KAFA'AH IN ISLAMIC MARRIAGE: CONCEPTUAL RECONSTRUCTION AND CRITICAL REVIEW OF CONTEMPORARY JURISPRUDENCE

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ABSTRACT

This study aims to explore and reconstruct the concept of kafa'ah in Islamic marriage law, which has often been misunderstood as a form of rigid and discriminatory social stratification. In fact, in classical Islamic jurisprudence, kafa'ah is intended as a principle of benefit to maintain marital harmony through the compatibility of partners in religious, moral, and social aspects. Using a qualitative approach and literature study methods, this study examines the views of four Islamic schools of jurisprudence and the dynamics of understanding kafa'ah in the contemporary context. The results show that kafa'ah is not a requirement for valid marriage, but rather a relative and contextual principle. The narrowing of its meaning due to the dominance of local culture and textualist interpretations has obscured the substance of justice in Islam. Therefore, a reinterpretation of kafa'ah based on maqāṣid al-shari'ah is necessary to realize the principles of justice, gender equality, and benefit in modern marriage practices.
Keywords: Kafa'ah, Islamic marriage, contemporary Islamic jurisprudence, conceptual reconstruction, gender justice.

INTRODUCTION

Islam is a perfect and complete religion, regulating all aspects of human life. The main principle of Islamic law is to achieve the benefit of mankind by upholding justice, balance, and protection of religion, soul, mind, offspring, and property.[1] Islamic law is flexible and adaptive, allowing its application in various contexts and times. Islam regulates all aspects of life, from trivial matters such as the manners of eating and drinking, to major issues such as marriage.[2]

In Islam, marriage is not just a bond between two individuals, but also a sacred covenant and has the aim of forming a family that is sakinah, mawaddah, and warahmah. Through marriage, a new generation will be born that continues the previous generation. In the Islamic perspective, marriage is not only seen as an act of worship, but also as the sunnah of

[1] Aceng Zakaria et al, "Al-Quran Perspective on Religious Balance: Measuring Religious Moderation Through Maqashid Sharia," *Al-Tadabbur: Journal of Qur'anic Sciences and Tafsir* 9, no. 02 (2024): 369–86.

[2] Subhan Mubarok, "Principles of Islamic Leadership in the View of the Qur'an," *Al Muhafidz: Journal of Qur'anic Sciences and Tafsir* 1, no. 1 (2021): 1-12, https://doi.org/10.57163/almuhafidz.v1i1.2.

Allah and the sunnah of His Messenger.[3] From this explanation, it can be concluded that marriage is the beginning of a new life for two individuals who previously lived separately, then united by Allah's permission. As explained in His Word:

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

Meaning: Among the signs of His power is that He created for you wives of your own kind, that you may tend to them and be at ease with them, and that He may establish between you love and affection. Indeed, in such things there are signs for those who think. [4]

The verse explains that Allah created life partners of the same kind as a sign of His grace, so as to create a harmony that allows husband and wife to feel tranquility, love, and peace in marriage. This is evidence for people who want to contemplate the signs of Allah's power.[5]

In order to realize a marriage that is in accordance with its purpose, it is necessary to know that one of the important concepts in Islamic marriage is *kafa'ah*, which refers to equality or compatibility between prospective husbands and wives in various aspects such as religion, descent, social status, and economy.[6] This concept aims to ensure that the couple getting married are similar in fundamental ways, so as to create harmony and reduce the potential for conflict in the future.

Kafa'ah is a tradition that existed before the arrival of Islam, where the Arab Jahiliyah society prioritized tribal and family structures, making lineage a determinant of social status, protection, even political alliances and inheritance rights.[7] The arrival of Islam brought significant changes, especially in the view of *kafa'ah* nasab, by emphasizing the equality of mankind before God and putting aside nasab as the main factor in marriage. Islam expanded the concept of *kafa'ah* by emphasizing the aspects of religion and morality.

During the time of the madzhab scholars, kafa'ah emerged as a logical necessity in marriage law.[8] Kafa'ah functions as a balancing argument for benefit, adjusted to social conditions and the development of legal logic in each region. Scholars from various madhhabs agree that *kafa'ah* plays an important role in creating balance in the husband-wife relationship.[9]

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[3] Ali Sibra Malisi, "Marriage in Islam," *SEIKAT: Journal of Social, Political and Legal Sciences* 1, no. 1 (2022), https://doi.org/10.55681/seikat.v1i1.97.

[4] QS. Ar-Ruum: 21.

[5] Markaz Tafsir Riyadh, *Tafsir Al-Mukhtashar* (Riyadh: Markaz Tafsir, 2017), p.406.

[6] Misbah Mrd, Sawaluddin Siregar, and Nur Aminah Nst, "The Concept of Kafa'ah in Islam: An Application in Marriage Viewed from Maslahah Mursalah," *AL-MAQASID Journal: Journal of Shari'a and Civil Affairs* 9, no. 2 (November 6, 2023): 227–39, https://doi.org/10.24952/almaqasid.v9i2.9368.

[7] Ahmad Muzakki, Roibin Roibin, and Muhammad Muhammad, "Kafaah and Marriage in Jahily and Early Islam (Studies in the History of Islamic Law)," *TSAQAFAH* 20, no. 2 (2024), https://doi.org/10.21111/tsaqafah.v20i2.12395.

[8] Ahmad Muzakki, Roibin Roibin, and Muhammad Muhammad, "Kafaah and Marriage in Jahily and Early Islam (Studies in the History of Islamic Law)," *TSAQAFAH* 20, no. 2 (2024), .2024).

[9] Paimat Sholihin, "Kafaah in Marriage from the Perspective of Four Mazhabs," *SEMB-J: Sharia Economic and Management Business Journal* 2, no. 1 (2021) .

T herefore, it is important to learn more about the concept of *kafa'ah*, as well as analyze and discover how this concept has developed in Islamic law and influenced the different views among the scholars of each madhhab. In the development of Islamic law, *kafa'ah* became a consideration in determining the suitability of a spouse, focusing on social, economic and religious aspects.

Over time, the understanding of *kafa'ah* continues to evolve, adjusting to social and cultural conditions in various regions. In practice, the concept of *kafa'ah* may be a topic that can be misunderstood or misused, as it can lead to various misconceptions. [10]

Some consider *kafa'ah* to be a form of discrimination or social stratification that goes against the principles of justice in Islam.[11] Some people think that *kafa'ah* is only related to equality in terms of social status or wealth, when in fact this concept includes more than that.[12] *Kafa'ah is* expected to create harmony in marriage, as well as avoid discrimination based on social or economic background. Thus, *kafa'ah* in Islamic marriage reflects not only tradition, but also the principles of justice and equality taught by Islam.

From a fiqh perspective, *kafa'ah* in marriage is an important foundation for marital life. The principle of sekufu according to Islamic law initially focused on four main aspects: Economy, lineage, beauty, and religiosity. But in its development, this parameter has expanded to include various other dimensions such as age range, professional field, and intellectual level.[13] A sakinah family requires a balance between husband and wife, so the concept of kafa'ah needs to be understood correctly. Kafa'ah serves to encourage marital harmony and protect women from household instability. [14]

This research is relevant to previous research: *first,* Ali Muhtarom's research in 2018 entitled "Problematics of the Concept of Kafa'ah in Fiqh", which also discusses the concept of kafa'ah from a fiqh perspective. Both focus on a new understanding of the meaning of kafa'ah, but this research is more specific to the reinterpretation of the meaning of kafa'ah in marriage and existing misconceptions, while Muhtarom's research emphasizes general problems and broader criticisms.[15]

Second, this research is relevant to Edi Susilo's research in 2021 entitled "Critical Reasoning on the Concept of Kafa'ah in Islamic Law", which

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[10] Nashih Muhammad, "Kafaáh (Islamic Law, Sociological and Psychological Review)" (Thesis, Yogyakarta, UIN Sunan Kalijaga Yogyakarta, 2016).

[11] Edi Susilo, "Critical Reasoning Toward the Concept of Kafa'ah in Islamic Family Law," *Nizham Journal of Islamic Studies* 9, no. 01 (2021): 10–26, https://doi.org/10.32332/nizham.v9i01.3409.

[12] Ali Muhtarom, "Problematics of the Concept of Kafa'ah in Fiqh (Criticism and Reinterpretation)," *Journal of Islamic Law* 16, no. 2 (2018), https://doi.org/10.28918/jhi.v16i2.1739.

[13] Rafida Ramelan, "Sekufu in the Context of Modern Family Law," *Tahkim (Journal of Islamic Civilization and Law)* 4, no. 1 (2021): 117–36, https://doi.org/10.29313/tahkim.v4i1.7560.

[14] Humaidi, "The Shifting Meaning of Kafa'ah in Marriage (A Sociological Study of Kafa'ah in the Frames of the Views of Religious Leaders and Gender Equality Activists)" (UIN Maulana Malik Ibrahim Malang, 2011), pp. 38.

[15] Ali Muhtarom, "Problematics of the Concept of Kafa'ah in Fiqh (Criticism and Reinterpretation)," *Journal of Islamic Law* 16, no. 2 (2018): 205-21.

analyzes and interprets the concept of kafa'ah in Islamic family law from the perspective of scholars. Both discuss the concept of kafa'ah and use an analytical approach, but Susilo's research is more general and critical, while this research is more specific to the reinterpretation and clarification of the misconceptions of the meaning of kafa'ah in marriage.[16]

Third, this research is relevant to Ahmad Muzakki's research in 2024 entitled "Kafa'ah and Marriage in Jahily and Early Islam", which uses a comparative analysis method to compare practices and thoughts about kafa'ah in the two periods. Both aim to provide a better understanding of kafa'ah over time as the times evolve, but Muzakki's research focuses on evolution and historical context, while this research emphasizes clarification and reinterpretation of misconceptions about kafa'ah.[17]

So far, the author has not found any research related to further reinterpretation of the misconceptions of the meaning of kafa'ah from a fiqh perspective. Therefore, the researcher is interested in reinterpreting the meaning of kafa'ah in marriage, by focusing on re-identifying, collecting various misconceptions of the concept of kafa'ah from previous studies, overcoming existing misconceptions, and straightening out the misunderstanding of the meaning of kafa'ah that has been misinterpreted. This research will examine the concept of kafa'ah from a fiqh perspective, and explore how this concept can be applied more inclusively and fairly in modern marriages. Thus, it is hoped that this research can contribute to improving the understanding and practice of kafa'ah, so that it can support the creation of harmonious and sustainable marriages.

RESEARCH METHODS

The approach used in this research is a qualitative approach. Qualitative research is a type of research that aims to explore and understand the meaning derived from social or humanitarian issues. This process involves important steps such as asking questions and procedures, collecting specific data, analyzing data inductively from specific themes to general themes, and interpreting the meaning of the data.[18] This research uses a type of library research, which from start to finish is carried out by tracing various sources that discuss and review several theories.[19] The main purpose of this research is to select the basis or foundation that will be used to build a theoretical basis, framework, and determine research hypotheses. Thus, researchers can understand, allocate, organize, and utilize various library sources in the field under study.[20]

Research Results and Discussion

[16] Susilo, "Critical Reasoning Toward the Concept of Kafa'ah in Islamic Family Law."

[17] Muzakki, Roibin, and Muhammad, "Kafa'ah and Marriage in Jahily and Early Islam (Studies in the History of Islamic Law)," November 27, 2024.

[18] Kusumastuti, *Qualitative Research Methods* (Semarang: Sukarno Pressindo Institute of Education, 2019), p. 8. 8.

[19] Kusumastuti, *Research Methods* (Surabaya: Cipta Media Nusantara, 2021), p. 8.

[20] Hermawan, *Application-Based Scientific Writing Techniques and Methodologies* (Kuningan: Hidayatul Qur'an, 2019), p. 168. 168.

Kafa'ah etymologically comes from the Arabic root "ك-ف-أ" (kaf-fa-alif) which forms the verb "kafa'a-yakfu'u-kafa'atan" (كفأ-يكفأ-كفاءة). This word has the meaning of equality or similarity.[21] This meaning can be understood from the hadith which states (المسلمون تتكافأ دماؤهم) that Muslims are equal in terms of their blood, which implies that they have the same and equal position. [22]

This hadith reinforces the meaning of *kafa'ah* as the concept of equality without any difference or discrimination. The word "تكافأ" (tatakafaa) comes from the same root as *kafa'ah*, which means "equal to each other" or "balanced against each other". As explained in classical Arabic dictionaries such as Oral al-Arab which explains that "al-kafa'ah" is equality in strength, ability, and position. This word is also related to "al-kufu'" which means a person who is equal or commensurate.[23] This definition shows that the concept of kafa'ah in Arabic is not limited to one aspect only, but includes the totality of a person's existence, including values, character, and background that support balanced and fair interactions.

According to sharia terminology, *kafa'ah* refers to an element that, if not fulfilled in a marriage relationship, can lead to imperfections in the relationship. This concept basically refers to the principle of balance between spouses, both in terms of their strengths and weaknesses.[24]

Meanwhile, fiqh scholars define *kafa'ah* with two main approaches: first, as "المماثلة بين الزوجين في أمور مخصوصة" (compatibility of husband and wife in certain matters) which emphasizes religious, social, economic, and intellectual equality; second, as "أمر يوجب عدمه عاراً" (things whose absence causes disgrace) which is more preventive in nature to avoid embarrassment or family disgrace.[25] This term emphasizes the aspect of protecting the dignity of women and their families, which shows that kafaah is not just an administrative matter but also has a deep psychological and social dimension.

However, to gain a comprehensive and in-depth understanding of the concept of *kafa'ah*, it is not enough to understand the definition alone. The concept of *kafa'ah* in Islam does not appear in a vacuum or suddenly created without historical roots. Rather, this concept is the result of a process of transformation, refinement and sublimation of values that have taken root in pre-Islamic Arab society, especially in the marriage system and social structure of Jahiliyah society. The discussion on the evolution of the concept of *kafa'ah* can be divided into two important periods that show both continuity and transformation in the marriage practices of Arab society. This periodization helps to see how Islam retained, changed, or eliminated old elements to form the current concept of *kafa'ah.* The two periods are:

Pre-Islamic Concept of *Kafa'ah* (before the advent of Islam)

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[21] Abd al-Karīm ibn Muḥammad al-Lāḥim, *al-Muṭṭali' 'alā daqā'iq Zād al-Mustaqni' "Fiqh al-Usrah*, 1st ed (Riyadh: Dār Kunūz Ishbīliyā li-l-Nashr wa-l-Tawzī', 2010), pp. 205. 205.

[22] Abū Dāwūd Sulaymān ibn al-Ash'ath al-Sijistānī, *Sunan Abi Dawud* (Beirut: Dār al-Fikr, t.t.).

[23] Ibn Manzur, Lisan al-Arab (Beirut: Dar Sadir, t.t.), vol. 15, p. 139.

[24] Paisal Paisal, "The Concept of Kafa'ah in Marriage," *Journal of Islamic Law El Madani* 3, no. 2 (2024): 15–26, https://doi.org/10.55438/jile.v3i1.111.

[25] Sharh Bulugh al-Maram, Chapter *al-Kafa'ah wa al-Khiyar*, in Maktabah Syamilah, pp. 87.

Long before the advent of Islam, the concept of *kafa'ah* was a significant part of the Arab tradition. The phenomenon of classes in society was common in that era, where the concept of equality was essential to protect the honor of a particular tribe or qabilah. In addition, this concept also played a role in maintaining power among them.[26] Therefore, the application of the concept of *kafa'ah* at that time was more about maintaining prestige than its actual implementation.

In pre-Islamic Arab society, the concept of *kafa'ah* was rooted in a social structure that was heavily influenced by tribalism and status. *Kafa'ah* was understood as equality in terms of descent, wealth and social status, which became important conditions for marriage.[27] Pre-Islamic Arab society was structured into tribes and subtribes, where blood relations played a major role in determining legitimacy and respect. Women tended to be devalued and regarded as items that reflected the value of family values, so marriage between partners of equal status was highly preferred to maintain honor and reputation.[28] Thus, *kafa'ah* in the jahiliyyah period was strongly influenced by social and economic factors that reflected the hierarchy in society.

In the pre-Islamic period, the understanding of *kafa'ah* was strongly influenced by the caste and tribal system, where marriage was considered valid if it was between couples of equal social status, descent and wealth.[29] In this case, pre-Islamic Arab society highly valued lineage and social position, so marriage between different classes was often seen as a disgrace that could damage family honor.

When examined further, the concept of equality in marriage was not exclusively practiced by pre-Islamic Arab society. It was also significantly influenced by Persian traditions, and some Arab groups did not practice it at all. This concept had been passed down from generation to generation long before the advent of Islam.[30] This created a sharp social divide and limited the freedom of individuals to choose a life partner based on more substantive criteria, such as morals and piety.

The concept of *Kafa'ah* after *jahiliyyah* (after the advent of Islam)

The entry of Islam into the jahiliyyah society brought profound changes, especially in the understanding of human values. In the midst of social practices that often prioritize tribalism and social class, Islam introduced the concept of *kafa'ah* which emphasizes equality and respect

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[26] Syarifah Gustiawati and Novia Lestari, "Actualization of the Concept of Kafa'ah in Building Household Harmony," *Mizan: Journal of Islamic Law* 4, no. 1 (2018), https://doi.org/10.32507/mizan.v4i1.174.

[27] Edi Darmawijaya, "Social Stratification, Kinship System and Gender Relations in Pre-Islamic Arab Society," *Takammul: Journal of Gender and Islamic Studies and Child Protection* 6, no. 2 (2017): 132–51, https://doi.org/10.22373/t.v1i1.1366.

[28] Ali Muhtarom, "Problematics of the Concept of Kafa'ah in Fiqh (Criticism and Reinterpretation)," *Journal of Islamic Law* 16, no. 2 (2018), https://doi.org/10.28918/jhi.v16i2.1739.

[29] Edi Susilo, "A CRITICAL ANALYSIS OF THE CONCEPT OF KAFA'AH IN ISLAMIC FAMILY LAW," *Nizham Journal of Islamic Studies* 9, no. 01 (2021): 10–26, https://doi.org/10.32332/nizham.v9i01.3409.

[30] Edi Darmawijaya, "Social Stratification, Kinship System and Gender Relations in Pre-Islamic Arab Society," *Takammul: Journal of Gender and Islamic Studies and Child Protection* 6, no. 2 (December 24, 2017): 132–51, https://doi.org/10.22373/t.v1i1.1366.

for each individual, regardless of ethnic background or social status. During the jahiliyyah period, society was trapped in a strict stratification system, where honor and social status were often determined by lineage and wealth. But the arrival of Islam brought the message that all humans are created equal before Allah. As explained in His word:

يَٰٓأَيُّهَا ٱلنَّاسُ إِنَّا خَلَقۡنَٰكُم مِّن ذَكَرٖ وَأُنثَىٰ وَجَعَلۡنَٰكُمۡ شُعُوبٗا وَقَبَآئِلَ لِتَعَارَفُوٓاْۚ إِنَّ أَكۡرَمَكُمۡ عِندَ ٱللَّهِ أَتۡقَىٰكُمۡۚ إِنَّ ٱللَّهَ عَلِيمٌ خَبِيرٞ

Meaning: O mankind, indeed We created you from a male and a female and made you into nations and tribes that you may know one another. Verily, the noblest among you in the sight of Allah is the most pious among you. Indeed, Allah knows best. [31]

The verse explains how Islam responds to the diversity of nations, descent, ethnicity, wealth, position and different skin colors in order to get to know each other, help each other and not the other way around, insulting and humiliating each other. Indeed, the noblest person in the sight of Allah ﷻis only the most pious. [32]

There are two narrations of the asbabun nuzul that caused the verse to be revealed. First, the incident of Bilal in the Kaaba. According to the narration given by Ibn Abi Hatim from Ibn Abi Mulaikhah[33] , states that this verse was revealed during the events of Fathu Makkah, when Bilal gave the adhan over the Kaaba. After the call to prayer was over, some people mocked Bilal by saying, "Is it appropriate for a black slave to call to prayer here?".[34] In response to this discriminatory attitude, Allah revealed this verse as a rebuke and lesson.

Another narration mentioned in Sunan Abu Daud states that this verse was revealed regarding Abu Hind's profession as a hijam. The Prophet ﷺasked the Banu Bayadhah to marry their daughter to Abu Hind, but at that time it was considered a lowly occupation.[35] Both narrations show that this verse was revealed as a correction to the discriminatory attitude of the Arab community who judged a person based on race, skin color, or social status. Until Islam came to bring change by emphasizing the equality of mankind before Allah ﷻand putting aside honor and social status as the main factors of the concept of *kafa'ah* in marriage by emphasizing aspects of piety, religion, and even morality.

Analysis of Misconceptions of the Meaning of *Kafa'ah*

Although Islam has established clear principles regarding the concept of *kafa'ah* in marriage as described in the previous chapter, in the practice of social life of contemporary Muslim communities, there are still various misunderstandings that deviate from the true essence of Islamic

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[31] QS. Al-Hujurat: 13.

[32] Tafsir al-Muyassar, (Riyadh: Ministry of Religious Affairs of Saudi Arabia, 1430 AH), pp. 512.

[33] Ibn *Abbās*, *Tanwīr al-Miqbās min Tafsīr Ibn 'Abbās*, juz 1 (Beirut: Dār al-Fikr, 2007), p. 437. 437.

[34] Ibn *'Abbās*, *Tanwīr al-Miqbās min Tafsīr Ibn 'Abbās*, juz 1 (Beirut: Dār al-Fikr, 2007), p. 437. 437.

[35] Abu Daud, *Sunan Abi Daud, Kitab al-Nikah*, Shu'aib al-Arnaut, Juz 5 (Damascus: Dar ar-Risalah al-Alamiyah, 2009).

teachings. This raises fundamental questions such as "What are the reasons underlying the scholars in determining the concept of kufu or *kafa'ah* as a consideration in marriage? Does this not contradict the principle of equality in Islam and instead restore the practice of social discrimination as in the jahiliyah period?".[36] This misunderstanding not only obscures the spiritual substance of *kafa'ah*, which is based on piety, but also leads to discriminatory practices that are contrary to the principles of justice brought by Islam.

The phenomenon of misconceptions about the meaning of *kafa'ah* becomes more complex when it intersects with various external factors such as local cultural traditions, non-comprehensive interpretations of Islamic legal sources, and the influence of social structures that are still deeply rooted in society. As a result, the concept of kafa'ah, which was originally intended to create harmony and benefit in the household, has turned into an instrument of restriction and restraint that can harm various parties, especially women and certain community groups. Several previous studies have identified common misconceptions about the concept of *kafa'ah*. The findings of these studies can be summarized in the following main points:

Narrowing the Meaning of *Kafa'ah*

Misunderstanding the meaning and purpose of the concept of *kafa'ah* leads to harmful discriminatory practices, as a result of which this concept, which should aim to maintain harmony, is seen as unfair by some people. They see it as a boundary that limits relationships between individuals, thus creating gaps and negative stigma. This creates a negative perception of *kafa'ah*, which should be a guide to creating respectful equality in social relationships. With a better understanding, people should be able to see *kafa'ah* as a positive value that supports harmony, not as a tool to divide.

The concept of *kafa'ah* in marriage is often viewed in a narrow sense. The word equality in choosing a partner dominates the thinking of some people that *kafa'ah* is a caste principle that exists in Islamic law. The status distinction between aristocrats and commoners or between the educated and the lay is an influence of the previous Hindu religious tradition that implemented a social stratification system based on caste.[37] So if examined further, the misconception that is often encountered is a narrow interpretation of equality that only focuses on the similarity of social or economic status.[38]

The concept of sekufu or *kafā'ah* in marriage is often debated in society, especially among those who follow the materialistic-orientalist ideology. Individuals who follow this ideology tend to pursue material wealth to gain power, and have a desire to impress, control and dominate others. They believe that success is measured by material possessions and social

[36] "Kufu', a Legitimate Condition of Marriage?" accessed June 17, 2025, https://www.rumahfiqih.com/fikrah/285.

[37] Nursaniah Harahap and Faisar Ananda Arfa, "The Concept of Kafa'ah in Marriage According to Islamic Law," *Scientific Journal of Wahana Pendidikan* 9, no. 7 (2023): 334–41, https://doi.org/10.5281/zenodo.7817500.

[38] Ahmad Royani, "Kafa'ah in Islamic Marriage; (Tela'ah of Religious and Social Equality)," *Al-Ahwal* 5, no. 1 (2013), https://www.academia.edu/download/94075344/417-706-1-SM.pdf.

status, so they are willing to do anything to achieve these goals and often ignore moral values and human relationships.[39] It is no wonder that many of them think that sekufu in marriage means that the partner must come from a wealthy background, regardless of whether they have religious knowledge or good morals. Basically, they prioritize the degree of compatibility between wealth, physical qualities and social status. [40]This can worsen the image of Islam and lead to discrimination and obstacles in forming a harmonious marriage, as the overemphasis on material aspects is seen to override spiritual values and compatibility of character between the two parties.

The Imposition of *Kafa'ah* as a Legal Condition of Marriage

In addition to the narrowing of the meaning that becomes the standard of equality, there is a tendency for some people to interpret *kafa'ah* as a valid condition of marriage. A valid condition of marriage is a provision that must be fulfilled for a marriage to be considered valid according to religious and state law. [41]

One form of misconception that *kafa'ah* is considered a valid condition of marriage is the phenomenon of "wali adhol", which is a guardian who is reluctant or refuses to marry off his daughter who has reached puberty and has the right mind with a man of his choice.[42] Wali adhol often occurs because of the consideration of kafa'ah, which is considered an absolute requirement. Many guardians refuse to marry off their daughters on the grounds that they are not compatible, as if kafa'ah is a valid requirement that cannot be ignored. This misconception results in the rejection of marriages that are actually not contrary to Sharia, only because of the consideration of *kafa'ah* that is interpreted rigidly.

Cultural Domination in Determining *Kafa'ah* Standards

The influence of local culture is often too dominant in determining kafa'ah standards, blurring the line between religious teachings and traditions. Some Muslim communities even add criteria that do not have a strong basis in fiqh, such as the requirement to marry within a certain ethnic group or profession.

Fahmi Assulthoni's research in Pamekasan shows that many marriages occur between kyai's children and close relatives such as cousins or nephews, with the aim of maintaining lineage and continuing da'wah. [43]Parents generally choose partners who are socially compatible and hold

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[39] Devi Aulia Utami, Ris'an Rusli, and Ahmad Farid Farsyad, "Materialism in Sayyid Qutb's Tafsir: A Study of Q.S Ali Imran Verse 14," *TAJDID: Journal of Ushuluddin Science* 23, no. 2 (2024): 620–47, https://doi.org/10.30631/tjd.v23i2.519.

[40] Moch. Aufal Hadliq, Tasyifatul Fikriyah, "The Concept of Kafa'ah in Islamic Law (Comparative Study of Thought Between Imam Shafi'i in Kitab Al - Umm and Imam Ibn Hazm in Kitab Al-Muhalla)," (2025), https://ejournal.uas.ac.id/index.php/Mabahits/article/view/1023/485.

[41] Aisyah Ayu Musyafah, "Marriage in the Philosophical Perspective of Islamic Law," *Crepido* 2, no. 2 (2020): 111–22, https://doi.org/10.14710/crepido.2.2.111-122.

[42] Akhmad Shodikin, "Settlement of Wali Adhal in Marriage According to Islamic Law and Indonesian Legislation," *Mahkamah: Journal of Islamic Law Studies* 1, no. 1 (2016), https://doi.org/10.24235/mahkamah.v1i1.102.

[43] Fahmi Assulthoni, "Maslahah Analysis of the Concept of Kafa'ah in the Marriage Tradition among Pamekasan Pesantren," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 8, no. 1 (2018): 28–52, https://doi.org/10.15642/al-hukama.2018.8.1.28-52.

the final say. There is a strong belief that the will of the parents is the best choice, while resistance to it is considered to bring bad consequences.[44] The dominance of this local culture has shifted the concept of kafa'ah from religious principles to socio-cultural interests, where criteria without a fiqh foundation such as the requirement to marry within the same ethnicity are prioritized. The practice of endogamy to maintain social status and parental control shows that *kafa'ah* has been reduced to an instrument for maintaining social structure rather than creating household harmony.

Static Understanding of Society

A static understanding of the concept of *kafa'ah* without considering social changes and the context of the times can lead to rigid and unevolving interpretations. People tend to maintain the same standard of *kafa'ah* from generation to generation without considering contemporary social, economic, and cultural evolution, so this concept becomes rigid and unadaptive to modern realities. Some field case studies show that if they do not have the same nasab then they are not considered as kafa'ah. Such as research conducted in the Arab Community of Kraksaan, precisely in Probolinggo by Ahmad Muzaki who examined "*Kafa'ah* in Endogamous Marriages" shows the obligation of nasab similarity in the Habaib tradition which prohibits marriage between sharifah women and non-Sayyid men because it is considered not sekufu.[45]

The static understanding of kafa'ah reflects the community's resistance to social change, where rigid marriage standards are maintained without adaptation to contemporary realities. Case studies in the Kraksaan Arab Community show that the criterion of nasab is still the main determinant of the suitability of a couple, indicating that the concept of kafa'ah has been trapped in traditional formalities rather than prioritizing the essence of harmony and benefit in marriage. In fact, fiqh scholars such as Imam Malik, Imam Shafi'i, and Imam Ahmad bin Hanbal have shown the dynamics of thought in determining kafa'ah criteria that are relevant to the conditions of society at their time. However, their understanding is often misinterpreted, so the concept of kafa'ah loses its flexibility in the face of changing social realities.

Reinterpretation of the Meaning of *Kafa'ah* from the Comparative Perspective of Mazhab Jurisprudence

The continuity of the relationship between husband and wife is the main reason why *kafa'ah is* considered crucial in marriage. However, the absence of Qur'anic and hadith arguments that clearly and specifically discuss it has made *kafa'ah* a topic of long debate among scholars.[46]

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[44] Fahmi Assulthoni, "Maslahah Analysis of the Concept of Kafa'ah in the Marriage Tradition among Pamekasan Islamic Boarding Schools," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 8, no. 1 (2018): 28–52, https://doi.org/10.15642/al-hukama.2018.8.1.28-52.

[45] Ahmad Muzakki, "Kafaah in Endogamous Marriage in the Arab Community in Kraksaan Probolinggo," *Istidlal: Journal of Economics and Islamic Law* 1, no. 1 (2017): 15–28, https://doi.org/10.35316/istidlal.v1i1.96.

[46] Syarifah Gustiawati and Novia Lestari, "Actualization of the concept of Kafa'ah in building household harmony," *Mizan: Journal of Islamic Law* 4, no. 1 (2018), https://jurnalfai-uikabogor.org/index.php/mizan/article/view/174.

Ironically, the discussion on *kafa'ah has* sometimes strayed into issues of racism and casteism.[47] The equality criteria set by some scholars for marriage are considered to contain discriminatory elements, because they still prioritize aspects of nobility and social position as a condition for marriage.[48] Although *kafa'ah* fundamentally aims to maintain household harmony, the equality criteria at its core have been interpreted variously by the schools of fiqh throughout Islamic history.[49] The absence of an explicit legal basis in the Qur'an and hadith has led to diverse interpretations among the schools of fiqh.

In the absence of specific evidence regarding the ruling and criteria of *kafa'ah*, Ibn Hazm argues that *kafa'ah* is not recognized in Shari*'ah*. For him, any Muslim (other than adulterers) has the right to marry any Muslim woman (other than adulterers).[50] He emphasized the principle of Islamic brotherhood, so there is no prohibition on a person with black skin or no clear origin to marry even the caliph's daughter. In fact, an ungodly (non-adulterous) Muslim is considered equal to an ungodly (non-adulterous) Muslim woman.[51] This view is based on the words of Allah, *"The believers are indeed brothers. Therefore reconcile (mend relations) between your two brothers and fear Allah, so that you may have mercy."*[52] This indicates that Ibn Hazm was of the opinion that Islam had abolished differences in caste or social status and made piety the only measure of nobility.

In contrast to Ibn Hazm, who tends to reject almost all forms of *kafa'ah*, the Maliki school takes a more pragmatic position, recognizing the relevance of kafa'ah for the benefit and continuity of the household.[53] Although the Maliki school is not as complex as the other schools in detailing the criteria for kafa'ah, they still see the importance of two main aspects, namely religion (religious quality) and the absence of defects (disgrace).[54] The religious proof is Surah Al-Hujurat verse 13, which states that a person's honor in the sight of Allah is based on piety. This verse serves as an implicit proof of kafa'ah with the main criteria being piety and moral excellence, not lineage or social position alone.[55] For the Maliki Mazhab, a

[47] Sholihin, "Kafa'ah in Marriage in the Perspective of Four Mazhabs."

[48] Edi Susilo and Miswanto Miswanto, "Critical Analysis of Marriage Equality in Islamic Law Towards Harmonious Marriage," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* 5, no. 1 (2024): 16–31, https://doi.org/10.24042/el-izdiwaj.v5i1.23000.

[49] Siti Jahroh, "Reinterpretation of the Principle of Kafā'ah as a Basic Value in the Pattern of Husband and Wife Relations," *Al-Ahwal: Journal of Islamic Family Law* 5, no. 2 (2012): 57–92, https://doi.org/10.14421/ahwal.2012.05203.

[50] Ibn Ḥazm, Abū Muḥammad ʻAlī ib n Aḥmad ibn Saʻīd, *Al-Muḥallá bi al-Āthār*, juz 9 (Cairo: Al-Tawfīqiyya Bookshop, 2010) pp. 557.

[51] Ismulyadi, "Ibn Hazm's View on Kafa'ah in Marriage in His Book Al-Muhalla and Its Relevance to Marriage Law in Indonesia," 2016, https://dspace.uii.ac.id/handle/123456789/4008.

[52] QS. Al-Hujurat: 10.

[53] Muhammad Hasyim, "A Comparison of the Concept of Kafa'ah in the Perspectives of Imam Maliki and Imam Syafii," *JOURNAL PUSAKA : Media for Islamic Studies and Thought* 12, no. 2 (2022): 35–48, https://doi.org/10.35897/ps.v12i2.895.

[54] Ibn Rushd, *Bidayatul Mujtahid wa Nihayatul Muqtashid* (Beirut: Dar al-Ma'rifah, 1982).

[55] Abi Hasan, "The Concept of Kafa'ah in Marriage and Its Urgency in Fostering Households According to Mazhab Jurisprudence," *Mediasas Journal: Media of Shari'ah Science and Ahwal Al-Syakhsiyyah* 3, no. 1 (2020): 1-20.

man who marries a Muslim woman must be equal in religious quality. If a man who is openly ungodly (e.g. a drunkard or neglects prayers) marries a good woman without the consent of her guardian, then the guardian has the right to annul (fasakh) the marriage. [56]

Other aspects such as lineage, profession, or wealth, although recognized as social considerations, are not made absolute prerequisites for annulment of marriage in the Maliki Mazhab. However, if the lack of equality in these matters could cause real disgrace to the woman and her guardian, then the guardian retains the right to refuse or request an annulment.[57] This shows the flexibility of the Maliki school in balancing religious ideals with social realities, with a focus on preventing *dharar* (harm) and preserving family honor.

The Maliki school is of the view that similarity in morals and religion is the most appropriate form of kafa'ah in accordance with Islamic teachings. However, not all madhhabs agree, with jurists from the Hanafi, Shafi'i and Hanbali madhhabs taking a different view, including additional kafa'ah criteria not outlined by the Maliki madhhab. [58]

Scholars from the Syafi'iyah consider that there are seven kafa'ah in marriage, namely religion, independence, iffah, nasab, morals, knowledge, disgrace, and age. [59] According to him, kafa'ah is an effort to match prospective husband and wife based on their respective strengths and weaknesses. The meaning of suitability here does not require total equality, but if someone cannot accept the shortcomings of his potential partner, he has the right to cancel the marriage.[60] In the Shafi'i school of thought, *kafa'ah* is not included as a valid condition of marriage, because kafa'ah is something to be considered and not to affect the validity of the marriage contract. Therefore, if *kafa'ah* is not fulfilled, the marriage can still be carried out.[61] The interpretation that can be drawn here is that when viewed from a contemporary perspective, the Shafi'i school of thought emphasizes that kafa'ah aims to prevent psychological and emotional distress from inequality in marriage, because when equality is not achieved, this can lead to insecurity or feelings of shame between husband and wife.

Meanwhile, in the view of the Hanafi Mazhab, kafa'ah is basically categorized as a customary condition in marriage or a necessary condition so that the contract becomes binding and cannot be canceled unilaterally.[62] The Hanafi school gives the guardian the right to cancel a marriage that

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[56] Sayyid Sabiq, *Fikih Sunnah* (Bandung: Hilal, 2016), pp. 669.

[57] Wahbah az-Zuhaili. Al-Fiqh Al-Islami Wa Adillatuhu, Juz 7, Beirut: Dar Al-Fikr, 1986, p. 229.

[58] Gustiawati and Lestari, "Actualization of the concept of Kafa'ah in building household harmony."

[59] H. Ibnu Mas'ud, H. Zainal Abidin, *Fikih madzhab Syafi'i (Complete Edition)*, Book 2 (Bandung: Pustaka Setia, 2007), p. 262. 262.

[60] Hasyim, "A Comparison of the Concept of Kafaah in the Perspective of Imam Maliki and Imam Syafii."

[61] Zakaria al-Anshari, *Fath al-Wahhab bi Syarh Minhaj al-Thalab*, Juz II (Beirut: Dar al-Fikr, t.t.).

[62] Habiburrahman Rizapoor and Mohammad Rashid Rahimi, "Imam Abu Hanifah: The Vanguard of Moderation in Islamic Jurisprudence and the Global Dissemination of Moderate Islam," *Mazahib* 22, no. 2 (2023): 213–42, https://doi.org/10.21093/mj.v22i2.7088.

does not fulfill kafa'ah if it is detrimental to the woman and her family. However, kafa'ah is still not a valid condition of marriage, but only a consideration to maintain benefit and prevent harm.[63] However, according to Wahbah az-Zuhaili in his book *Fiqh Islam Wa Adillatuhu*, contemporary fiqh scholars (fuqoha muta'akhirin) interpret the concept of kafa'ah as a flexible role depending on the situation at hand and in certain circumstances, sometimes it becomes a valid condition, sometimes it becomes a condition of implementation, and sometimes it becomes a customary condition.[64] The majority of fiqh scholars are of the opinion that there are four main criteria, namely religion, descent, freedom, and occupation. The Hanafi and Hanbali schools add two more criteria, namely the level of wealth and financial aspects.[65] However, both the Hanafis and Hanbalis agree that physical defects are not included in the criteria that affect a person's kufr status.[66] According to the Hanafiyyah kafa'ah is not only based on religion, but also other factors with the right to determine it is from the woman.[67] The Hanafis emphasize the importance of kafāah to prevent disgrace in the family. If a woman marries a man who is not kufu without the permission of the guardian, then the guardian has the right to terminate the marriage if it is considered to cause disgrace.[68] This shows that the Hanafi school positions marriage as a contract involving three parties: the woman as the criteria setter, the guardian as the supervisor in maintaining or terminating the marriage, and the husband as the party who must meet the standards. Thus, *kafa'ah* is not merely a form of gender bias against women, but rather a form of reflection as women's empowerment and ptriarchal control in Islamic law.

As for the Hanbali Mazhab's view, the absence of kafa'ah causes marriage to be canceled, given the narration from Ahmad that places kafa'ah as a condition for the validity of marriage.[69] Nevertheless, the woman (wife) is given the authority to determine the fate of her marriage, whether it continues or ends. This authority only belongs to the woman concerned, not her guardian, given that the impact of the marriage decision will return to both parties to the marriage.[70]

The Hanbali school of thought has two views on kafa'ah: firstly, *kafa'ah* is a valid condition of marriage because marriages that are not compatible can harm both families; secondly, *kafa'ah* is not a valid condition because it is the personal right of the prospective spouse, not the business

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[63] Sahrun Anas, Sutisna Sutisna, and Hambari Hambari, "The Concept of Kafa'ah in Islamic Law \and Its Urgency Toward the Integrity of a Sakinah Household in the View of Wahbah Az-Zuhaili," *As-Syar'i: Journal of Family Guidance & Counseling* 6, no. 1 (2024): 145–61, https://doi.org/10.47467/as.v6i1.3373.

[64] Wahbah Az-Zuhaily, *Fiqh Islam Wa Adillatuhu 9* (Gema Insani, 2011), pp. 219.

[65] Wahbah Az-Zuhaily, *Fiqh Islam Wa Adillatuhu 9* (Gema Insani, 2011), pp. 214.

[66] Al-Jazairi, *al-Fiqh 'Ala al-Madhahib al-Arba'ah*, volume IV (Beirut: Dar al-Kutub al-'Ilmiyyah, 2023), p. 58. 58.

[67] Al-Jazairi, *al-Fiqh 'Ala al-Madhahib al-Arba'ah*. p. 38.

[68] As-Sayyid Alawi, *Tarsih al-Mustafiddin* (Surabaya: Syirkah P. Indah, t.t.).

[69] Ibn Qudamah, *Al-Mughni*, Juz VII (Beirut: Dar Al-Kitab Ilmiah, t.t.), pp. 371.

[70] Abi Hasan, "The Concept of Kafa'ah in Marriage and Its Urgency in Fostering Households According to Mazhab Jurisprudence," *Mediasas Journal: Media of Shari'ah Science and Ahwal Al-Syakhsiyyah* 3, no. 1 (2020): 1-20.

of the other party.[71] This mazhab includes five criteria that are considered important, namely the four previously mentioned in the view of the jumhur ulama regarding the criteria for kafa'ah and adds financial conditions, which here does not mean that it must be rich, but able to fulfill the obligation to support.

In essence, the concept of equality that is intended to compare or even belittle others is clearly not in line with Islamic values and contradicts the prophetic mission of Muhammad PBUH and contradicts the principles of the Qur'an. Basically, all human beings have the same status in the sight of Allah, and only the level of piety makes the difference between them. Thus, the discussion of equality in the views of the various schools of fiqh is not intended to make comparisons or demean anyone. Rather, the concept of equality in marriage aims to realize a happy and harmonious married life, where husband and wife can live together in harmony and mutual understanding. The reinterpretation of the concept of kafaah through a comparative approach of the madhhabs is also expected to prevent unwanted problems in the institution of marriage, such as a crisis of confidence experienced by one of the spouses, as well as social stigma from the community that can disrupt household harmony.

CONCLUSION

Kafa'ah is an important foundation for a harmonious marriage, but the absence of explicit evidence has led to various interpretations and misconceptions in society. These misconceptions include the narrowing of the meaning of *kafa'ah* to the material/social aspect, the attribution of *kafa'ah* as a valid condition of marriage, the dominance of local culture in determining the standard of *kafa'ah,* and a static understanding without considering social change. The reinterpretation of the concept of kafa'ah in various schools of fiqh, such as Maliki, Syafi'i, Hanafi, and Hanbali, shows diverse views. In essence, the scholars of the madhhabs emphasize piety and morals as the main criteria for kafa'ah. Other additional criteria are chosen to be more flexible in their application, in order to determine the benefit that is relevant to the issue at hand. The aim is to facilitate the relationship between husband and wife in the future, not to demean the other party. Thus, the reinterpretation of kafa'ah through a comparative mazhab approach aims to straighten out understanding to be more fair, inclusive, support harmonious marriages, and prevent discrimination and social stigma.

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[71] Susilo, "Critical Reasoning Toward the Concept of Kafa'ah in Islamic Family Law."

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