

WOMEN'S INDEPENDENCE IN CHOOSING A SPOUSE: COMPARATIVE FIQH OF THE SHAFI'I AND HANAFI SCHOOLS

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Abstrak

Sudy discusses women's independence in choosing a spouse through a comparison of the views of the Shafi'i and Hanafi schools of thought. The focus of the study is on the position of the guardian in the marriage contract, the legal basis used by each school of thought, and its implications for the freedom of Muslim women in choosing a partner. The Shafi'i school of thought places the guardian as a pillar of marriage that determines the validity of the contract, thus limiting women's independence. Conversely, the Hanafi school of thought gives full authority to women who are mature and of sound mind to enter into their own marriages, with the guardian acting as a social companion, not the determinant of the validity of the contract. Through descriptive-analytical methods and a normative-comparative approach, this study found that the differences in the views of the two schools of thought are rooted in differences in understanding hadith, rules of istidlal, and considerations of maslahah. This study shows that the Hanafi school of thought emphasizes rationality and gender equality, while the Shafi'i school of thought emphasizes the principles of prudence and protection. These findings contribute to the strengthening of Islamic family law studies, particularly in the modern discourse on women's autonomy and marriage law reform.

Kata Kunci: *Women's independence, Shafi'i, Hanafi;*

PENDAHULUAN

Marriage is an important institution in Islamic teachings that aims to create a family life that is sakinah, mawaddah, and rahmah. From a Sharia perspective, marriage is not only viewed as a social relationship that binds men and women, but also as a form of worship that has spiritual and moral value. One of the fundamental aspects in the implementation of the marriage contract is the consent and freedom of women in choosing a husband. This issue is crucial because it concerns the dignity, honor, and rights of women as legal subjects. At the same time, it is also closely related to the doctrine of guardianship (wilāyah), which has long been a major discourse in fiqh literature. Therefore, the study of women's independence in choosing a spouse is not only normative-theological in nature, but also closely related to social and cultural dynamics and the development of the concept of human rights in

the modern era. In Muslim society, the issue of women's rights in choosing a partner cannot be separated from the influence of social structures, customs, and patriarchal cultural constructs. In some regions, women still have less autonomy in choosing a husband. Traditions of arranged marriages, forced marriages, or dominant intervention from parents often occur, either openly or covertly. Although Islam theologically emphasizes the consent of both parties as a condition for a valid marriage, social reality shows that women are often only objects in the process of determining their life partner. This has given rise to tension between the universal principles of Islam, which prioritize justice and benefit, and cultural practices that limit women's freedom (Mattalattang et al., 2021). To understand this issue, classical fiqh literature can serve as an important basis for analysis, as scholars have discussed this issue in depth within the framework of their respective madhhab

methodologies. The two major madhhabs in fiqh, namely the Shafi'i and Hanafi madhhabs, offer fundamentally different views on the position of the guardian and women's rights in choosing a prospective husband. These differences not only demonstrate the dynamism and richness of Islamic thought, but also provide room for the adaptation of fiqh concepts to the needs of modern society. The Shafi'i school, which is widely adhered to in Indonesia, places the guardian as a pillar in the marriage contract. In this school of thought, a marriage contract without a guardian is considered invalid. This line of thinking refers to a hadith of the Prophet Muhammad SAW which states, "Marriage is not valid except with a guardian." This hadith is understood textually by Shafi'i scholars as a binding provision. In Shafi'i legal construction, the guardian plays a central role as the guarantor of women's welfare, especially in the context of maintaining honor and protecting women from possible exploitation or fraud. Women, despite having the right to express consent, still cannot enter into a marriage contract on their own without the involvement of a guardian. (Kudhori, n.d.)

Meanwhile, the Hanafi school of thought offers a different perspective. In this school, women who are mature, of sound mind, and free have the full right to enter into marriage themselves, without the need for a guardian. The Hanafi school emphasizes the legal capacity (ahliyah) of adult women in making decisions related to their personal affairs. This view is based on a number of textual and rational arguments. Textually, the Hanafi school emphasizes verses from the Qur'an that give women freedom in managing their property and lives, including in choosing a spouse. Rationally, this school of thought considers that women who are mature and of sound mind have the same legal capacity as men, so there is no reason to require a guardian. However, the Hanafi school still imposes restrictions, such as the requirement of kafa'ah (compatibility) and a dowry that does not disadvantage women. In the Hanafi perspective, guardians still exist, but they function as companions or advisors, not as the ones who determine the validity of the contract. The difference in views between these two schools has significant implications, especially when linked to the conditions of modern Muslim societies. In the Indonesian

context, which has historically been influenced by the Shafi'i school of thought, the issue of women's freedom in choosing a spouse is often understood within the framework of the guardian's obligation to be involved. However, at the same time, the national legal system recognizes the importance of protecting women's rights, including the right to give free consent. The Marriage Law, the Compilation of Islamic Law (KHI), and various regulations related to the protection of women show a more progressive direction by placing the consent of both parties as a key element in marriage. In this situation, research on women's independence in choosing a spouse according to the Shafi'i and Hanafi schools of thought becomes very relevant. First, this study will examine the basic concepts of guardianship and women's consent in the two schools of thought, so that fundamental similarities and differences can be identified. Second, this study will explore how the Shafi'i school of thought views women's autonomy in choosing a husband, while also explaining the limits set by this school of thought regarding the role of the guardian. Third, this study will also analyze the position of women according to the Hanafi school of thought in determining a spouse without the involvement of a guardian, including the methodological foundations and legal rationality used by Hanafi scholars. (Ilma Asmawi and Muammar Muhammad Bakry, 2020).

By examining these two perspectives in depth, this study is expected to contribute to the development of fiqh that is more adaptive and responsive to the needs of the times. In modern society, issues such as forced marriage, covert forced marriage, family pressure, and gender inequality are real challenges that must be addressed by Islamic legal thinking. This is where it is important to view the differences in thought between schools of thought as intellectual wealth that can be used as a reference to strengthen the principles of benefit, justice, and protection of women. In addition, this research also has practical urgency. By understanding the diversity of fiqh views, religious institutions, legal institutions, and the general public can gain a broader and more balanced perspective in addressing women's rights in marriage. Moreover, a comprehensive understanding of the role of guardians and

women's autonomy can help prevent the practice of forced marriage and provide a strong foundation for the advocacy of women's protection. Thus, research on women's independence in choosing a spouse according to the Shafi'i and Hanafi schools of thought is not only academically relevant but also has strategic value for the development of a more just and progressive Muslim society. (Jalil & Wirnanda UIN Ar-Raniry Banda Aceh, 2020).

METODE

This study uses a qualitative approach with library research. All data were obtained through searching classical fiqh books and contemporary literature relevant to the theme of women's independence in choosing a spouse. The approach used was normative-theological to examine the texts of the Qur'an, hadith, and the views of scholars, as well as a comparative approach to compare the thoughts of the Shafi'i and Hanafi schools of thought regarding guardianship and women's rights in marriage contracts. The primary sources of this research include authoritative books from both schools of thought, such as *Al-Umm*, *Al-Majmu'*, *Al-Hidayah*, and *Bada'i al-Shana'i*. Meanwhile, secondary sources include books, scientific journals, articles, and positive legal regulations in Indonesia. Data was collected using documentation techniques, namely reading, recording, and classifying information from all of the literature. Data analysis was conducted descriptively to explain the views of each school of thought, then comparatively to see the differences and similarities, and supplemented with critical analysis to assess its relevance to the modern social context. Through this method, the study is expected to provide a clear and objective picture of women's independence in choosing a spouse according to the two major schools of thought in Islamic jurisprudence (Hanifah et al., 2025).

TEMUAN DAN PEMBAHASAN

1. The Shafi'i School of Thought on Women's Independence

In the Shafi'i school of thought, the role of the guardian in marriage contracts is a very important and fundamental aspect. This school of thought stipulates that the guardian is one of the pillars of marriage, so that his presence and

consent are absolute requirements for a marriage to be valid. Thus, women, whether single or widowed, are not allowed to marry themselves without the involvement of a guardian. This opinion is based on textual arguments and considerations of public interest, which form the methodological framework of the Shafi'i school of thought. The main argument used by Shafi'i scholars is the hadith of the Prophet Muhammad, which states, "*Marriage without a guardian is not valid.*" (HR. Abu Dawud, Tirmidzi). This hadith is understood literally to mean that a marriage contract performed without a guardian is invalid or void. In the Shafi'i interpretation, this provision applies generally without distinguishing the status of women, whether they are single, widowed, young, or old. All women, even if they have full capacity in terms of property ownership, still do not have the authority to contract their own marriage. (Khoirul et al., n.d.)

However, even though women are not allowed to marry without a guardian, the Shafi'i school of thought still provides certain space for women in determining their life partner. Women are still required to give their consent before the marriage contract is carried out. The principle of a woman's consent is a moral and legal foundation that cannot be ignored by the guardian. In many hadiths, the Prophet Muhammad emphasized that women should not be forced into marriage. Even for shy women, silence is considered a form of consent, not coercion. This shows a balance between the guardian's role as the protector of women's interests and women's right to make choices. (Habib & Talli, 2022)

In practice, the Shafi'i school of thought explains that women have the full right to reject a prospective husband whom they do not like. This rejection must be respected by the guardian. In other words, the guardian does not have the right to impose his will in determining a prospective husband for a child or woman under his guardianship. Therefore, even though women cannot conclude their own marriage contracts, they still have the moral authority to accept or reject proposals. This authority is important to prevent forced marriages, which are clearly prohibited in Islamic teachings. (Maulana Muhammad & Rahmani, 2022)

In addition to the right to refuse, women in the Shafi'i school of thought also have the right

to petition the guardian judge if the blood guardian is unjust or prevents marriage without a reason justified by sharia. This condition is commonly referred to as '*adhal*', which is when the guardian refuses to marry off a woman even though her prospective husband is suitable and meets the sharia requirements. In such circumstances, the Shafi'i school of thought transfers the authority of guardianship to the guardian judge, namely a judge or official appointed by the state. This provision shows that the Shafi'i school of thought strongly protects women's rights and prohibits guardians from acting arbitrarily. However, women's independence in this school of thought remains limited. The involvement of the guardian is not only administrative in nature, but is part of the legal structure of marriage itself. The Shafi'i school of thought views guardians as having an important position as guardians of family honor and guarantors of women's welfare. In the Shafi'i view, a marriage contract is not merely a contract between two parties, but a social institution involving the family, so that the presence of a guardian is a form of structural protection for women. (Praksis Pengangkatan Wali Hakim & Al, 2025)

The Shafi'i school of thought is also based on the logical consideration that women may be vulnerable to deception, pressure, or lack of understanding of their prospective husband's character. Therefore, the guardian is considered to have a strategic position to ensure that the choices made by women truly bring about benefits. This view was greatly influenced by the social and cultural context of the society at the time of the school's formation, where the social structure was patriarchal and women generally did not have extensive experience in social interactions with men outside the family. However, it is important to note that the Shafi'i school of thought does not completely deny women's independence. The basic principles upheld are benefit and justice. In fact, in many explanations by Shafi'i scholars, a guardian who forces or refuses unfairly is considered to be violating Sharia law. Therefore, even though women are not given the authority to contract their marriage, they are still recognized as parties who have full rights to consent to their marriage. In other words, women are not passive objects in marriage, but subjects whose rights are guaranteed by sharia. In the context of modern society, the views of the Shafi'i school of thought

are often combined with the principle of protecting women in positive law. In this context, although a guardian is still required, mechanisms such as a guardian judge and the prohibition of forced marriage provide greater space for women to exercise their rights more autonomously. Thus, the Shafi'i school of thought can remain relevant as long as it is understood proportionally and emphasizes the values of justice and the interests of women (2024).

2. The Hanafi School of Thought on Women's Independence

The Hanafi school of thought is known as a school of jurisprudence that has a more progressive and rational view on a number of legal issues, including the issue of women's independence in marriage contracts. One important point that distinguishes this school of thought from other schools of jurisprudence, especially the Shafi'i and Hanbali schools, is its position on the role of the guardian in marriage contracts. The Hanafi school generally argues that women who have reached puberty and are of sound mind have full capacity to manage their own affairs, including entering into a marriage contract without having to be represented or approved by a guardian. This view has strong textual, rational, and social considerations in their legal construction. The main basis often used by Hanafi scholars is the verse in Q.S. Al-Baqarah verse 232. This verse explains that guardians should not prevent women who want to marry a good candidate of their choice. The phrase "*fala ta'dhuluhunna*" (do not prevent them) is understood by Hanafi scholars as a strict prohibition against guardianship that is coercive or overly controlling. For them, this verse shows that women have the right to choose their own life partner; guardians do not have the right to hinder or determine the marriage contract if women have made a decision that is considered good and in accordance with the principle of benefit. (Ramadhani et al., 2025)

In addition to textual arguments, the Hanafi school also uses the principle of rationality, which is characteristic of their method of *istinbath* (legal deduction). In the Hanafi view, an adult woman has authority over legal actions related to herself, such as conducting sales and purchase transactions, leasing, or managing property. Therefore, marriage contracts are viewed as civil contracts that should

also be able to be carried out independently by women who meet the requirements of legal adulthood. This concept is known as *al-nafs*, which is the right of a person to regulate and manage their own affairs without having to be represented or controlled by another party. According to the Hanafi school of thought, the role of the guardian in a marriage contract is not to determine the validity of the contract, but rather to act as a companion or advisor. The guardian only becomes involved when certain issues arise, such as *ketidaksekufuan* (imbalance in social status between the prospective husband and wife). In this case, the role of the guardian is more to protect the rights of women so that they are not involved in marriages that have the potential to be socially or economically detrimental. This means that the presence of a guardian is more for the sake of benefit, not as a legalistic requirement that determines the validity of a marriage. (Hukum et al., n.d.)

The implications of this view are very significant. According to the Hanafi school of thought, women have the legal capacity to choose their prospective husbands without having to wait for the guardian's blessing. If she marries on her own, either through a direct contract or through an intermediary she appoints herself, the contract is still considered valid as long as the prospective husband is considered *sekuflu* (equal). This *sekuflu* provision then becomes an instrument of check and balance in the Hanafi legal system, to ensure that the woman's choice of will not cause her harm or injustice in the future. Thus, marriages conducted by women without a guardian are considered valid and legally binding. The Hanafi school of thought even emphasizes that "marriage contracts conducted by adult women have the same status as other contracts conducted independently." This shows a very high level of independence in the perspective of this school of thought. (Zuhri, 2024)

The Hanafi view on this matter is not only legal in nature, but also reflects certain ethical and social principles. They emphasize that women have the same dignity and rational abilities as men, so it is inappropriate to limit women's rights solely because of their gender. This thinking is reflected in the way they place women as full subjects of law, not as objects of guardian authority. By giving women complete independence in choosing a spouse, the Hanafi school of thought affirms the principles of justice

and equality in social life. In addition, the Hanafi school of thought still allows guardians to act if there are circumstances that could lead to harm. For example, in a situation where a woman chooses a prospective husband who is not socially compatible, the guardian can raise an objection before a judge. However, the role of the guardian here is not to determine the validity of the contract, but to protect the interests of the family and society so that the marriage does not cause difficulties or discomfort for the woman herself. Thus, the guardianship system in the Hanafi school of thought is not a system of control, but rather a mechanism of protection that respects women's autonomy. (Rosidah et al., n.d.)

Women's independence in the Hanafi school of thought is also in line with the principle of *maslahah*, which is one of their references. In certain societies, women may need protection from guardians who are overly dominant or authoritarian. By granting women full rights, the Hanafi school of thought indirectly provides a solution to this social problem. This view is also seen as a form of appreciation for women's ability to determine the direction of their own lives, including in matters of choosing a life partner. In conclusion, the Hanafi school of thought's view on women's independence in choosing a spouse is one that provides freedom, respect, and trust for women as subjects of law. They depart from the arguments of the Qur'an, supported by strong legal logic, and take into account the structure of society. Therefore, the Hanafi school of thought places women as parties who have full authority over themselves, including in conducting marriage contracts without a guardian. This view is not only relevant in classical *fiqh* studies, but also an important reference in contemporary discourse on women's roles, marriage rights, and gender equality in Islam (Bakar, n.d.).

3. Comparison of the Shafi'i and Hanafi Schools of Thought

The debate over women's independence in choosing a husband is one of the important issues in marriage jurisprudence. Two major schools of thought, namely the Shafi'i and Hanafi schools, offer different perspectives based on their respective methodologies, arguments, and social considerations. These differences are particularly evident in aspects such as guardianship, women's rights, and the

understanding of gender equality in marriage contracts. In the Shafi'i school, the guardian is an essential element of marriage. Without the presence and consent of the guardian, the marriage contract is considered invalid. The main basis for this opinion is the hadith of the Prophet which reads: "*Marriage without a guardian is not valid.*" This hadith is understood textually by Shafi'i scholars as an affirmation that guardianship is an essential element to protect the honor and welfare of women. Therefore, in this school of thought, women still have the right to choose their spouse, but it is limited. Women cannot marry themselves without a guardian, even though they must be asked for their consent. Thus, guardians in the Shafi'i school of thought have a strategic position as the determiners of the validity of the contract, as well as the parties responsible for ensuring that women are not trapped in harmful marriages. This concept differs significantly from the Hanafi school of thought, which gives women more freedom. According to Hanafi, a guardian is not a requirement for a marriage to be valid. Women who have reached puberty and are of sound mind have the full right to enter into a marriage contract themselves, as long as the prospective husband is suitable and the dowry given does not conflict with the public interest. The basis of this school of thought emphasizes a rational approach (*istihsan*) and verses from the Qur'an that emphasize women's freedom to manage their own lives, such as Q.S. Al-Baqarah: 232, which prohibits guardians from preventing women from marrying their choice. Therefore, the Hanafi school of thought places the guardian as a companion, not as a determining factor in the validity of the contract. This difference reflects the different concepts of equality between the two schools of thought. The Shafi'i school of thought tends to be more moderate, balancing women's rights and family protection. Its main focus is to preserve lineage, prevent fraud, and maintain a social structure that is considered stable. Meanwhile, the Hanafi school of thought appears to be more progressive, giving women considerable autonomy as full legal subjects. This approach places women on an equal footing with men in their ability to enter into contracts and make decisions about their future. This comparative narrative shows that the differences in the views of the two schools of thought cannot be separated from the social context that gave rise to these opinions. The Shafi'i school of thought developed in a society that strongly

upheld family traditions, while the Hanafi school of thought emerged in areas with more open and pluralistic social dynamics. Although different, both have the same goal, which is to protect the welfare and honor of women in marriage. It is this methodological difference that enriches the wealth of Islamic jurisprudence and provides opportunities for Muslims to choose the view that is most relevant to the social and cultural context and the needs of the times (Khoiruddin et al., n.d.).

4. Analisis

In the fiqh discourse on women's independence in choosing a spouse, the views of the Shafi'i and Hanafi schools of thought show two different perspectives but both have strong argumentative foundations. These differences can be analyzed in terms of the advantages and disadvantages of each school of thought, both in terms of legal protection and their relevance to the social needs of society.

- **Shafi'i School**

The Shafi'i school places the guardian as a pillar of marriage. Consequently, a woman cannot marry herself without the involvement of a blood guardian or a judge guardian. The advantage of this view is evident in its protective purpose. One of the most prominent advantages is that the Shafi'i school seeks to protect women from the possibility of harmful marriages. The presence of a guardian provides an additional layer of caution for women, especially those who are inexperienced or vulnerable to manipulation. With a guardian, the family has the opportunity to ensure that the prospective husband is truly suitable, responsible, compatible, and does not pose a potential threat to the woman's life. In addition, the Shafi'i school emphasizes the importance of maintaining lineage. The role of the guardian in this school of thought is considered capable of helping to maintain the purity of descent, family structure, and social honor. This principle is considered important in the context of traditional societies that are very concerned with the legitimacy of family relationships and lineage. In the Shafi'i view, the involvement of a guardian is a means of avoiding social conflicts that may arise from uncontrolled marriages. However, the Shafi'i school of thought also has its shortcomings. One of the main points of criticism is the potential restriction of women's freedom of

movement. Because a guardian is a requirement for a valid marriage, women cannot make decisions independently, even if they are adults and of sound mind. Their independence depends on the guardian's approval. In practice, this provision is often abused by guardians who are authoritarian or biased. Many cases show that guardians reject prospective husbands for reasons that are not sharia-compliant, such as economic factors, social status, or personal reasons. This prevents women from getting married, even in cases where the prospective husband is religiously suitable. The potential for such injustice is an important consideration for the application of Shafi'i views in a modern context. (Khaidir et al., 2025).

- **Hanafi School**

Unlike the Shafi'i school, the Hanafi school gives women greater freedom by recognizing adult women as full legal subjects. One of the main advantages of this view is its ability to elevate the dignity of women as individuals who have authority over themselves. By giving women the right to marry themselves, the Hanafi school views women as equal to men in legal capacity. Philosophically, this shows appreciation for women's rationality and their ability to judge what is best for their lives. Another advantage is the relevance of the Hanafi view to the modern context. In a world that increasingly demands gender equality and respect for human rights, this view is considered more in line with contemporary values. Many modern countries have adopted Hanafi principles as a reference in family law reform to support women's independence. However, the Hanafi view also has its shortcomings. Women's complete independence in marriage contracts has the potential to be abused if women do not receive support or protection from their families. In certain circumstances, women may face social or emotional pressure from outside parties that could lead to ill-considered decisions. Without the involvement of a guardian, inexperienced women may also be vulnerable to manipulation or deception by irresponsible parties. Therefore, even though the Hanafi view is more liberating, social and legal mechanisms are still needed to ensure that women are not left without protection. (Daud et al., 2021).

- **Criminal Act (*al-Fi'l al-Mujrim*)**

The perpetrator's actions must fall under the category of intentional murder (*qatl 'amd*) or intentional abuse. The elements of intent, lethal weapons, or methods that generally cause death must be strongly proven. If the action was unintentional, qishash does not apply (Audah, 1997).

4. Relevance in the Modern Context

The In the development of the discourse on women's rights in contemporary Muslim societies, the issue of women's independence in choosing a spouse has become increasingly prominent. With the growing awareness of the principles of equality, protection of individual rights, and democratic values, many Muslim societies and countries have begun to review marriage practices, including the role of guardians and women's authority in choosing their life partners. In this context, the Hanafi school of thought is considered more compatible with the modern paradigm, as it provides greater autonomy for adult women to determine their own destiny. The Hanafi school of thought asserts that adult women are full legal subjects who have the right to enter into contracts, including marriage contracts, without the requirement of a guardian as a condition for the validity of the marriage. This view is in line with the principles of individual autonomy, women's independence, and the value of freedom of choice, which is one of the foundations of a democratic society. (Ramadhan, n.d.)

However, the Hanafi view cannot be applied absolutely without considering the cultural, social, and family structure context of a particular community. In societies that still highly uphold family and traditional norms, the involvement of a guardian remains strategically important to maintain family harmony, avoid potential conflicts, and ensure that women's decisions are not made under pressure or manipulation from outside parties. Therefore, the role of the guardian is still relevant as a form of emotional, social, and moral protection, especially for women who are still in a family environment with strong traditional ties. On the other hand, the views of the Shafi'i school of thought cannot be ignored, especially in terms of legal protection for women. The Shafi'i concept of placing the guardian as a pillar of marriage is essentially aimed at providing a mechanism of caution. The guardian plays a role in assessing the

suitability of a prospective husband from a family perspective, maintaining dignity and lineage, and supervising so that women do not fall into harmful relationships. In societies that still face the risk of unequal marriage, fraud, or exploitation, the presence of a guardian is an important form of protection. However, Shafi'i also requires the consent of women, so that guardians cannot act authoritarian or coercively. (Khoirul Muzakki & Rifa'i Huda, 2019)

In the modern context, these two views can actually be combined to create a more moderate, balanced, and relevant approach. The Shafi'i view can be maintained as a structural protection mechanism for women, especially in societies that are still heavily dependent on family authority. Meanwhile, Hanafi principles can be used as an important reference to prevent forced marriages, covert forced marriages, or disproportionate guardianship. Thus, a balance between protection and autonomy can be achieved. The state can also adopt a moderate approach by making the woman's consent an absolute requirement in every marriage contract. The guardian is no longer positioned as an obstacle, but as a companion who ensures that the marriage takes place with consent, clarity, and consideration of suitability. This approach is not only in line with fiqh values, but also with broader principles of human rights and social welfare. (Gunawan et al., 2022).

KESIMPULAN

This study concludes that the difference between the Shafi'i and Hanafi schools of thought regarding women's independence in choosing a spouse lies primarily in the position of the guardian in the marriage contract. The Shafi'i school of thought asserts that marriage is not valid without a guardian, so women cannot enter into a marriage contract independently. This view is based on a textual understanding of the hadith and the principle of protection for women (). Conversely, the Hanafi school of thought considers that adult women have full legal capacity to marry without a guardian, based on verses in the Qur'an about women's freedom and the principle of reason ('aql) in determining the law. These methodological and epistemological differences have important implications for contemporary family law discourse: first, that

Islamic law has room for flexibility in responding to social needs; and second, that women's independence in choosing a spouse can be strengthened through an approach that balances text, maslahat, and equality. Thus, this study emphasizes the importance of inter-madhab dialogue to enrich the understanding of marriage law that is more responsive to modern realities.

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