْوَالَهُمْ فَأَشْهَدُوا عَلَيْهِمْ وَكَفَىٰ بِاللَّهِ حَسِيبًا ٦

And test the orphans until they attain puberty; then if you find in them maturity of intellect, make over to them their property, and do not consume it extravagantly and hastily, lest they attain to full age; and whoever is rich, let him abstain altogether, and whoever is poor, let him eat reasonably; then when you make over to them their property, call witnesses in their presence; and Allah is enough as a Reckoner.

Zuhaili argues that to marry the person who has got his puberty was kind of useless thing. So it is prohibited because the man or women who have got their puberty did not need to marriage. The marriage of young people who has not got his puberty is like the marriage of the crazy, because crazy man did not need the marriage. The crazy man did not know his obligation either as wife or husband.<sup>44</sup>

Relating to hadits on aisyah marriage, Quraish Shihab argues that marry in very young age was not kind of problem at that time. Because this practice was done also by some companion such, Umar Offering a young doughier, Hafsah, the same age as Aisyah, to marry 'Uthman ra.

<sup>42</sup> Ibid p.6683

<sup>43</sup> Ibid p.6683

<sup>44</sup> Ibid p.6688

Also Umar bin al-Khattab married the daughter of Ali bin Abi Talib, which can be considered as a kind of marriage between "grandfather to grandson," as well as the marriage of Zaid ibn Haritha, a former foster child of prophet with Ummu Ayman who nurturing the Prophet as a son. It is similar to a marriage "grandmother" with her grand daughter.<sup>45</sup>

According to him, although this kind of marriage was something usual, the argument that he use was the case of marriage of his father, and also Abdul Muthallib who married to Halah, whose age is the same of the age of his son wife, Namely Aminah.<sup>46</sup> But according to him, marriage in nine years old was not kind of implementing the sunnah of Muhammad, although Muhammad married Aisyah when Aisyah in the 9 years old. Because, not all kind of '*ibādah Ghairu Mahdhah*, should always be implemented textually. Other factor must be consider is that Muhammad was the chosen man who has specific obligation, but also, considering the social condition that always change and may be that situation is likely different from the man of now days.<sup>47</sup>

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<sup>45</sup> Quraish Shihab, *Membaca Sirah Muhammad*, Lentera Hati,(Ciputat, 2011), first edition p.530

<sup>46</sup> *Ibid* p.530

<sup>47</sup> *Ibid* p.533

## CHAPTER IV

### THE APPLICATION OF ABUL FADL THEORY

#### A. Investigating the Substance of *Matn*

Regarding Hadits as the process of authorship, in analyzing the substance *Matn*, there are criteria that have been formulated by Khaled as standardization of Hadits credibility as follows: 1) does not conflict with the Quran, 2) is not contrary to reason and ratio,<sup>1</sup> 3) should consider other, more authentic Hadits or less authentic, 4) must look at the historical context in a Hadits, 5) should consider the practice of prophets and companions in a related context, 7) aligned with the legal and higher moral teachings, 8) is not contrary to human experience, 9) does not conflict with history and 10) the structure of the language is not unusual.<sup>2</sup>

To explore whether the Hadits have contrary to Quran or not, the first process we have to do is look at the first verses related to the marriage. But we have to understand in advance related to the Quran is that the Quran is a text, while the text is defined by Abou el-Fadl with a group of entities that are used as a sign selected, prepared, and was intended by the authors in a particular context to deliver meaning to the reader.<sup>3</sup> Firstly, let look to the surah ar-ruum verse 30:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

Meaning: And one of His signs is that He created mates for you from yourselves that you may find rest in them, and He put between you love and compassion; most surely there are signs in this for a people who reflect

Surah ar-Rum verse 30 shows three things relating to the purpose of marriage. It is *Sakinah*, *Mawadah* and *Rahmah*. Quraish Shihab explains the word *Mawaddah* with toleration and emptiness of the soul of ill. In a heart

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<sup>1</sup> Khaled M. Abou El Fadl, *Speaking in God's Name....*, p.55

<sup>2</sup> *Ibid* p.222

<sup>3</sup> *Ibid* p.213

condition *Mawaddah* no longer be disconnected to the beloved, because his heart was so airy and empty of evil, outwardly and inwardly (which probably came from partner)

While *Rahmah* is physiological condition that arises in the heart due to witness the powerlessness that encourages concerned to empower them. Because it was in family life, each husband and wife will earnestly even struggle for the good of the spouses and reject any that disrupt and disturb.<sup>4</sup>

In another verse, the letter al-Baqarah verse: 187 also explained that a wife is a wardrobe for her husband, and vice versa. That is, in the marital relationship then it should be a cover shortage to one another. Even perhaps, we mean that the clothes as a form of custody to honor one another.

In the Surah al-Nisā verse 1 also explains:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا  
كَثِيرًا وَنِسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا ﴿١﴾

*O people! be careful of (your duty to) your Lord, Who created you from a single being and created its mate of the same (kind) and spread from these two, many men and women; and be careful of (your duty to) Allah, by Whom you demand one of another (your rights), and (to) the ties of relationship; surely Allah ever watches over you.*

The verse also describes the purpose of marriage, namely the maintenance or development of relationships (*Silaturahim*).

If we look carefully, then there are two elements contained in these verses. The first is the aspect that a statute of god in the form of proliferation of man, and the second is something that needs to be cultivated is *Mawaddah*, *rahmah* and *Silaturahim*. This means that when undergoing marriage, the ethical

<sup>4</sup> Quraish Shihab, *Wawasan al-Qur'an, Tafsir Maudhu'i Atas Pelbagai Persoalan Umat*, (Mizan Bandung 1996), Thirteenth Publish page. 207-208,

relationship of humanity is love, affection, care for the honor and the development of good relations between people.

The verse does not present just no space or context. There is a space that frames these verses that form of history. But at least, from some of above paragraph, can adequately describe how that verse living in a socio-cultural environment. If we look carefully, the third verse the symbol used to express the *Mukhātab* men. That verse illustrates that the more power is possessed by men than the women.

According to the researcher, textually, the verse describes the condition of the structure of social order of Arab people at the time. Patriarchal culture is where social status of men is higher than in women. In the verse, the most prominent word is *Qawwām*. If it is examined the linguistic study, the conclusion appears to be the same. That verse, indeed, indicate patriarchal culture.

In other verses also explained about women's position in view of the Arabs at that time as which of the following:

1. Wa'du al-Banāt, (acceptance of female infanticide) burying the baby if born female. Which in the Quran itself reiterate condemnation of such practices.
2. Problems Adl, traditions hinder or prohibit married after divorce. Intentionally to complicate the lives of women. The prohibition contained in Surah 2: 232
3. Problems Qisamāh, a bad habit that is quite odd among the Arabs in the form of a ban on women in certain circumstances to drink the milk of animals such as goats, camels, and others while men is allowed. The mention is contained in Surah 6 verse: 139.<sup>5</sup>

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<sup>5</sup> Budi Munawar Rahman, *Ensiklopedi Nurcholis Madjid, Paramadina* Chapter Two p.2560-2561

*Qawwām* word used in the verse could mean protector, custodians, guards and even the maids.<sup>6</sup> If applied in every sense of the verse, textually, it will find the conclusion that the man is a person who has a role. Meanwhile, the meaning of words in context is very representative of the socio-cultural history of the Arab nation at the time was "preservation", "keeper" and "protectors" words.

From above description, at least, have a tentative conclusion that the marriage is part of the mission to save and provide protection to women and not only sexuality. In fact, if it is associated with the prophetic mission at that time, marriage was part of a mission to build moral equivalent structures. Because of the size used in class quality in Islam is piety and not gender or race, as described in Surah 81, verses 8-9. As for the connection with a sexual relationship is part of the law of nature that will always be valid at any time, but when the context is the mission of morality, and then, sexuality is not the primary orientation of a marriage.

Relating to Hadits of Aisya marriage, we must first browse is the Hadits that explains why Muhammad to marry Aisya, there is a history that explains that of Ahmad ibn Hanbal, that after the death of Khadija, Khaulah came to the prophet and advised the Prophet to marry again. The Prophet asked about suggestions Khaulah, Khaulah asked, virgin, or widowed. The Prophet asked again: who is a virgin and who is a widow? Khaulah answer: if a virgin is Aisya, if the widow is Zaenab.<sup>7</sup>

What is interesting here, that the Hadits was complements proces of aisyah marriage. While the words used to attribute Aisya is "Bikr". Though "Bikr" in Arabic vocabulary at that time used to refer to adult women, but has not been clocked. That is, before the application of the Aisya prophet, then Aisya at that time already had a "Bikr". And it is not possible at the age of 6 years. But other

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<sup>6</sup> Khaled M. Abou El Fadl, *Speaking in God's Name....*, p.257

<sup>7</sup> M Raji Hasan Kinas, *Kisah Isteri Teladan Para Khalifah*, (Gema Insani, Depok 2011) p.25 see also Abū ‘Abdillah Ahmad Muhammad Bin Hanbal Bin Hilāl bin Asad as-Syaibāni, *Musnad Imām Ahmad bin Hanbal*. (Muassasah Risālah 2001) vol.42 p.501

explanation relating to *Bikr* words is not only the women who have been got his maturity, but also the women who have not married yet. It was the contrary word of “*Tsiyib*” which means widow.

If we look at to the structure of Matn these Hadits, there are two reports is quite interesting to note. That is the report of Bukhāri and Muslim through *Aisya*. The Hadits is quite long and the story is told directly by Aisya. Those Hadits as follows:

حدثني فروة بن أبي المغراء حدثنا علي بن مسهر عن هشام عن أبيه عن عائشة رضي الله عنها قالت تزوجني النبي صلى الله عليه وسلم وأنا بنت ست سنين فقدمنا المدينة فنزلنا في بني الحارث بن خزرج فوعكت فتمرق شعري فوفى جميمة فأتتني أمي أم رومان وإني لفي أرجوحة ومعني صواحب لي فصرخت بي فأتيها لا أدري ما تريد بي فأخذت بيدي حتى أوقفتني على باب الدار وإني لأنهج حتى سكن بعض نفسي ثم أخذت شيئاً من ماء فمسحت به وجهي ورأسي ثم أدخلتني الدار فإذا نسوة من الأنصار في البيت فقلن على الخير والبركة وعلى خير طائر فأسلمتني إليهن فأصلحن من شأنني فلم يرعني إلا رسول الله صلى الله عليه وسلم ضحى فأسلمتني إليه وأنا يومئذ بنت تسع سنين<sup>8</sup>

حدثنا أبو كريب محمد بن العلاء حدثنا أبو أسامة ح وحدثنا أبو بكر بن أبي شيبة قال وجدت في كتابي عن أبي أسامة عن هشام عن أبيه عن عائشة قالت تزوجني رسول الله صلى الله عليه وسلم لست سنين وبنى بي وأنا بنت تسع سنين قالت فقدمنا المدينة فوعكت شهراً فوفى شعري جميمة فأتتني أم رومان وأنا على أرجوحة ومعني صواحيب فصرخت بي فأتيها وما أدري ما تريد بي فأخذت بيدي فأوقفتني على الباب فقلت هه هه حتى ذهب نفسي فأدخلتني بيتاً فإذا نسوة من الأنصار فقلن على الخير والبركة وعلى خير طائر فأسلمتني إليهن فغسلن رأسي وأصلحنني فلم يرعني إلا رسول الله صلى الله عليه وسلم ضحى فأسلمتني إليه.<sup>9</sup>

From the Hadits there are several points that should be underlined. That is:

<sup>8</sup> Abu Abdillah Muhammad bin Ismā'īl bin Ibrāhīm bin al Muḡīrah bin Bardizabah, *Shahih Bukhari*, Kitab manaqib al-Anshori Bab Tazwiju an-Nabi Saw „Aisyah, wa Qudu Miha al-Madinah, wa Binauhu Biha. (Beirut Libanon : Darul al-Kitab al-Ulumiyah, Tt), vol 3, p. 632

<sup>9</sup> Abū Husain an-Nisabury al-Hafidz Muslim bin al Hajjāj bin Muslim al-Qusyairy, *Shahih Muslim*, Kitab Al-Hajj,(Beirut ; Dar al-Kitab al-Ilmiyah, t.th), vol I, p. 594

- a. Aisyah was married by Muhammad in the age of six years old
- b. Aisyah was picked up by his mother
- c. At the time was playing
- d. Aisyah did not know what happened
- e. Aisyah greeted and blessed by the women Anṣar
- f. Aisyah shocked after then handed over to prophet
- g. At that time Aisyah nine years old.

If we compare with all existing history will be found to the conclusion that at the time of Rasūlullah married (to apply) Aisyah, she was six or seven years old but Aisyah did not know her status as the wife of Muhammad until after he had submitted to Muhammad and he was at nine years old. Some scholar argues that at the six years old he was only got the ‘*Aqd*’.

As what has been explained by Ibnu Hajar relating to the hadiths on aisyah marriage, that the expression of love is not always be sexual relationship.<sup>10</sup> It can be shown also from the practice of Prophet Muhammad that he just begin to stay in one home when he live in Madīnah. Not directly after Prophet Muhammad do his proposal. It indicated that the orientation of marrying Aisyah was not kind of sexual motive.

However, if we browse further, the Quran does not discuss explicitly related to the minimum age for marriage. The Quran instead obscure it and represent it with the term puberty. Indeed, if we look at the chain of verses pertaining to orphans and their guardians. That is, if the orphan has been able to protect his property, the guardian’s obligation of children orphaned is released.

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<sup>10</sup> Ahmad Bin Ali Bin Hajar Abu Al-Fadl Al-Asqolani Asyafi’i, *Fath Al-Bārī Syarkhu Shohih Al-Bukhori*. Bairut, (Dār Al-Ma’rifah;1379H) vol.7 p.141



وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ وَلَا تَأْكُلُوهَا إِسْرَافًا وَبِدَارًا أَنْ يَكْبَرُوا وَمَنْ كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ وَمَنْ كَانَ فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ فَإِذَا دَفَعْتُمْ إِلَيْهِمْ أَمْوَالَهُمْ فَأَشْهَدُوا عَلَيْهِمْ وَكَفَىٰ بِاللَّهِ حَسِيبًا<sup>11</sup>

And test the orphans until they attain puberty; then if you find in them maturity of intellect, make over to them their property, and do not consume it extravagantly and hastily, lest they attain to full age; and whoever is rich, let him abstain altogether, and whoever is poor, let him eat reasonably; then when you make over to them their property, call witnesses in their presence; and Allah is enough as a Reckoner.

In addition, the mention of age in the Quran never happened. This shows the relativity factor between generations so that the Quran can always tune in every age. If we look, we will find also on the uncertainty of history in some historical books and Hadits in terms of the mentioning age. Another problematic history is marriage age of Fatimah with Ali bin Abi Thalib.

However, it seems a marriage at fairly young ages or marriage with a fairly long lifespan was not part of the problem in the Arab tradition, even in early Islamic tradition. But in six or seven years old ofcourse its other matter. Surely it has contrary with the Quranic statement.

But Wahbah Zuhaili explained that Ali bin Abi Talib married his daughter named Ummu Kultsum by Urwah ibn Zubair at the age of Ummu Kultsum was a child. Urwah bin Zubair married his niece with his nephew when they are still small.<sup>12</sup> In addition, there is also a man who donated his daughter whose age was really young is to Abdullah bin Hasan bin Ali, and Ali Radliyallahu 'Anhu allow it. Ibn Mas'ud wife to marry his daughter whose age was still young to Ibn Musayyab bin Nukhbah, and her husband allowed it.<sup>13</sup>

<sup>11</sup> Q.S. An-Nisā' [4]: 6

<sup>12</sup> Although it was still not sure. Because Ummar bin Khattab also marriage with Ummu Kulthum, daughter of Ali and they had two son. Namely Zaid and Ruqoyyah. The proper one may be Ummu Kulthum daughter of Abu Bakr when ummar tried to purpose Ummu Kuthum but Aisyah rejected it by soft reason the the age was still young. Then amr bin ash offer umar to merry Ammu Kulthum binti Ali. M. Raji Hasan Kinan, *Kisah Teladan Para Istri Khalifah*. ....p. 70-71.

<sup>13</sup> Wahbah zuhaili, *Fiqh Islam Wa Adillatuhu*, vol 9,page 173

Umar Ibn Khattab Offering his young daughter, Hafsa who has a same of Aisya age, to marry Utsman. Umar bin al-Khattab married the daughter of Ali bin Abi Thalib, which can be considered as a kind of marriage between "grandfathers to grandson," as well as marriage of Zaid ibn Haritsa, a former foster child of the prophet with Ummu Ayman who was nurturing the prophet as a child. It is similar to a marriage "grandmother" with his granddaughter.<sup>14</sup>

Thus, the authors try to conclude, that if history is correct (because there is still a lot of disagreement. Personally, researcher could not conclude from all existing history) then there is a message behind number six or seven and nine above. Six shows fastener to establish a good relationship, while the number nine is a number that indicates a person's readiness to settle down. But more important with regard to the substance of Hadits on Aisya marriage is not a matter of how the actual age of Aisya marriage. But rather that, this figure is part of a picture that marriage at a young age or older is not an issue in the early days of Islam.

Futher more, the meaning of marriage of the people of Arab at that time was kind of building good relation with the other, I can be seen from the spirit of *Ashabiyah* of Arab people. Other factor that must be considered of the case of marriage in Islam is to build the new social order, from the infidel who considered the slave and women as the second class society to the equality of status before god in Islam.

### **B. Investigating the Chain of Transmissions**

To be easier in checking the chain of transmission the researcher will give the figure of transmission process here: this consideration is based on the various chains that will be met as core, or it can be called as common link. This figure is based on these hadits:

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<sup>14</sup> Quraish Shihab, *Membaca Sirah Nabi Muhammad* .....530

1. From Hisyam bin 'Urwah, from ayahnya ('Urwah), from 'Aisyah *radliyallaahu 'anhaa*.(27). Shahih Bukhari 4738

حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ، حَدَّثَنَا سُفْيَانُ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، " أَنَّ النَّبِيَّ تَزَوَّجَهَا وَهِيَ بِنْتُ سِتِّ سِنِينَ، وَأَدْخَلَتْ عَلَيْهِ وَهِيَ بِنْتُ تِسْعٍ، وَمَكَثَتْ عِنْدَهُ تِسْعًا 15،

2. From Az-Zuhri, from 'Urwah, dari 'Aisyah *radliyallaahu 'anhaa*. (6) Muslim 2549.

(وحدثنا عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الرَّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ: " أَنَّ النَّبِيَّ تَزَوَّجَهَا وَهِيَ بِنْتُ سَبْعِ سِنِينَ، وَرُقَّتْ إِلَيْهِ وَهِيَ بِنْتُ تِسْعِ سِنِينَ، وَلَعِبَهَا مَعَهَا وَمَاتَ عَنْهَا وَهِيَ بِنْتُ ثَمَانَ عَشْرَةَ " كَانَتْ يَوْمَ ابْتِنَى بِهَا بِنْتُ تِسْعِ سِنِينَ 16

3. From Abu Mu'awiyah, from Al-A'masy, from Ibrahim, from Al-Aswad, from 'Aisyah *radliyallaahu 'anhaa* (10) sunan An-Nasāi 3206

أَخْبَرَنَا مُحَمَّدُ بْنُ الْعَلَاءِ، وَأَحْمَدُ بْنُ حَرْبٍ، قَالَا: حَدَّثَنَا أَبُو مُعَاوِيَةَ، عَنْ الْأَعْمَشِ، عَنْ إِبْرَاهِيمَ، عَنْ الْأَسْوَدِ، عَنْ عَائِشَةَ، " تَزَوَّجَهَا رَسُولُ اللَّهِ وَهِيَ بِنْتُ تِسْعٍ، وَمَاتَ عَنْهَا وَهِيَ بِنْتُ ثَمَانِي عَشْرَةَ " 17

4. From other chains of transmissions, Sunan ibn Mājjah 1867

حَدَّثَنَا أَحْمَدُ بْنُ سَنَانَ، حَدَّثَنَا أَبُو أَحْمَدَ، حَدَّثَنَا إِسْرَائِيلُ، عَنْ أَبِي إِسْحَاقَ، عَنْ أَبِي عُبَيْدَةَ، عَنْ عَبْدِ اللَّهِ، قَالَ: " تَزَوَّجَ النَّبِيُّ عَائِشَةَ وَهِيَ بِنْتُ سَبْعٍ، وَبَنَى بِهَا وَهِيَ بِنْتُ تِسْعٍ، وَتُوُفِّيَ عَنْهَا وَهِيَ بِنْتُ ثَمَانِي عَشْرَةَ سَنَةً 18

<sup>15</sup> Abu Abdillah Muhammad bin Ismā'īl, *Shahih al-Bukhārī*. (Dār thūq an-Najāt 1422H) vol 7 p.17

<sup>16</sup> Muslim bin al Hajjāj Abu Al Hasan al-Qusairy an-Nisābūry, *Shohih al-Muslim* (Bairut.Dār Ihyā'I At-Turāts) vol.2 p. 1039

<sup>17</sup> Abū 'Abdurrahmān ahmad ibnu su'aib bin 'Ali al-Khurasāni, as-sunān al-kubrā li an-Nasāi. (Halab:Maktabah Matbū'ah al-Islāmiyah, 1986) vol. 6 p.82

<sup>18</sup> Ibnu Mājjah abū 'Abdillah Muhammad Ibn Yazīd al-Qazwainy, *Sunan Ibnu Mājjah*. Dār ihyāi al-kutūb al-Arabiyyah vol.1 p.604

	First chain	Second chain	Third chain	Fourth chain
<b>TRANSMITTERS</b>	Aisyah r.a (d.54 H) 675m			Abdullah bin masud (d.32 H) 653M Kufah
	Urwah (d.93 H) 714m madina Ali d 40 h		Aswad (d. 75 H/75 H) 696m Kufah	Abi Ubaidah (d.83 H) 704m Kufah
	Hisyam (d.145H) 766m Mecca madina	Zuhri (b. 58 H) (d.124 H) 745m	Ibrahim(d.96 H)717M kufah	Abi Ishaq d. 128 H 749M kufah
	Sufyan (b. 107 H) (d.198 H)	Ma'mar(d.154 H) 775m	A'masy(b.61 H) 682m (d.148H) 761m kufah	Israil (d.160H) 781 Kufah
	M Bin Yusuf Bukhara	AbdRazaq (d.211H)	Abu Muawiyah <sup>19</sup> (b113H) 734m (d.194/195m) (815m) kufah	Abu Ahmad d.203 H 824M kufah
		Abd b. Hamid	Ahmad b. Harb (d.263H) musali Ahmad b. Ala' (d.248 H) kufah	Ahmad b. Sinan (d. 259 H) kufah
	Bukhari (b.194 H) 815M	Muslim (b.204 H) 825m	Annasai (b.214 H)845M	Ibn majah (b.) iraq d.273 H 894

<sup>19</sup> Abu dawud said that abu muawiyah was murjiah in kufah. Tahdzib al-Kamal fi Asmanil Rijal Juz XXV, page 128

	(d. 256 H) 877M	(d.261 H)882m Naisabur		
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In connection with sanad criticism, according to Abou el-Fadl, actually, it is not very important considering the criticism sanad will assess the narrators of Hadits with "trustworthy" or "untrustworthy" would be absurd. Which is more important to emphasize the sanad criticism is not a "strong" or "weak". But more importantly in the context of the prophet have a position as to what, in succession to the prophetic mission.<sup>20</sup>

If we views of some reports, these things are all delivered after the death of Muhammad. So author of this report may be Aisya, or even a person who is under Aisya. Such assumptions appear because the narrators after Aisya (Urwah) are at the level of the Successors. While all editorial use the word (عن) which means that the tradition can be heard directly or heard from others.

It is important to note, regarding to the authenticity of the test via the narration done by several researchers, reports about this Hadits is considered strong enough. But here is a little wedge, the report is not found in the Muwat̃a of Malik bin Anas as first book of Hadits book first. And he also lived and died in Mecca.

In connection with the theory of authorship, in the chain of transmission, after Aisya and Urwah, (cousin of Aisya), called the name is Hisyam bin Urwah. In some notes of ibnu hajar, hisyam get a quality less credible at the time was living in Kufah. Even Ibn Hajar came to the conclusion that Hisyam bin Urwah fabricated history. If we connect the absence of these Hadits in the Muwaṭ̃a' of Imam Malik, Then there is the great potential of the Hadits is narrated in Kufah.

It must be noted that the man who transmitted those kind of report has close relation with aisya. urwah bin zubair. Considering he historical condition,

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<sup>20</sup> Khaled M. Abou El Fadl, *Speaking in God's Name....*, p 88

sepecially in political aspect. There is no huge proplem beatween companions until the fist fitnah, it was the ustman murdered.<sup>21</sup>

At that time, Ali proclaimed him self as the chalip supported by Basrah and Madinah people. but because Ali let the murderer of Utsmas, Aisya and some people of Mecca always pressing him then finally he move to Kufah as his capital supported by Madinah people, but did not get support from Syiria, because in Syiria was leaded by close famaly of Utsman.<sup>22</sup>

If Abdullah bin Masud died in Kufah in the year of 653M, it means that Abdullah bin Mas'ud was part of Ali. If at that time Urwah stay in Madinah, it means Urwah was the people of Ali also but Urwah still small or young man. It has higt posibility to ali for merried his doughther to urwah bin zubair.

Other fact of history, Abdullah bin Zubair was the man who accompany Aisya in the Jamal war. He opposed Ali. But Urwah ibnu Zubair was the the husbend of Ummu Kulthum. If some people said the the people of Madinah and Mecca did not recive the hadits of Hisyam bin Urwah, according to researcher, it was political aspect.

If we look at th chain of tranimition, we will find Urwah bin Zubair is close to Aisya, but has different possision in closeness of politic. Abdullah bin Zubair finally has his own status as governor in Mecca and Madina after death of muawiyah, urwah bin zubair was the husband if ali daughter. And based on what has been stated by Wahbah Zuhaili that Urwah married in the young age. It may in historical fact, then, it is posible to Urwah married Ummu Kulthum in young

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<sup>21</sup>Marshal hudshon, *Venture of islam*..... p.214 Utsman was killed at 656 M in this year also happen the war of camel beewen ali and his supporter versus Aisya, Zubayr and Thalhah. It was happened near basrah and Ali side win this war. An then come sifin war beetwen ali and in 657 leading to arbitrasion in 658 beetwen ali side and muawiyah side. Unfruitless arbitration, ali's mediator was abu musa al asy'ary, and mediator of muawiah side was amr bin as, the conqueror of egypt. After arbitrasion, ali side splited tobe tree parties; ali's party as shiah versus khāij as rebel. maenwhile Muawiah gain egypt, next two year muawiyah procliam him self as chalip in jerusalem, then in 661 ali was murdered finally hasan b. Ali give full authority to muawiyah as chalip. see page 215

<sup>22</sup> Marshal Hudshon, *Venture of islam* .....p.214

age. Other fact is, that the transmission is Abdullah bin Mas'ud that who allowed his daughter to be married in young age. How ever, to marry in you age at that time had been some meaning base on the communities. As Nawāwi explained that the people of Kūfah and Hijāz has different view in right of girl to get his free will to fake his marriage when she got her puberty, People of Kūfah argues that she got his choice but not for Hijāz people.<sup>23</sup>

Based on this historical fact the researcher assumes has litle conclusion that the merriage of aisyah was mean different from what prophet pupose, if the prophet merried Aisyah as the order of god to build new social order. However Kūfah still was being a central of Ali's party until from 692 until 744 then finally to be Abbasyd caliphate.

### C. Investigating the Historical Circumstances

Referring to the Hadits about the background of why Muhammad married Aisyah, Muhammad purpose Aisyah by reason of revelation. That prophet dreamed of meeting with Gabriel for three days in a row and sees a silk shawl. Then Gabriel said to Muhammad: This is your future wife. Rasulullah then open it up and it turns out it is Aisyah.<sup>24</sup>

If we look in the history, the prophet got order to marry Aisyah in his dream, was accompanying the *'Am al-Khuzn* (years of sadness). That is when the prophet lost two loved ones, Namely Khadija, his wife, and Abu Thalib<sup>25</sup>, his uncle. As far as recounted by history, Thalib ash is very staunchly defended the prophet if the prophet will be fought by the infidels at that time. Meanwhile, Khadija is Muhammad's first wife who always supported him to do his entire mission.

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<sup>23</sup> Abū Zakariyah Muhyiddīn Yahyā bin Syaraf An-Nawāwī, *Al-Minhaj Syarkhu Shakhīh Muslim bin Hajjaj*. (Bairut, dār ihyāi at-Turāts al-'Arabī 1392H) Vol. 9 p.206

<sup>24</sup> As-sunan al-kubra li al-baihāqi page 4843 gawamiul kalim

<sup>25</sup> It should be noted, abu Thalib was the one who take care of Muhammad after Abdul Muthallib passed away. He takes care of Muhammad because he was ordered by his father, although Abdul Muthallib knew that abu thalib has four children and has no glamour life. That is all because he is the one-blood of Abdullah. The Father of Muhammad.

After the death of Abdul Muthallib, Abu Thalib is one of the family descendants of Hasyim most prominent. He was dubbed with the title of Sayyid al-Abathih, (leaders of various wide areas) which is also known by the Arabic as the man who loves to give protection to anyone in need.<sup>26</sup> So, no doubt if at that time, until the time of his death, he gave protection to his cousin that he's custody since childhood. That is, the protection of which is owned by Muhammad after the death of Abu Thalib has declined.

Khadija is the first wife of the prophet and she was the most beloved. It should be noted, that the marriage of Khadija and Muhammad, may be considered as strange in the contemporary era. Prophet is willing to marry Khadija who had same age as his mother, namely Aminah.<sup>27</sup> Most popular history states that the marriage of the prophet to Khadija was twenty-five, while Khadija was forty when they married.<sup>28</sup> Until the death of Khadija, the prophet was not practicing polygamy.<sup>29</sup> The death of the two beloved one occurred in the tenth year after prophet hood in the same week. Then dream to marry Aisya happened after the tenth year of prophet hood.

Muhammad diminishing Protection was also demonstrated by some of the work done by Muhammad after the death of Abu Thalib dah Khadija to seek support from Thoif. However, prophet got no support from the man who had the authorities. Muhammad met three brothers, namely Abd ya Lail, Mas'ud and Habib, they are son of 'Amar, and also a woman who comes from the Quraish tribe, which is wife of one of three brothers. Something received by the Prophet was an insult of harassment and insults of their slaves on their orders.<sup>30</sup>

On the other hand, at that time Abu Bakr was including in people of under pressure. Until he intends to move to Abyssinia, but it turns out when he

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<sup>26</sup> Quraish Sihab, *Membaca Sirah Muhammad*.....p 254

<sup>27</sup> *Ibid* p,258

<sup>28</sup> Although there is athor opinion that the age of Khadija at that time was 35, and Ibnu Ishaq argued he was 28. *Ibid* p.280-281

<sup>29</sup> *Ibid* p.428

<sup>30</sup> *Ibid* p.434-435



got the protection from the tribal chief's of al-Qamar, namely Ibn al-Dughunah.<sup>31</sup> Meanwhile, in another narration also explained that Abu Bakr protected by Ibn al-Dughunah also due to its proximity to Mut'im bin Adi, one of the Quraysh leaders, who at that time his son had been betrothed to Aisya.

Another incident happened after a visit to the Thaif prophet is Isra' Mi'raj events. As for the interesting thing is, that at the time, the man who firstly believes was Abu Bakr. The history that describes the marriage of prophet with Aisya before moving is related to what is offered by Khaulah after prophet widower. She offers Za'mah and Aisya. While the offer provided by Khaulah at that moment came after he saw the prophet sadness so deep because of losing his wife and his uncle.<sup>32</sup> On the other hand, the events of Isra ' Mi'raj ensued after *'ām al-Khuzn* and at that time only Abu Bakr believe. So it is reasonable, in an effort to strengthen *Silat urrahmi* between the prophet and Abu Bakr, the prophet then apply to married Aisya. This is in line with the mission of the Quran talking about marriage is to build. That is the position of prophet at the time was to strengthen brotherhood in faith as described in the Quran

Other verse support this assumption is asy-syuaru' verse 214-216 about the order from god to convoy islam publicly:

وَأَنْذِرْ عَشِيرَتَكَ الْأَقْرَبِينَ ۚ ۲۱۴ وَأَخْفِضْ جَنَاحَكَ لِمَنِ اتَّبَعَكَ مِنَ الْمُؤْمِنِينَ ۚ ۲۱۵ فَإِنْ عَصَوْكَ فَقُلْ إِنَّي بِرِيءٍ مِّمَّا تَعْمَلُونَ ۚ ۲۱۶

Meaning: 214. And warn your nearest relations,215. And be kind to him who follows you of the believers.216. But if they disobey you, then say: Surely I am clear of what you do.

This verse describes their custody order against the believers; the researcher understands that the verse indicate maintain the coffers that had been possessed by the prophet. So if it is true, then the marriage with Aisya is part of the preservation coffers.

<sup>31</sup> The leader of Thaif at that time was baini thaqifah, they mostly has problem with clan of Quraish. *Ibid* p.432

<sup>32</sup> *Ibid* p.459

It should be noted also, that in a few existing history, legitimate marriage prophet to aisyah, in the sense of living in a home, occurs when the prophet lived in Medina. Whereas when in the medina, with regard to the age of six or seven years occurred in Mecca. We know, when in Mecca, the Prophet only households with two persons namely Khadija and bintu Zam'ah. Referring to the prophet preaching context based *Makki* and *Madani*, the call of the prophet in Mecca only with regard to the issue of Aq̄idah. Not touched at all by marriage or the legal affairs of law. This means that if indeed Aisyah wedding happened at this time are not part of the arrangement of a marriage on the basis of Islamic law, but if you need more efforts on strengthening the relationships fellow believers in Mecca or efforts to strengthen the political aspect.

Although not getting results, it is precisely the protection obtained by the prophet of Mut'im ibn 'Adi when he returned from Tāif and arrived in Mecca. Although by no means the Muslims at that time free from oppression. Rallying support continues to be done by the prophet until the time of his migration to Medina resulting from the visit people who were arriving in Zulhijjah who eventually resulting in two Bai'at. That was the first and second Bai'at of Aqabah.<sup>33</sup>

However, talking about age of Aisyah marriage in, hermeneutical study, is talking about text, context, and meaning. The impotent one is not what the text say, but the importance one is what text means. Perhaps, if the Hadits is true, then there are six or seven and nine there. Six or seven shows Aisyah marriage. While the figures show Aisyah is nine years old living in a home with a prophet. Two things are showing their age limits for marriage and live at home. That is, getting married does not mean in person can stay at home before the girl got his puberty.

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<sup>33</sup> Martin lings, *Muhammad His Life Based on the Earliest Sources*, Studies, Pataling Jaya .Foundation Tradision of Traditional p.133

From the sociological point of view, In sociological point of view, the mutual relationship between culture and law is the source of the formation of a legal discourse and its legitimacy in society. The action relation between culture and law results in shaping a particular cultural discourse of law and which legitimizes the authority of legal discourse. Law and culture are deeply intertwined so that the separation of law from culture as an independent sphere leads to the distortion of both law and culture. The mutual relationship is also the source of hermeneutics and the interpretation of controversial legal issues. On the other side, cultural mediums have particular legal statuses which enable them to be effective. Thus, the interaction of law and culture plays a substantial role in the shaping, legitimacy, and interpretation of law.<sup>34</sup>

So, when the situation of Arab before Islam has a big different between the social status of women and man. It was really reasonable for women to be neglected in the social status. When the people of Arab, at that time, were always do the plunder to survive. Then, a woman who is not strong enough has potentially to be a slave. So by marrying, this was one of the ways to save them for being neglected. This case also happens to for Aisya marriage to the prophet. It can be understood as the mission to save the position of women also.

Other consideration is the new social order of Islam focusing on the family law. Muhammad's family arrangements were based on Qur'anic rules on marriage, which universalized one existing type of Arab marriage, with modifications. The nuclear family-man, wife, and children-was stressed as a self-sufficient unit, with every marriage given equal status at law. This was largely achieved through strengthening the position of the individual adult male. The man retained wide authority over the wife to the exclusion of either his family or hers. The children were to be the husband's, who was responsible for maintenance of wife and children. Inheritance was to be primarily within the

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<sup>34</sup> Abbas Morgan, *Islamic-Arabic and women laws...* p.406

immediate family, not diffused through the clan.<sup>35</sup> It means that the concept of marriage in Islam is a one of basic foundation to create new meaning in equality of right between man and women; it has been stated also in the surah an-Nahl:

مَنْ عَمِلَ صَالِحًا مِّنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ فَلَنُحْيِيَنَّهٗ حَيٰوةً طَيِّبَةً وَلَنَجْزِيَنَّهُمْ أَجْرَهُمْ بِأَحْسَنِ مَا كَانُوا يَعْمَلُونَ<sup>36</sup>

Whoever does good whether male or female and he is a believer, We will most certainly make him live a happy life, and We will most certainly give them their reward for the best of what they did.

Other thing that must be noted is the *Ashābiyah* of arab is really high. this concept was very familiar to save his purity of clan. But Muhammad produce the new meaning of *Ashābiyah*. It was from clans man to be *ukhwah Islāmiyah*. It was proved by prohibition for women to be married by non-muslim people. Such in surah al-Baqarah verse: 221

وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّىٰ يُؤْمِنَنَّ وَلَا مَآءَةً مُّؤْمِنَةً خَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ وَلَا تُنْكِحُوا الْمُشْرِكِينَ حَتَّىٰ يُؤْمِنُوا وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ وَلَوْ أَعْجَبَكُمْ أُولَٰئِكَ يَدْعُونَ إِلَى النَّارِ وَاللَّهُ يَدْعُو إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ وَيُبَيِّنُ آيَاتِهِ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ<sup>37</sup>

And do not marry the idolatresses until they believe, and certainly a believing maid is better than an idolatress woman, even though she should please you; and do not give (believing women) in marriage to idolaters until they believe, and certainly a believing servant is better than an idolater, even though he should please you; these invite to the fire, and Allah invites to the garden and to forgiveness by His will, and makes clear His communications to men, that they may be mindful.

This new meaning has really huge implication. That the status of *Kufr*, either free man or women is no longer batter then Muslim, either slave or freeman. May be it was also the orientation of Muhammad to marry aisyah although he was in young age. Because, its will be batter rather than aisyah married to the soon of Muth'im bin 'Adi, one of the leader of kafir Quraihs at that time.

<sup>35</sup> *Ibid*.186

<sup>36</sup> Q.S. An-Nahl [16]: 97

<sup>37</sup> Q.S. al-Baqrah [2]: 221

#### D. Investigation into moral and social consequences

In connection with the moral and social impact, this business is very closely related to the theory of proportional offered Abou el-Fadl. That is, the greater the impact produced by a theological text, the greater will be the burden of proof.<sup>38</sup> It should be noted, that the impact of normative tradition that is quite complicated to be applied at the present time. The understanding of the Hadits with textual read will have an impact which is quite remarkable for the structure of society anywhere in the world.

It should be noted, however, that the Hadits related by marriage age Aisya is problematic enough. Judging of the existing search, still there is no agreement. In fact, in my opinion, the discussion about the actual age of marriage Aisya will not be found if the synchronization point of debate is how old Aisya actually married. However, if we are required to determine the synchronization point, the authors will answer that the verses in the Quran who will answer.

The researcher assumes that the Hadits related by marriage Aisya by the age of seven years is strong enough to get the competence. But it will be have huge contrary with know days regulation. Moral and social impacts resulting from the Hadits is too large when compared with what can be proved from the Hadits.

Relating to the text of hadits, it contains some vulgar statement like *banā bī* which means having sex, or other text use word *dakhala biha* which means having sex also, correlated with age of nine years old can endorse the libido of man or for getting justification to do having sex in now days.

Based on the fact of sociological structure, political aspect, and economical aspect in pre-Islamic era in Arab tradition, marriage such kind

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<sup>38</sup> Khaled Aboul Fadl, *Speaking in god's name...* p.89

considered as usual thing. But on the other hand, when prophet comes to Madina and in process of building Islamic humanize civilization, Muhammad never did it anymore. Moreover Muhammad married some widows and he also order it to save some women who has not husband and some child who has no strong protection.

Now days, who has the authority to protect the people isn't considering the gender. It was the government who has right to do that. On the other aspect, tradition of some communities was considered as mature enough to control humanist problem. That's why, the hadits that has problematic issues should not be considered as the guidance of life. So, this hadist must be uderstod contextually.

Regarding the contextuality of this hadist Aboul Fald call it call it as-lively interpretation. This proses is observing the konteks of the day (significance) from the meaning substance of the text. Or by considering the implication and the position of the significans of the esensial meaning of the teks. The core of lively interpretation is (lita'ārofū) which means to open minded and to teach the mercy amongs people.<sup>39</sup>

Regarding the meaning of the text, it has been dicused before. The the esensial meaning of text is to save the people of Muhammad before hijrah in spesific context. Diferent from what has been done by urwah whic had only as tradition or may be same as prophet to build good relationship whit the prophet. The text implication was not kind of problem. But it was kind of good thing.

Consideration to the context of now days, the researcher assume that now it has litle problem in the term of implicatin. its allowable to the people who want to build the relation or helping other people, but not to interupt the the conciosness of other people. If the marrige of aisyas such aisyas as personality kind of solution, the researcher briefly said that its allowable for whom is ready either

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<sup>39</sup> Nur Zaini, *Hermeutika Khaled Aboul Fadl. in "Study Islam Perspective Outsider/insider"*. IRCiSoD, Jogjakarta 2012 page 198

physical or psychological aspect. The physical aspect doesn't mean should be abandoned by him self, but it must be able to be abandoned by his family. Regarding the juvenile delinquency in know days.

But the importance one, the women must know his obligation as a wife which means he got his maturity. Other consideration is not to lake the daughter freedom. As what has been stated by Wahbah Zuhaily that to married the man who has no readiness in marriage is like marrying the crazy man. The man who wants to decide to marry, he or she should consider that the marriage is kind of need.

## CHAPTER V

### EPILOGUE

#### A. Conclusion

Hadits on to aisyah marriage is still debatable till in this era, some people consider hadits relating to aisyah marriage as the guidance of life. Textually it has some contradiction with the social structure of this modern era. Some people try to criticize it by some approach. Unfortunately every study has good avoidance as well. Some one assume, by his argumentation that this hadits is not valid based on other source of data, or contradiction with some history book, or contradiction statement inside book by other statement of book.

This study use the procedures of Khaled Abou El Fadl's hermenutical hadits method. After doing research, explaining and analyzing in previous chapters, it can be concluded that:

Considering by socio-historical structure and values, economic and values side and political condition, hadits relating to aisyah marriage in very young age is considerable as something command in that era, but if most importance to know that the orientation of marriage regulation in the early muslim era, specifically Muhammad era, is to rise the universality values. it was building good morality and humanist civilization based on god endorse.

Unfortunately, the statement of hadits that the age of Aisyah marriage in six or seven years or even seven years old has little endorse some sexuality term connected by age of nine, Represented by term *banā bi*. Considering the argument of Ibnu Hajar, expression of love is not always about sexuality. Other thing that shown is that some literature connects that term to the house. So it can be understood also that it may be only stay in one home, not directly to have a sex.

Relating to chain of transmission, it is considered Strong Enough based on the some criticus of hadits, but it has potation to be produce in Iraq, because this



hadits was not found in muwatta'. In it was something strange. Relating to historical circumstance, Muhammad marriage Aisyah firstly in mecca with no obligation of Qur'an but it was only his dream, and at that time the focus of Muhammad was protect the Muslim in order not to be *kufir*. Regarding to moral and social consequences, this hadits has huge potential to make contradiction of social structure in this time and by considering the historical condition al the practice of Muhammad was kind of building new social order for good civilization. If comparing whit the proportional theory, this hadits is should be understood with contextual perspective event more this hadist should not be use as a source if there is no reason to humanize, even more to married young people is not kind of useful thing, because young man or women do not know what is the married for . Finally, marriage is not about age and only sexuality, but it is about useful or not.

### **B. Suggestions**

This research on hadits of aisyah marriage is only kind of subjective perspective of researcher with less data and not to deep analizys and far from good. This research only limited by hermeneutical hadist formulated by khaled that concern of problem of authoritarianism in determining divine of will. Therefore, the authors suggest the next researchers who have concern for the problems to conduct a study on hadits relating to aisyah marriage not in the case of age only, but may be can compare some literature either Aisyah or Fatima age of marriage event Khadīja, because it to much relativity if talking about age in some literature. But it will be batter to study the case of Aisyah marriage in the perspective of the evolution of producing meaning in Islamic civilization to get proper meaning in the practicing of law in every specific context.

### **C. Closing**

This research is still far from the expected target due to lack of knowledge, time, and perseverance. So, critics are needed for batter result.

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