



A Tahlili Study Was Conducted on The Hadith Regarding The Guardianship of A Widow in Marriage

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Abstract

In marriage, one of the individuals entitled to represent and administer the rights of a person is the Wali. In the case of a widow's marriage, the role of the guardian is crucial to ensure that the widow's rights are recognized and fulfilled. This study uses descriptive qualitative methods with a sociological approach to examine the guardianship rights of widows. The field data is compared with the findings of hadiths that discuss the widow's guardianship using the tahlili method to analyze the hadith maānil. The research concludes that the traditions that explain the guardianship of a widow allow widows to choose their partners, but do not deny their guardianship rights. The relevant traditions clarify that widows have the authority to choose their partners even if their guardians do not approve of it, but the Prophet advised widows to respect the existence of their guardians even though they have been granted full rights.

Keywords: Guardian; Widow; Marriage

Abstrak

Salahseorang yang berhak untuk mewakili dan mengurus hak hak seseorang dalam pernikahan adalah Wali. Dalam konteks pernikahan seorang Janda, untuk memastikan apakah hak hak janda terpenuhi dan diakui maka peran wali sangat penting. Penelitian ini mengkaji hak perwalian atas janda dengan menggunakan metode kualitatif deskriptif dengan pendekatan sosiologis. Data lapangan dikonfrontir dengan temuan hadis-hadis yang membahas tentang perwalian seorang janda melalui analisis maānil hadis dengan metode tahlili. Ditemukan bahwa hadis-hadis yang menjelaskan perihal perwalian seorang janda memberi keleluasaan kepada para janda untuk memilih pasangan mereka, namun tidak menafikan hak perwalian mereka. Hadis-hadis terkait menjelaskan dengan rinci bahwa seorang janda memiliki hak prerogative atas diri mereka untuk memilih pasangan meskipun wali mereka tidak menyetujuinya, namun Nabi senantiasa menganjurkan agar para janda tetap menghormati eksistensi wali mereka meski hak sepenuhnya telah diberikan kepada mereka.

Keywords: Wali; Janda; Pernikahan

I. Introduction

Discussing the rights of widows in marriage is important since they are women who have lost their spouse due to death. Sometimes, they may encounter difficulties with their legal, financial, social, and guardianship rights. Various works, such as books and journals, have tackled this matter. For instance, Dr. H.M. Yahya Cholil Staquf's *Wali Nikah* in the perspective of Islamic law explains the role of marriage guardians in Islamic marriage law, and how it pertains to marrying widowed women. Dr. Ahmad Sarwat, Lc.'s work discusses guardianship in marriage from an Islamic perspective, including marriage with a widow. Dr. Hj St. Marfuah discusses the rights of widows in Islamic law,¹ particularly regarding marriage. According to the hadith of Prophet Muhammad, it is emphasized that widows have the right to choose their own spouse instead of being subject to the decision of their guardian. This is an important aspect of the widow's rights that should be respected.²

– حَدَّثَنِي مَالِكٌ عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ عَنْ نَافِعِ بْنِ جُبَيْرِ بْنِ مُطْعِمٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبَّاسٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الْأَيِّمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا وَإِذْنُهَا صُمَاتُهَا»

Meaning:

Malik reported to me from 'Abd Allah ibn Fadl from Nafi' ibn Jubayr ibn Muth'im from 'Abd Allah ibn 'Abbas that the Messenger of Allah (peace and blessings of Allah be upon him) said: "A widow is more entitled to choose a husband than her guardian, while a girl must be asked for her consent, and the sign of her consent is her silence."

II. Hadith Takhrij

Analyzing hadith is a rare method for evaluating its legitimacy. In this article, we will be presenting certain traditions that pertain to the rights of widows in marriage. These traditions have been sourced from various books on hadith scholarship through extensive research. Some of the sources include: *Muwatta Malik*³

حَدَّثَنِي مَالِكٌ، عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ، عَنْ نَافِعِ بْنِ جُبَيْرِ بْنِ مُطْعِمٍ، عَنْ عَبْدِ اللَّهِ بْنِ عَبَّاسٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الْأَيِّمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا وَإِذْنُهَا صُمَاتُهَا»

1. Musnad Ahmad⁴

حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ، عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ، عَنْ نَافِعِ بْنِ جُبَيْرِ،

¹Dr. Ahmad Sarwat, *Seri Fiqih Kehidupan*(8): Nikah (Jakarta Selatan; DU Publishing. Cet I; 2021), p. 70

²Jauharataun, *Hukum pernikahan Janda Dalam Masa Iddah Menurut Pandangan Ulama palangkaraya, Jurnal Studi Agama dan Masyarakat*; Volume 12 No 2 2016.

³Malik Bin Anas, *Al Muwatta*, (Abu Dhabi; Muassasah Zaid Bin Sultan *Jilid 2*), p. 524

⁴Ahmad Bin Muhammad Bin Hanbal, *Musnad Ahmad* (Beirut; Muassah Al Risalah *Jilid,4*) p.

عَنْ ابْنِ عَبَّاسٍ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ:
" الْأَيْمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا، وَإِذْنُهَا صُمَاتُهَا)"

2. Shahih Muslim⁵

(1421) - 66 حدثنا سعيد بن منصور، وقتيبة بن سعيد قالوا: حدثنا مالك. (ح)، وحدثنا يحيى بن يحيى واللفظ له، قال: قلت لمالك: حدثك عبد الله بن الفضل، عن نافع بن جبیر، عن ابن عباس، أن النبي صلى الله عليه وسلم قال: « الأيم أحق بنفسها من وليها، والبكر تستأذن في نفسها، وإذنها صماتها؟ » قال: نعم

3. Sunan Abi Daud⁶

2098 - حَدَّثَنَا أَحْمَدُ بْنُ يُونُسَ، وَعَبْدُ اللَّهِ بْنُ مَسْلَمَةَ، قَالَا: أَخْبَرَنَا مَالِكٌ، عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ، عَنْ نَافِعِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَبَّاسٍ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: « الْأَيْمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا، وَإِذْنُهَا صُمَاتُهَا ». وَهَذَا لَفْظُ الْقَعْنَبِيِّ

4. Sunan Al Nasai⁷

أَخْبَرَنَا قُتَيْبَةُ قَالَ: حَدَّثَنَا مَالِكٌ، عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ، عَنْ نَافِعِ بْنِ جُبَيْرِ بْنِ مُطْعِمٍ، عَنْ ابْنِ عَبَّاسٍ: أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: « الْأَيْمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا، وَإِذْنُهَا صُمَاتُهَا »

5. Sunan Attirmidzi⁸

1108 - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ قَالَ: حَدَّثَنَا مَالِكٌ بْنُ أَنَسٍ، عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ، عَنْ نَافِعِ بْنِ جُبَيْرِ بْنِ مُطْعِمٍ، عَنْ ابْنِ عَبَّاسٍ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: « الْأَيْمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا، وَإِذْنُهَا صُمَاتُهَا » هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ «، رَوَاهُ شُعْبَةُ، وَالثَّوْرِيُّ، عَنْ مَالِكِ بْنِ أَنَسٍ، وَقَدْ احْتَجَّ بَعْضُ النَّاسِ فِي إِجَارَةِ النِّكَاحِ بِغَيْرِ وِلْيٍّ بِهَذَا الْحَدِيثِ، وَلَيْسَ فِي هَذَا الْحَدِيثِ مَا احْتَجُّوا بِهِ لِأَنَّهُ قَدْ رُوِيَ مِنْ غَيْرِ وَجْهِ عَنْ ابْنِ عَبَّاسٍ، عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ « لَا نِكَاحَ إِلَّا بِوَلِيِّ »، وَهَكَذَا أَفْتَى بِهِ ابْنُ عَبَّاسٍ بَعْدَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

⁵ Muslim Bin Al Hajjaj, *Shahi Muslim*, (Beirut; Dar al-Ihya al turas al Arabai. *Jilid 2*) p.1037.

⁶ Abu Dawud Sulaiman al Sijistani, *Sunan Abu Dawud J 2 p. 232*

⁷ Ahmad Bin Syaib al Nasai, *Sunan Al Nasai* (Maktabah; Al Matbuath al Islamiyah ; *Jilid.6*).h

وَسَلَّمَ، فَقَالَ: «لَا نِكَاحَ إِلَّا بِوَلِيٍّ»، وَإِنَّمَا مَعْنَى قَوْلِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «الْأَسْمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا» عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ: أَنَّ الْوَلِيَّ لَا يُزَوِّجُهَا إِلَّا بِرِضَاهَا وَأَمْرِهَا، فَإِنْ زَوَّجَهَا فَالْنِكَاحُ مَفْسُوخٌ عَلَى حَدِيثِ حَنْسَاءَ بِنْتِ خِدَامٍ، حَيْثُ زَوَّجَهَا أَبُوهَا وَهِيَ تَيْبٌ فَكَرِهَتْ ذَلِكَ، فَرَدَّ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نِكَاحَهُ

III. Hadith Scheme

I'tibar is the process of tracing the narration of a hadith by a person to find out whether there is a unison of transmission or not. The following is a trace of the narrator of the hadith about the rights of a widow in marriage. (**See the appendix on the last page**)

IV. Sanad Analysis

As part of the process of takhrijul hadith, sanad analysis involves examining the narrators mentioned in a particular tradition in detail. The objective is to determine whether the narrator of the hadith meets the criteria of a sahih hadith from a sanad perspective. The following is an analysis of the sand on Ahmad's route.

1. IBNU ABBAS⁹
 - a. Full Name: Abdullah Bin Abbas Bin Abd Muttalib Bin Hashim
 - b. Caliber: Companion
 - c. Kunya: Abu Al Abbas
 - d. Country of Life: Marus Rawds
 - e. Year of Death: 68 H
 - f. Scholars' Comments: Companion
2. NAFI BIN JUBAIR
 - a. Full Name: Nafi Bin Jubair Bin Muth'iom Bin Ady
 - b. Caliber: Middle Class Tabiin
 - c. Kunya: Abu Muhammad
 - d. Country of Life: Medina
 - e. Known Death: 99 H
 - f. Assessment of Scholars: Al Ajli rated him as a Tsiqah narrator, Abu Zur;ah Tsiqah.
3. ABDULLAH BIN FUDAIL
 - a. Full Name: Abdullah Bin al Fadhlol Bin al Abbas Bin al Rabiah
 - b. Caliber: Ordinary Tabiin
 - c. Kunya:
 - d. Year of Death:
 - e. Scholarly Assessment: Ahmad Bin Hanbal rated him as a narrator of La Ba'sa Bih. Al-Nasai Judged him Tsiqah
4. MALIK

⁹Al Hafidz Abi al Fadel Ahmad Bin Ali Bin hajr Sahabuddin al Asqalany, *tahzibu Tahzib* (Muassastu Risalah : Jilid, Jamaluddin Abi Hajjaj Yusuf al- Mazzi, Tahzibul Kamal Fi Asma'i ar-Rijal, Beirut, Muassasah al-Risalah, 1978, Cet-33

- a. Full Name: Malik Bin Ansa Bin Malik Bin Abi 'Amir
- b. Caliber: Tabiut Tabiun Kalngan Tua
- c. Kunyah: Abu Abdullah
- d. Year of Death: 179 H
- e. Assessment of Scholars: Yahya Bin Main rated him as a Tsiqah narrator.

5. ABD RAHMAN BIN AL MAHDI¹⁰

- a. Full Name: Abdu Rrahman Bin Mahdi Bin Abdurrahman Bin Hasa
- b. Caliber: Tabiut Tabiin Kalngan Biasa
- c. Kunyah: Abu said
- d. Country of Life: Bashrah
- e. Year of Death: 198 H
- f. Assessment of Scholars: Ibn Hibban Judged him as a Tsiqah narrator

V. *Matan Analysis*

After examining the sanad to ensure the hadith aligns with common sense, the law, mutawatir traditions, the consensus of salaf scholars, definite arguments, and stronger ahad rules, the next step is to analyze the text. Based on the research frame of reference, this particular hadith is classified as saheeh as the wording is narrated lafzi and follows the methods of validating the hadith text.¹¹

VI. *Syarah Hadis*

The process of hadith analysis involves delving into the meaning of the hadith. To extract its essence, experts in this field use a suitable approach, referring to relevant sources. Below is a commentary on a hadith from the book al Muntaqa, which explains the Rights of a Widow in relation to guardianship in marriage

أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الْأَيُّمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا، وَإِذُّهَا صُمَامُهَا»

Meaning;;

The widow has more rights over herself than her guardian. A girl is asked to marry herself; her permission is her silence.

This Hadith clarifies the rights of widows and girls regarding marriage guardianship. Some scholars use this Hadith as a justification for widows to marry without a guardian, as they have more rights in this matter. However, it is important to understand certain terms beforehand to avoid any confusion when describing the rights of widows in

¹⁰Al Hafidz Abi al Fadel Ahmad Bin Ali Bin hajr Sahabuddin al Asqalany, *tahzibu Tahzib*

¹¹ Prof Abustani Ilyas, M.A , Laode Ismail Ahmad *Studi Hadis; Ontologi, Efistemologi dan Aksiologi* (Depok; PT Raja Grafindo Persada. Cet 1 2019) p. 124 . Lihat Dr Abd Rajab, M.Ag. *Kaedah keshahihan Matan Hadis* (Yogyakarta: Graha Guru, 2011), p. 223

relation to marriage guardianship.

a. The meaning of الأَيِّمُ (Widowed Women)

There are different interpretations of the term الأَيِّمُ. According to the Prophet's saying, "A woman who does not have a husband has more right over herself than her guardian." This was narrated by Zayd from Abdullah bin Fadhl. The shaykh explained that a woman who does not have a husband has more rights over herself than her guardian unless the word Ayyimu is only used for a woman without a husband.¹²

Similarly, Qadi abu Ishak stated that Ayyimu means a woman without a husband, regardless of her age. This applies to women who don't have a husband and father. This is supported by the narration of Zaid bi sa'ad. Only Allah knows the true meaning of the phrase "a woman without a husband has more right over herself than her guardian." It means that a guardian cannot force a woman to marry or marry her off without her permission. The woman has the right to choose her own partner.

However, a woman cannot marry on her own or give herself in marriage to an unsuitable partner. She also cannot transfer her guardianship to someone else. Each guardian has the right to marry. The phrase "a woman without a husband has more right over herself than her guardian" indicates that if the woman doesn't want to marry, the marriage cannot happen. If the guardian disapproves of the marriage and the woman wants it, the marriage can be performed by another guardian or sultan. Thus, a woman without a husband has more rights over herself than her guardian.

b. The meaning of الأَبْرُؤُ (Young Virgin Female)

According to Ibn Qasim, Ibn Wahab, and 'Ali ibn Zaid from Maalik in Mudawwamah, what is meant by a young woman is one who does not have a father because she has to permit herself.¹³

c. The meaning of وَإِذْنُهَا صُمَاتُهَا خَصٌّ (Women's permission is her silence)

The Prophet treated women with this rule because of their inherent subtlety and because the majority of them were reluctant to say permission openly. Hence, orphaned women do not need to be asked for their consent directly. Isfahani states that وَإِذْنُهَا صُمَاتُهَا خَصٌّ there are two opinions, one of which is that this applies only to women who have fathers and grandfathers, while orphaned women must give their permission openly. One of the traditions that justifies this is The Prophet said.

"An orphaned woman should not be married until she has been asked for her consent, and a single woman should not be married until she has given her consent." They asked, "How should consent be given?" The Prophet replied, "By her silence."¹⁴

¹² Abu al-Walid Al-Baji, *al-Muntaqa Syarh al-Muwatta' Malik*, (Dar al-Kutub al-'Ilmiyah, Beirut. 1999.), p. 6

¹³ Abu al-Walid Al-Baji, *al-Muntaqa Syarh al-Muwatta' Malik*, (Dar al-Kutub al-'Ilmiyah, Beirut. 1999.), p. 6

¹⁴ Abu al-Walid Al-Baji, *al-Muntaqa Syarh al-Muwatta' Malik*-

VII. Scholars' Opinions Regarding the Guardian of a Widow's Marriage.

In Islam, a widow who wishes to remarry should not be prevented by her guardian or father without a valid reason. This is based on the Quranic verse in Q S Al Baqarah verse 232. The guardian of a widow should not force her to marry a man without her consent either. However, there are different views among Islamic scholars regarding the need for a guardian in the marriage of a widow.

According to Imam Malik, a widow cannot marry without the consent of her guardian and their presence is necessary for the marriage to be valid. On the other hand, Imam Hanafi believes that a widow can remarry without a guardian, but the guardian has the right to prohibit the marriage if it goes against Islamic teachings. Imam Syafii considers the presence of a guardian in marriage a requirement because they are one of the pillars of marriage. Imam Hambali shares the same view as Imam Maliki and Imam Syafii that a widow's marriage requires the consent of her guardian.¹⁵

After considering the opinions of several scholars, the author has decided to rely on the perspectives of Malik, Syafii, and Hanbali regarding marriage. As a fundamental human right, marriage must be safeguarded and protected. The guardian plays a crucial role in this by being entrusted with the responsibility of protecting and providing for the woman. Furthermore, obtaining the guardian's consent is essential to ensure that the marriage is entered into for valid reasons and will not cause any harm to the woman.

VIII. Conclusion

From the preceding discussion, we can conclude that the Hadith regarding the rights of widows in marriage is authentic and reliable, as it satisfies the criteria of both its chain of narration (sanad) and content (matan). This Hadith lays out the rights of widows in marriage, which include the freedom to choose their own partner and the obligation to respect the authority of their guardians. Even in marriage, widows must still honor their guardianship responsibilities.

¹⁵ Abu al-Walid Al-Baji, *al-Muntaqa Syarh al-Muwatta' Malik*

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أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: الْأَيُّمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا، وَإِذُّهَا صُمَّائُهَا

