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The Limits Of Guardians' Authority In Setting Marriage Conditions: A Study Of Al-Qurthubi's Tafsir Ahkam On Qs. Al-Baqarah 2:232¹

M. Ridho Agustian Siagian¹, Muhammad Faisal Hamdani²

Universitas Islam Negeri Sumatera Utara, Medan, Indonesia

Corresponding email: ridhoagustian201221051@uinsu.ac.id



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Abstract:

The guardian (*wali*) in Islamic marriage is meant to protect women, yet in practice this authority is often exercised excessively through the imposition of conditions that end up obstructing marriage. Requirements such as economic status, lineage, education, and social standing are frequently used as grounds for refusing or delaying marriage, despite lacking a strong basis in Islamic law. This study analyzes the limits of a guardian's authority to set conditions for marriage, based on Al-Qurthubi's exegesis of QS. Al-Baqarah verse 232, and examines its implications for the practice of marriage obstruction through such conditions. The study draws on the theory of authority, the theory of *kafa'ah*, *maslahah* theory, and the concept of '*adhal*' in Islamic law. It employs normative legal research using exegetical (*tafsir*), statutory, and conceptual approaches, analyzing the Qur'an, Al-Qurthubi's *Al-Jami' li Ahkam al-Qur'an*, *fiqh* literature, and relevant legislation. The findings show that, according to Al-Qurthubi, a guardian's authority is not absolute but is bounded by the principles of *ma'ruf* (propriety), '*adl*' (justice), and *maslahah* (benefit); the prohibition of '*adhal*' in QS. Al-Baqarah verse 232 covers not only outright refusal but also disproportionate conditions lacking a sound basis in Islamic law. This study recommends strengthening understanding of these limits and connects its findings to the existing *wali hakim* mechanism under the Compilation of Islamic Law.

Keywords: Al-Qurthubi; Authority; Guardian; Marriage; Tafsir Ahkam

A. INTRODUCTION

The guardian (*wali*) is one of the pillars of marriage whose existence is explicitly established under Islamic law. For this reason, the guardian's position and role are highly significant in determining the validity of a marriage contract. The guardian's role is not

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merely formal in the contract process; it also entails moral and social responsibility to ensure that the marriage proceeds in accordance with Islamic values and does not harm the interests of the woman under his guardianship. Within the framework of Islamic law, a guardian's authority is grounded in the principles of protection and benefit, so that his actions should reflect the trust (*amanah*) placed in him by the shari'ah rather than a unilateral will that disregards women's rights. The limits of a guardian's authority in setting marriage conditions therefore become a matter of great importance to examine, particularly given that social practice shows a tendency toward abuse of authority that can obstruct otherwise valid marriages (Hasanah, 2019).

Conceptually, a guardian's authority in marriage is grounded in the principle of protection-based authority, whereby the guardian is empowered to safeguard a woman's welfare when choosing a life partner. Within this framework, the guardian is not positioned as holding absolute power, but rather as an agent of trust who must act proportionally, rationally, and responsibly. In social practice, however, that authority is not always exercised within a protective framework; in a number of cases, it instead becomes an instrument that restricts a woman's freedom to choose her own life partner (Nurhadi, 2022). This phenomenon can be observed in the emergence of various cases in which guardians refuse marriages sought by women. In practice, such refusals are not always based on grounds that can be justified under Islamic law, but are often influenced by subjective factors such as social status, economic conditions, family background, or even personal conflicts. This situation reflects a tension between the protective norms of Islamic law and social practices that are often restrictive toward women (Latif, 2021).

This phenomenon of guardians' refusal through the imposition of excessive conditions is not merely a theoretical issue; it has been documented in numerous real cases in Indonesia. The pattern is illustrated well by four officially recorded cases discussed below. It is worth noting at the outset that this study is a normative, library-based analysis (see Section B); accordingly, the case material used throughout this Introduction and the Discussion is limited to officially documented rulings and published sources, rather than to any fieldwork the authors themselves conducted. The authors' own informal awareness of community patterns — including anecdotal accounts, not formally documented, of guardians in North Sumatra reportedly attaching conditions such as clan membership, a minimum educational qualification, or memorization of a portion of the Qur'an — helped motivate the choice of topic, but is not treated as data in this study and should not be read as equivalent in evidentiary weight to the documented cases cited below; women in such undocumented situations often do not know that they have the right to file a petition for a recalcitrant-guardian (*wali 'adhal*) ruling with the Religious Court, which is itself part of the problem this study addresses.

One officially recorded case is *wali 'adhal* case No. 49/P/2017/MS.Ttn at the Sharia Court of Tapaktuan, South Aceh, in which a guardian refused to marry off his daughter because the prospective husband was judged not to hold a university degree, to come from a family of limited means, and to be economically unestablished. The judge in that case affirmed that such reasons had no legal basis under either statutory or Islamic law, and the petition was accordingly granted (Hadana, 2019). A similar pattern is found in cases brought before the Religious Courts, in which a guardian refused to marry off his daughter solely because of differences in lineage and social status of the prospective husband, even

though the prospective husband had no religious or moral defect; the court held that refusal based on lineage considerations without a strong basis in Islamic law constitutes an unjustifiable form of *'adhal* (Muslimin, 2024; Ainni, 2025). A third *wali 'adhal* case with a customary (*adat*) dimension has been documented at the Religious Court of Giri Menang, West Lombok, where a guardian refused to marry off his daughter on the grounds that the prospective husband's economic condition was deemed not to meet the family's standard (Religious Court of Giri Menang, n.d.).

Separately from these three documented rulings, it is worth noting — as a matter of the authors' own supposition rather than a documented case — that a comparable dynamic could plausibly arise in North Sumatra given the strength of kinship systems among certain ethnic groups such as the Mandailing and coastal Malay, where considerations of social strata and the economic capacity of a prospective husband's family are sometimes reported as informal benchmarks in the marriage-approval process (Aini, 2014). This supposition is offered only as context for why the topic is socially significant in the authors' own regional setting; it does not carry the same evidentiary weight as the three court rulings above and should not be read as an additional documented case. Taken together, these examples reflect how, in social practice, guardianship authority has undergone a functional shift: from an instrument for protecting women's welfare into a family-control mechanism that can instead work to women's detriment.

Within the context of Indonesia's religious judiciary, *wali 'adhal* cases are not merely isolated occurrences but reflect a recurring pattern. As reflected in various cases brought before the Religious Courts, the reasons given by guardians for refusal vary widely, though considerations of incompatibility (*kafa'ah*) between the prospective husband and the woman under guardianship are frequently cited, even though in many cases they lack a strong basis in Islamic law (Mazidah & Izzuddin, 2023).

Theoretically, the concept of *kafa'ah* in fiqh is indeed recognized as one of the considerations in marriage, particularly for maintaining household harmony and stability. However, scholars hold significantly differing views regarding the parameters used to determine it. Some scholars limit *kafa'ah* to religious piety as the primary indicator, while others include social, economic, and lineage elements in the consideration. This divergence shows that the concept of *kafa'ah* is flexible and contextual, but in practice this flexibility instead opens space for guardians to use it excessively as legitimation for refusing marriage (Rahim, 2023).

This uncontrolled expansion of *kafa'ah* parameters ultimately creates a double standard in marriage practice: on one hand, *kafa'ah* is invoked as grounds for refusing a marriage that is in fact valid under Islamic law, while on the other hand the standard is not applied consistently or objectively, but rather adjusted to suit the guardian's own interests and preferences. This condition shows that the issue of *kafa'ah* in the practice of guardianship is not merely a matter of fiqh but also one of procedural justice that requires deeper normative study.

The problem becomes even more complex when a guardian's refusal is not carried out explicitly but through subtler, indirect mechanisms, such as demands for a high level of wealth, specific educational standards, or excessive social criteria. Under such conditions, the guardian's action formally appears to fall within his legitimate authority but substantively serves to obstruct marriage (Latif, 2021). From a sociological perspective, this

practice reflects an unequal power relationship between the guardian and the woman, with impacts not only on the legal aspect but also on the woman's psychological and social aspects, such as family pressure, limited choices, and delays in building a household life (Nurhadi, 2022). This imbalance is further aggravated by unequal access to legal information: in many cases, women are unaware that Islamic law explicitly places limits on a guardian's authority and that obstruction carried out without a valid religious reason is a prohibited act.

From a normative perspective, the Qur'an explicitly places limits on a guardian's authority through QS. Al-Baqarah verse 232, which prohibits a guardian from obstructing a woman from marrying a partner who has been mutually and properly agreed upon. This verse shows that a guardian's authority is not absolute but is bounded by the principles of justice and benefit; this prohibition covers not only direct acts of refusal but also any action that substantively impedes the realization of a valid marriage (Syamsuddin, 2020). In practice, however, understanding of this verse still tends to be textual and has not fully engaged with its substantive dimension, reflecting a gap between the textual norm and its practical implementation that warrants deeper study.

A number of prior studies have examined the phenomenon of *wali 'adhal*, particularly in the context of religious court rulings, but most remain focused on formal juridical aspects and have not extensively explored the normative dimension from Qur'anic exegesis, tending to understand *'adhal* narrowly, without considering covert forms of obstruction (Syamsuddin, 2020). In this context, *tafsir ahkam*, particularly Al-Qurthubi's exegesis, is highly relevant as an analytical framework, being one of the classical works that systematically discuss the legal verses of the Qur'an, including QS. Al-Baqarah verse 232 (Al-Qurthubi, 2006).

Besides Al-Qurthubi, a number of other exegetes and jurists have offered views on this verse and the concept of *'adhal*, with differing emphases. Ibn Katsir, in *Tafsir Al-Qur'an Al-'Azhim*, focuses on the occasion of revelation (*asbabun nuzul*) — the event of Ma'qil bin Yasar, who refused to remarry his sister to her former husband — affirming the prohibition but in a narrative-historical register that does not systematically formulate the normative limits of a guardian's authority (Ibn Katsir, 1999). Among the Shafi'i school, Imam Shafi'i affirms that the address (*khitab*) in the verse is directed at the guardian, using it as evidence that the guardian is an obligatory pillar in marriage — an emphasis oriented more toward contract validity than toward the limits of a guardian's authority in setting conditions (Az-Zuhaili, 1997). Hanafi scholars, as reflected in Al-Jashshash's *Ahkam Al-Qur'an*, understand the address as directed at both the guardian and society at large, so that a woman who has reached puberty and is of sound mind is regarded as having the right to marry herself off — an approach emphasizing women's independence but explaining in less detail the principles binding a guardian's actions when his presence is still required (Al-Jashshash, 1992). Wahbah Az-Zuhaili, in *Tafsir Al-Munir*, offers a more contextual reading linking the prohibition of *'adhal* to *maqashid al-shari'ah*, though his explanation remains general and has not formulated concrete criteria for when a guardian's condition exceeds his authority (Az-Zuhaili, 1998).

Based on this comparison, each scholar emphasizes a different aspect: Ibn Katsir on the occasion of revelation; Imam Shafi'i on the guardian's status as a pillar of marriage; the Hanafi school on women's independence; and Az-Zuhaili on the general dimension of

maqashid al-shari'ah. None of the exegetes surveyed, including these four, addresses the specific grammatical argument — discussed in Section C below — that Al-Qurthubi draws from the imperfect-verb construction of *ta'dhulūhunna* to establish the prohibition's continuous scope; this appears to be a point of emphasis distinctive to Al-Qurthubi among the exegetes surveyed here, rather than a shared or contested point among them. This indicates a gap in the study of *tafsir ahkam*: the absence of a specific, systematic formulation that elaborates on the limits of a guardian's authority in setting marriage conditions based on the material principles directly contained in the verse.

In his exegesis, Al-Qurthubi affirms that a guardian's authority is not absolute, but is bounded by three main principles derived directly from the text of the verse: *ma'ruf*, justice (*'adl*), and benefit (*maslahah*). Based on these principles, Al-Qurthubi holds that any action by a guardian that exceeds the limits of propriety, including the imposition of disproportionate marriage conditions lacking a basis in Islamic law, can substantively be categorized as a prohibited form of *'adhal*, making this interpretation highly relevant for analyzing the limits of a guardian's authority in the context of the issue examined in this study.

Based on the foregoing, this study aims to analyze the limits of a guardian's authority in setting conditions for marriage, as interpreted in QS. Al-Baqarah verse 232 from Al-Qurthubi's perspective, answering the question: how does Al-Qurthubi interpret the prohibition of *'adhal* in this verse, and what are its implications for the limits of a guardian's authority in setting marriage conditions? (Al-Qurthubi, 2006).

Theoretically, this study contributes to the development of tafsir ahkam studies, particularly in reading QS. Al-Baqarah verse 232 contextually rather than merely textually, and in showing how Al-Qurthubi's classical exegesis remains relevant and responsive to contemporary social problems.*

Practically, this study offers several benefits. First, for Religious Court judges, the findings may serve as normative considerations in adjudicating cases relating to a guardian's refusal, particularly in determining whether a guardian's conditions remain within the bounds of benefit sanctioned by shari'ah; Section C.4 below connects these findings directly to the existing wali hakim mechanism under Article 23 of the Compilation of Islamic Law, which already provides the procedural pathway through which this normative analysis can operate in practice. Second, for academics and researchers of Islamic law, this study enriches the study of the relationship between tafsir ahkam, the concept of a guardian's authority, and the protection of women's rights in Islamic family law. Third, for society, this study provides an understanding of the limits of a guardian's authority in setting marriage conditions so that the function of guardianship can be exercised proportionally.*

Prior studies on marriage guardianship in QS. Al-Baqarah verse 232 generally employ a qualitative, literature-based approach using exegetical and fiqh methods, focusing on the status of marriage guardianship, the validity of marriage without a guardian, and the social and legal implications of guardian-obstructed marriage. Few studies specifically link *wali 'adhal* to the practice of imposing *kafa'ah*, economic, lineage, and social-status conditions from the perspective of Imam Al-Qurthubi's exegesis specifically.

Rini and Ulinnajah (2023) discuss QS. Al-Baqarah verse 232 on marriage guardianship and its relevance today using a thematic exegetical approach, finding that

guardianship holds an important status as a condition for valid marriage, but that practice frequently deviates through unauthorized delegation of guardianship; this study focuses on social relevance rather than the limits of a guardian's authority in setting *kafa'ah* or economic/lineage conditions specifically. Mufidah and Masruhan (2021) examine differing scholarly views on the validity of marriage without a guardian using a *tafsir ahkam* approach, centering on the address (*khitab*) of the verse, but do not extensively elaborate on the practice of *wali 'adhal* in the social and economic conditions frequently found in society. Parhan (2022) analyzes Al-Qurthubi's exegetical method regarding the legal verse on homicide, providing an important methodological foundation for understanding how Al-Qurthubi interprets legal verses generally, but does not address marriage guardianship. Durachman (2024) examines the implications of *qira'at* for QS. Al-Baqarah verses 233 and 236 in Al-Qurthubi's exegesis demonstrate the depth of his exegetical methodology, but it is not directed toward *wali 'adhal* or the limits of a guardian's authority.

The research gap relative to these studies lies in the absence of a study specifically analyzing the relationship between the prohibition against *wali 'adhal* in QS. Al-Baqarah verse 232 and the practice of imposing additional conditions by guardians — economic, lineage, *kafa'ah*, and social-status conditions — from the perspective of Imam Al-Qurthubi's exegesis specifically. The novelty of this study lies in this focus: it critically analyzes the legitimacy of additional conditions set by guardians through Al-Qurthubi's *tafsir ahkam*, integrating classical exegesis with contemporary social problems concerning women's rights in choosing a life partner, and with the existing procedural mechanism (*wali hakim*) through which Religious Courts already address *'adhal*.

B. METHODE

This study employs normative legal research to examine legal norms drawn from the Qur'an, exegesis, and fiqh literature in relation to legal concepts developed in the study of contemporary Islamic law. A normative approach was chosen because the main objective of this study is to construct the limits of a guardian's authority in setting marriage conditions based on the interpretation of QS. Al-Baqarah verse 232 from Al-Qurthubi's perspective. In this context, law is understood not merely as empirical practice but as a system of norms analyzed through textual and conceptual interpretation (Ibrahim, 2021). As noted in Section A, this study does not include original fieldwork or interview data of its own; the case material it draws on is limited to the officially documented and published rulings and sources cited throughout, and the authors' informal regional awareness mentioned in the Introduction functions only as motivating background, not as data analyzed in this study.

More specifically, this study employs the statute, conceptual, and tafsir approaches. The statute approach is used to analyze positive legal provisions relating to guardianship authority, particularly within the Compilation of Islamic Law, to examine the relevance of classical norms within the context of national law — including, specifically, Article 23 of the Compilation, which governs the transfer of guardianship to a *wali hakim* where the *nasab* guardian is *'adhal*. The conceptual approach is used to examine the concepts of authority and discretion, and their limits, from the perspective of legal theory, so that clear normative parameters can be formulated between legitimate authority and its abuse. The *tafsir*

approach is used as the main approach for interpreting QS. Al-Baqarah verse 232 is interpreted through the lens of Al-Qurthubi's *tafsir ahkam*, which forms the normative foundation of this study (Fajar & Achmad, 2020).

The data sources consist of primary, secondary, and tertiary legal materials. Primary legal materials include the Qur'an, particularly QS. Al-Baqarah verse 232, the classical exegetical work *Al-Jami' li Ahkam al-Qur'an* by Al-Qurthubi, and relevant statutory regulations, particularly the Compilation of Islamic Law. Secondary legal materials consist of fiqh literature on marriage (*munakahat*), Islamic law textbooks, and scholarly journal articles discussing guardianship, *kafa'ah*, and the practice of *wali 'adhal*. Tertiary legal materials consist of legal dictionaries and encyclopedias used to clarify terms and concepts (Suteki & Taufani, 2022, p. 65).

Data were collected through library research by identifying, classifying, and analyzing legal sources relevant to the study's focus, including recent indexed scholarly journal articles (2020–2025) to ensure relevance to current academic developments. Each source was verified for credibility and categorized according to its level of authority within the structure of Islamic legal sources.

The data analysis technique employs qualitative methods, including descriptive-analytical and prescriptive approaches. Descriptive analysis is used to systematically elaborate the meaning of QS. Al-Baqarah verse 232 based on Al-Qurthubi's exegesis, while prescriptive analysis is used to formulate the limits of a guardian's authority based on the legal principles identified, carried out through stages of textual interpretation, the derivation of legal rulings (*istinbath*), and integration with the theory of authority in law (Rahardjo, 2021).

C. RESULTS AND DISCUSSION

1. Al-Qurthubi's Interpretation of QS. Al-Baqarah Verse 232 and Its Implications for the Limits of a Guardian's Authority

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ

"And when you divorce women, and they have fulfilled their term, do not prevent them from marrying their [prospective] husbands when they have agreed among themselves according to what is acceptable..." (QS. Al-Baqarah 2:232).

This verse is one of the most important normative bases in Islamic marriage law concerning the limits of a guardian's authority. Textually, Allah prohibits the act of *'adhal*, namely obstructing a woman from remarrying a man who has fulfilled the requirements of shari'ah and with whom mutual consent has been obtained. This prohibition shows that a guardian's authority is in essence not absolute power, but a trust that must be exercised within the bounds of *bil ma'ruf*.

Imam Al-Qurthubi, in *Al-Jami' li Ahkam al-Qur'an*, Volume III, begins his interpretation by presenting the occasion of revelation: the event involving Ma'qil bin Yasar, who refused to remarry his sister to her former husband even though both had mutually consented to reunite. Based on this narration, Al-Qurthubi affirms that the phrase *falā ta'dulūhunna* ("then do not prevent them") is explicitly directed at guardians, not merely at former husbands (Al-Qurthubi, 2006, pp. 158–159).

Furthermore, Al-Qurthubi affirms that a guardian's authority in marriage is framed by three main principles drawn directly from the text of the verse: *ma'ruf* (propriety recognized by shari'ah and sound reason), justice (*'adl*), and benefit (*maslahah*). A guardian's action that exceeds the bounds of propriety — including the imposition of disproportionate marriage conditions lacking a basis in Islamic law — automatically falls outside the corridor of legitimate authority and into the category of prohibited action (Al-Qurthubi, 2006, pp. 160–162).

The legal implications of Al-Qurthubi's interpretation are significant. First, the prohibition of *'adhal* in this verse is a general prohibition subject to a narrow, shari'ah-defined exception (*nahy 'amm makhsus*, rather than an unqualified *nahy mutlaq*): obstruction is forbidden as a rule, except where there is a reason explicitly justified by shari'ah, such as a clear religious or moral defect in the prospective husband. Framing it this way — a general prohibition with a defined exception, rather than an absolute prohibition admitting no exception at all — keeps the classification consistent with the exception Al-Qurthubi himself recognizes. Second, Al-Qurthubi underscores that the ultimate purpose of regulating guardianship authority is to preserve the higher objectives of shari'ah (*maqashid al-shari'ah*), particularly the protection of lineage (*hifz al-nasl*) and honor (*hifz al-'irdh*), since arbitrary obstruction can push a woman into a vulnerable situation, including the potential for prohibited acts to occur.

Regarding economic conditions specifically, Al-Qurthubi does not treat wealth or financial capacity as the sole criterion for a prospective husband's suitability; the primary parameter recognized within his exegetical framework is religious and moral quality, in accordance with *kafa'ah* in religion. This view is consistent with the Maliki school, which places equality in religion and morals as the most significant factor in *kafa'ah*, above lineage and economic status (Ibn Rusyd, 2004, p. 15; Az-Zuhaili, 2001, p. 6690). If a guardian refuses a prospective husband of good religion and noble character solely on economic or family-background grounds, such an action has no strong normative footing within Al-Qurthubi's exegetical framework and may be categorized as a prohibited form of *'adhal*.

Al-Qurthubi's linguistic analysis of the prohibitive phrase deserves closer attention. The word *ta'dulūhunna* derives from the root *'adhala*, meaning to obstruct, restrict, or confine. Al-Qurthubi observes that the grammatical construction of the imperfect verb (*fi'il mudhari'*) preceded by the negating particle *lā* conveys a continuous and unbounded prohibition, not limited to a single moment but encompassing every form of obstruction whenever it occurs — in contrast to prohibitions using *lā nāhiyah* in a past-tense context, whose connotation can be more limited. As noted in Section A, this specific grammatical argument does not appear, in the sources surveyed for this study, in the readings offered by Ibn Katsir, the Shafi'i or Hanafi positions discussed above, or Az-Zuhaili's *Tafsir al-Munir*; it stands as a point of emphasis distinctive to Al-Qurthubi among the exegetical positions this study has been able to compare, rather than a shared premise the other exegetes explicitly affirm or dispute (Al-Qurthubi, 2006; Ibn Manzur, 1414 H).

Al-Qurthubi further compares his interpretation with that of exegetes who understand the prohibition narrowly, applying it only to the context of remarriage after divorce. Al-Qurthubi rejects this limitation by applying the *ushul fiqh* principle *al-'ibrah bi 'umum al-lafz la bi khusus al-sabab* (what is considered is the generality of the wording, not the specificity of the occasion of revelation), making the prohibition of *'adhal* applicable

generally to all situations of guardianship, including obstruction through the imposition of excessive conditions (Al-Suyuti, 2004; Khallaf, 1978).

2. Implications of the Prohibition of 'Adhal for the Practice of Marriage Obstruction through the Imposition of Conditions

The prohibition of *'adhal* cannot be understood narrowly as merely a guardian's explicit refusal. Al-Qurthubi affirms that the general legal force of the verse encompasses every form of action that obstructs the realization of a valid marriage fulfilling *bil ma'ruf* — the substance of the prohibition lies in the act of obstructing a woman's right to marry, not merely in the particular form that obstruction takes (Al-Qurthubi, 2006). Al-Qurthubi positions the guardian as a party with a protective function (*hifzh*) safeguarding a woman's welfare, not as the holder of absolute authority over her life choices; every exercise of guardianship authority must be directed toward protection, not toward personal interests, family prestige, or social stratification (Az-Zuhaili, 1985).

In contemporary society, marriage obstruction is not always carried out through outright refusal. Requirements such as home ownership prior to marriage, an income standard well beyond basic needs, equality of social status or lineage (*nasab*), or a particular level of education are often used as the primary measure in granting consent, and although such conditions do not directly constitute refusal, in practice they can result in delay or failure of a marriage. Al-Qurthubi's perspective provides a normative basis for assessing such practices: a condition set by a guardian can only be justified if it has a clear connection to the woman's welfare and protection; if it no longer serves that purpose but instead restricts her choice of partner or obstructs a valid marriage, it loses its religious legitimacy.

Within *maslahah* theory, the legitimacy of any guardian's action is measured by the extent to which it produces real benefit and prevents harm to the woman under guardianship. Al-Qurthubi explicitly raises the dimension of *dharar* (harm) caused by acts of marriage obstruction — emotional, social, and religious — where delay opens the possibility of prohibited acts occurring; the principle of *lā ḍarara wa lā ḍirār* (there shall be no harming of oneself or others) serves as a normative reinforcement of the prohibition (Al-Qurthubi, 2006; Ibn Qudamah al-Maqdisi, 1997; Ibn Hanbal, 2001). Consequently, *maslahah mursalah* functions as an external boundary determining whether a condition set by a guardian can be justified: a condition bearing no correlation to the woman's welfare, objectively and proportionately, loses its religious legitimacy.

In the context of comparative schools of thought, Al-Qurthubi's position as a Maliki jurist has important methodological implications. The Maliki school gives priority to *maslahah* and the practice of the people of Medina (*'amal ahl al-Madinah*) as sources of law, and consistently recognizes only equality in religion (*al-din*) as the mandatory criterion of *kafa'ah*, treating lineage, occupation, and wealth as secondary considerations that cannot alone justify refusal. Unlike the Shafi'i school, which includes lineage as a relevant element of *kafa'ah*, this Maliki-Qurthubi position offers stronger normative protection for women against the possible misuse of socioeconomic criteria by guardians (Az-Zuhaili, 2001; Malik ibn Anas, 1994; Al-Syafi'i, 1990). When a guardian uses *kafa'ah* excessively as a benchmark for consenting to marriage, it no longer functions as a principle of benefit but transforms into an instrument of social control — a covert practice of *'adhal* carried out through eligibility standards systematically impossible for a prospective husband of adequate religion and character to meet.

3. A Cross-Disciplinary Reading: Guardianship Authority and *Détournement de Pouvoir*

The relevance of Al-Qurthubi's interpretation can be sharpened further by a cross-disciplinary comparison with modern administrative-law theory, though the comparison requires an initial caveat: a marriage guardian is a private individual exercising a religiously delegated family authority, not a state organ exercising public power, and the two forms of authority are not straightforwardly equivalent. What licenses the analogy despite this disanalogy is not the *source* of the authority (divine/religious versus state-delegated) but its *structure*: in both cases, a party is granted discretionary authority for a specifically defined protective purpose, and the question of abuse turns on whether the authority is being exercised for that purpose or diverted to another. It is this structural feature — purpose-bound discretion capable of being diverted — that administrative law's concept of *détournement de pouvoir* (abuse of authority, where authority is exercised for a purpose different from the one underlying its grant) is well suited to illuminate, independent of whether the authority-holder is a public official or a private guardian.

Applying this structural analogy to marriage guardianship: guardianship authority is granted by shari'ah solely to protect a woman's welfare in determining her life partner. Using that authority to impose family economic interests, preserve social prestige, or strengthen inter-family business relations constitutes an abuse of authority structurally equivalent to what is termed, in fiqh terminology, '*adhal*' — not because the two legal systems share a common source of authority, but because both frame the underlying question in the same way: was purpose-bound discretion exercised for its intended purpose, or diverted from it? This structural reading reinforces the argument that marriage obstruction cannot be read narrowly as merely explicit refusal, but must encompass every action that diverts the function of guardianship from its original purpose (Ibrahim, 2021; Hadjon, 2019).

4. Practical Implications: Connecting Al-Qurthubi's Framework to the Wali Hakim Mechanism

Indonesian positive law already provides a specific procedural pathway for cases of '*adhal*': Article 23 of the Compilation of Islamic Law provides that where the *nasab* guardian is '*adhal*' (refuses without a legally justified reason), guardianship authority may be transferred to a *wali hakim* through a determination of the Religious Court. Al-Qurthubi's three-principle test — *ma'ruf*, '*adl*', and *maslahah* — gives this existing statutory mechanism substantive content: rather than assessing only whether a guardian issued an explicit refusal, a judge applying Article 23 can ask whether the guardian's stated conditions serve the woman's protection (satisfying *ma'ruf* and *maslahah*) or instead impose criteria — disproportionate economic, lineage, or social-status demands — that fall outside those principles and therefore constitute '*adhal*' in substance even without a formal refusal. Understood this way, this study's contribution to judicial practice is not a call for new legal authority, but a normative test for how existing Article 23 petitions can more consistently identify indirect, condition-based obstruction alongside direct refusal.

Based on this verse, Al-Qurthubi's interpretation establishes the following limits on a guardian's authority:

1. A guardian's authority is limited and conditional, not absolute. Al-Qurthubi affirms that the phrase *falā ta'dūhunnā* explicitly prohibits a guardian from obstructing a woman's marriage to anyone who has fulfilled the principle of *ma'ruf*. Guardianship authority is

granted by shari'ah solely as a protective trust, not as a prerogative right serving personal or family interests.

2. *The prohibition of 'adhal applies generally and comprehensively.* Based on *al-'ibrah bi 'umum al-lafzh la bi khusus al-sabab*, the scope of the prohibition extends beyond the occasion of its revelation to cover every form of marriage obstruction, direct or indirect.

3. *The legitimacy of a guardian's action is measured by ma'ruf, 'adl, and maslahah.* A guardian's action exceeding these three principles — including disproportionate economic, lineage, or social-status conditions — automatically falls outside the corridor of legitimate authority and, per Section C.4, provides substantive grounds for an Article 23 *wali hakim* petition even absent an explicit refusal.

CONCLUSIONS

Based on the findings and analysis of QS. In Imam Al-Qurthubi's exegesis, Al-Baqarah verse 232, a guardian's authority in marriage is, in essence, a trust granted by shari'ah aimed at safeguarding a woman's welfare, rather than a form of absolute power exercised freely without limits. A guardian may not prevent a woman from marrying a man who has fulfilled the criteria of good religion and character solely on the grounds of economic status, lineage, family background, education, or occupation, since such parameters are not recognized as mandatory bases for *kafa'ah* within Al-Qurthubi's exegetical framework. Nor may a guardian impose additional conditions that substantively function as an instrument of obstruction — an excessive dowry demand, a property-ownership requirement, or socioeconomic standards bearing no direct correlation to the prospective husband's capacity to fulfill his Islamic household obligations — as such action, though formally within a guardian's apparent right, is categorized from Al-Qurthubi's perspective as *'adhal*, causing *dharar* to the woman, contrary to *lā ḍarara wa lā ḍirār*. Accordingly, the assessment of a guardian's action cannot rest solely on the presence or absence of an explicit refusal, but must also weigh the impact of the conditions imposed on the realization of a valid marriage.

The position of the guardian in Islamic law must therefore be understood as that of a protector and companion in the marriage process, not as a party entitled to unilaterally determine the future of the woman under his guardianship. As Section C.4 sets out, this normative understanding already has a procedural home in Indonesian positive law through Article 23 of the Compilation of Islamic Law; Religious Court judges adjudicating *wali 'adhal* petitions can apply Al-Qurthubi's *ma'ruf-'adl-maslahah* test to identify indirect, condition-based obstruction alongside outright refusal. Further research is recommended to examine, empirically — through fieldwork this normative study did not itself undertake — the phenomenon of guardians imposing marriage conditions, in order to test how far the patterns discussed here extend beyond the documented cases and the authors' own regional observations discussed in Section A, and to enrich the development of Islamic family law studies in Indonesia.

REFERENCES:

- Aini, N. (2014). 'Tradisi mahar di ranah lokalitas umat Islam: Mahar dan struktur sosial di masyarakat Muslim Indonesia', *Ahkam: Jurnal Ilmu Syariah*, 14(1), pp. 13–24.
- Ainni, M. R. (2025). 'Konsep wali 'adhal dalam kasus penolakan wali karena faktor nasab: Analisis yuridis terhadap putusan Pengadilan Agama Palangka Raya', *Mitsaqan Ghalizan*, 5(2), pp. 64–73. <https://doi.org/10.33084/mg.v5i2.11640>.
- Al-Jashshash, A. (1992). *Ahkam al-Qur'an*. Edited by M.S. Al-Qamhawi. Beirut: Dar Ihya' At-Turats Al-'Arabi.
- Al-Qurthubi, A. (2006). *Al-Jami' li Ahkam al-Qur'an*. Jilid III. Beirut: Dar al-Kutub al-'Ilmiyyah.
- Al-Suyuti, J. (2004) *Al-Itqan fi 'Ulum al-Qur'an*. Jilid I. Kairo: Dar al-Hadith.
- Al-Syafi'i, M. (1990) *Al-Umm*. Jilid V. Beirut: Dar al-Ma'rifah.
- Az-Zuhaili, W. (1985) *Al-Fiqh al-Islami wa Adillatuhu*. Jilid IX. Damaskus: Dar Al-Fikr.
- Az-Zuhaili, W. (1997) *Al-Fiqh al-Islami wa Adillatuhu*. Cet. IV, Juz 9. Damaskus: Dar Al-Fikr.
- Az-Zuhaili, W. (1998). *At-Tafsir Al-Munir fi Al-'Aqidah wa Asy-Syari'ah wa Al-Manhaj*. Cet. II, Juz 2. Damaskus: Dar Al-Fikr Al-Mu'ashir.
- Az-Zuhaili, W. (2001). *Al-Fiqh al-Islami wa Adillatuh*. Jilid IX. Damaskus: Dar al-Fikr.
- Durachman, A.J.R. (2024) 'Implikasi qira'at pada penafsiran QS Al-Baqarah ayat 233 dan 236 dalam tafsir Al-Jami' li Ahkam Al-Qur'an Al-Qurtubi', *Mashadiruna: Jurnal Ilmu Al-Qur'an dan Tafsir*, 3(3).
- Fajar, M. & Achmad, Y. (2020). *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar.
- Hadana (2019) 'Penyelesaian perkara wali adhal pada Mahkamah Syar'iyah Tapaktuan', *El-Usrah: Jurnal Hukum Keluarga*. Perkara Nomor 49/P/2017/MS.Ttn.
- Hadjon, P.M. (2019). *Pengantar Hukum Administrasi Indonesia*. Yogyakarta: Gadjah Mada University Press.
- Hasanah, S. (2019). 'Perlindungan hak perempuan dalam pernikahan Islam', *Jurnal Gender dan Hukum*, 10(1), pp. 25–40.

- Ibn Hanbal, A. (2001) Musnad al-Imam Ahmad ibn Hanbal. Hadis No. 2865. Beirut: Mu'assasah al-Risalah.
- Ibn Katsir (1999). Tafsir al-Qur'an al-'Azhim. Edited by S.b.M. as-Salamah. Cet. II, Juz 1. Riyadh: Dar Thayyibah.
- Ibn Manzur, J. (1414 H) Lisan al-'Arab. Jilid XI. Beirut: Dar Sadir.
- Ibn Qudamah al-Maqdisi, M. (1997) Al-Mughni. Jilid VII. Riyadh: Dar 'Alam al-Kutub.
- Ibn Rusyd, A. (2004). Bidayah al-Mujtahid wa Nihayah al-Muqtasid. Jilid II. Kairo: Dar al-Hadith.
- Ibrahim, J. (2021). Teori dan Metodologi Penelitian Hukum Normatif. Malang: Bayumedia.
- Kompilasi Hukum Islam, Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991, Pasal 23.
- Khallaf, A.W. (1978). 'Ilm Usul al-Fiqh. Kairo: Dar al-Qalam.
- Latif, A. (2021). 'Larangan 'Adhl dalam perspektif hukum Islam', Jurnal Al-Ahkam, 21(1), pp. 60–75.
- Malik ibn Anas (1994) Al-Mudawwanah al-Kubra. Jilid II. Beirut: Dar al-Kutub al-'Ilmiyyah.
- Mazidah, D.A. & Izzuddin, A. (2023). 'Penetapan wali adhal dengan alasan tidak sekufu perspektif maqasid syariah', Sakina: Journal of Family Studies, 7(1), pp. 82–95.
- Mufidah, I. & Masruhan (2021). 'Studi kritis nikah tanpa wali: kajian tafsir ahkam QS. Al-Baqarah: 232', FiTUA: Jurnal Studi Islam, 2(2), pp. 179–188. <https://doi.org/10.47625/fitua.v2i2.317>.
- Muslimin (2024) 'Tinjauan hukum Islam terhadap penetapan wali adhal di Pengadilan Agama Pangkajene (Studi penetapan tahun 2020–2023)', Jurnal Review Pendidikan dan Pengajaran, 7(3), p. 11343.
- Nurhadi, M. (2022). 'Relasi kuasa wali dan perempuan dalam pernikahan', Jurnal Hukum Keluarga Islam, 5(2), pp. 95–110.
- Parhan (2022) 'Metode tafsir Al-Qurtubi terhadap ayat hukum tindak pidana pembunuhan', Journal of The Quran and Tafseer Studies, 1(1).
- Pengadilan Agama Giri Menang (no date) Wali Adhal dalam Perspektif Peradilan Agama. Available at: <https://side.pa-girimenang.go.id/beritadetail/wali-adhal-dalam->

perspektif-peradilan-agama-studi-konseptual-dalil-dan-kasus (Accessed: 10 August 2021).

- Rahardjo, S. (2021). 'Pendekatan dalam penelitian hukum normatif', *Jurnal Hukum Progresif*, 9(2), pp. 120–140.
- Rahim, A. (2023). 'Hak ijbar dan kewenangan wali mujbir dalam perspektif hukum Islam', *Jurnal Syariah*, 18(2), pp. 80–95.
- Rini, D.T. & Ulinnajah, A. (2023). 'Pandangan QS. Al-Baqarah: 232 tentang wali nikah dan relevansinya di era kekinian, *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial*, 10(6), pp. 3124–3135. <https://doi.org/10.31604/jips.v10i6.2023.3124-3135>.
- Suteki & Taufani, G. (2022). *Metodologi Penelitian Hukum (Filsafat, Teori dan Praktik)*. Depok: Rajawali Pers.
- Syamsuddin, M. (2020). 'Tafsir ahkam dan relevansinya dalam hukum kontemporer', *Jurnal Studi Qur'an*, 15(1), pp. 45–60.