



The Existence of Marriage Guardians in Tunisia's Islamic Family Law

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ABSTRACT

Keywords:

Marriage Guardian;
Islamic Family Law;
Tunisian Law;
Marriage Contract;
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The issue of marriage guardianship (wali) has become a significant topic in the reform of Islamic family law across Muslim-majority countries, including Tunisia. While most classical scholars consider a marriage guardian essential for a valid marriage, Tunisia allows adult women to contract marriage independently. This study aims to examine the legal status of marriage guardianship in Tunisia's Islamic family law and compare it with Indonesia's legal framework. The research uses a normative juridical method, a library research approach, and comparative analysis. The findings reveal that although Tunisia predominantly follows the Maliki school, it adopts the Hanafi opinion in granting mature women the right to marry without a guardian, as formalized in Article 3 of Law No. 39 of 2010. The implication is that Tunisia's legal system reflects a progressive blend of historical, cultural, and jurisprudential factors, offering a gender-sensitive approach to Islamic legal reform. This study contributes to the broader discourse on contextual reinterpretation of Islamic law and encourages other Muslim countries to consider reforms aligned with the objectives of Sharia (maqāṣid al-sharī'ah).

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INTRODUCTION

The renewal of family law in Muslim countries began in the early 20th century. The main topics include marriage, divorce, inheritance, etc. Turkey reformed family law in 1917, followed by Egypt in 1920, Tunisia in 1956, and Indonesia in 1974. The forms of renewal are carried out in various ways, ranging from renewal of laws, decrees of the king or president, to decisions made by the panel of judges (mahurat al-Qadhi al-Qudha).

Regarding this renewal, some make changes (marriage, divorce, inheritance, etc.), some limit it only to matters of marriage and divorce, and some carry out legal reforms step by step. (Saf 2013) This aims to carry out legal unification. Some do it as a whole, as happened in Tunisia, and some aim to improve the status of women to keep up with the times, which sometimes goes quite far from conventional fiqh (Rachmatulloh, 2020; Rahmat, 2014; Saf, 2013a; Sunaryo, 2010a).

The methods used in reforming family law are divided into four categories: talfiq, takhayyur, siyasah shari'ah, and reinterpretation of verses or ahkam hadith according to the times. Traditionally, countries such as UAE, Yemen, Afghanistan, etc.; Second, countries that apply secular family law, such as Turkey, Albania, Tanzania, etc.; Third, countries implementing renewed family law, such as Tunisia, Indonesia, Jordan, etc.

Thirteen contemporary family law issues are the object of renewal studies in Muslim countries, including: age limit for marriage, marriage guardian, marriage registration, marriage fees, polygamy, maintenance of wife and children's rights during the marriage bond, divorce, iddah maintenance, iddah period, child custody or hadhanah, inheritance rights, obligatory wills, and waqah (Agustina et al., 2023; Saf, 2013b; Sunaryo, 2010b). The factors that are taken into consideration in the renewal of this family law vary, starting from the dominance of a school of thought, customs that live and develop in society, historical factors, and socio-cultural factors, as well as the development of the

times (Demak, 2018; Fitri, 2022; Lia Noviana, 2021; Syamdan & Purwoatmodjo, 2019; Taufiq & Kuncoro, 2018).

The existence of marriage guardians is an interesting object of renewal to study, because the issue of guardianship can still be used as a topic of discussion in which to renew family law. The existence of marriage guardians becomes debatable when the argument of Q.S. al-Baqarah: 232 is about their rights to inherit women who were married before, and whether their presence and consent are still required. A marriage will be declared valid if it fulfills the pillars and conditions of marriage (Rahiem, 2021). And according to the Syafi'i school of thought, a marriage guardian is a condition for a valid marriage. However, in the provisions of Islamic family law in Tunisia, there is no provision for a guardian as a condition for a valid marriage. The existence of guardians here, when examined in socio-historical and socio-cultural terms at this time, is very worthy of discussion, especially for women who have reached puberty or are adults (Ali & Puspita, 2023; Darmawan, 2023; Pramesi, 2021; Ranuwijaya & Husna, 2016; Syafaat et al., 2024).

Jumhur scholars agree that the presence of a marriage guardian is a condition for a valid marriage. However, there are differences in the active role of women in the marriage contract that they will undergo and the existence of guardians as pillars or conditions for marriage for mature women, especially in Imam Abu Hanifah's opinion. In the view of the Maliki, Syafii, and Hambali schools, A marriage guardian is a condition for a marriage's validity, so a marriage is invalid if there is no guardian. However, when it comes to marrying mature and mature women, Imam Abu Hanifah has a different opinion. According to Imam Abu Hanifah, for a wise and mature woman, her status is that of a widow; she is more entitled to marry herself, as stated in Q.S. al-Baqarah: 282. Likewise, about the consent of the woman who is about to marry (the bride), this agreement is obligatory not only for the widow but also for a girl. This is different from the opinion of Imam Malik and Imam Syafi'i, where consent was only for widows, while for girls, it was not (Faqih, 2024; Firdawaty, 2016; Rinwanto & Arianto, 2020; Sari & Purwanto, 2023; Yunita, 2022).

It is interesting to discuss how the Tunisian state, where the majority adheres to the Maliki school of thought, can formulate its laws and regulations, in this case, the Majallat al-Ahwal al-Syakhshiyyah, which adheres to the Hamafi school of thought. (Nasution 2002) What are the legal factors and considerations that form the basis for the enactment of these rules, it is interesting to study more deeply. The method and argument used is to reinterpret the verses or ahkam hadith by looking at current developments. (Huda 2004) *al-Hukmu yataghoyyaru bitaghoyyuril amkina wa azwina wa ahwaliha*.

A library research method was used to compile this paper. This method is intended to examine this problem by conducting research on books, articles, magazines, newspapers, and other scientific writings that are closely related to the theme raised in this paper. This includes reviewing all laws and regulations in Tunisia, which in this case are Tunisian family law laws or other languages, namely The Code of Personal Status or Majallat al-Ahwal al-Syakhshiyyah Number 66 of 1956, along with the Supplementary Laws starting in 1956 until the latest amendment, namely in 2010.

While most classical Islamic scholars consider the marriage guardian (wali) an essential component for a marriage's validity, Tunisia has adopted a legal position that allows adult women to contract their own marriage without the presence or consent of a guardian. This raises fundamental questions regarding the normative, historical, and socio-political grounds that justify such legal reform in a Muslim-majority country.

This research is urgent due to the increasing need to understand how Islamic family law evolves in modern socio-political contexts. Tunisia represents a unique example of legal reform that significantly broadens women's autonomy in family law. Exploring the underlying logic of Tunisia's legal stance is critical in understanding the broader trajectory of gender-sensitive reform in the Muslim world.

Moreover, in an era of growing debates about women's rights, gender justice, and religious law, Tunisia's approach could serve as a reference for other Muslim-majority countries, including Indonesia. A detailed examination of Tunisia's legal system could offer a new perspective on harmonizing Islamic principles with contemporary human rights standards.

Anderson (1958) and Charrad (2012) have examined Tunisia's revolutionary transformation of personal status law through the 1956 Code of Personal Status, but they did not focus specifically on the elimination of guardianship in marriage.

Mudzhar (2003) highlighted Tunisia's deviation from the majority opinion of Islamic jurisprudence on guardianship, but his work lacked a systematic comparative analysis with other Islamic legal systems.

Other comparative studies, such as Supriyadi (2009), have touched on reform in Islamic family law, yet few have explored the technical and philosophical reasoning behind removing the marriage guardian requirement.

There remains a lack of in-depth research analyzing the doctrinal foundations, socio-political context, and legal philosophy behind Tunisia's removal of the wali requirement. Additionally, there is a gap in comparative analysis between Tunisia and Indonesia regarding the role and legal status of the marriage guardian in Islamic family law.

This study presents a unique contribution by offering a normative and comparative analysis of the legal status of marriage guardianship in Tunisia and Indonesia. It further examines Tunisia's progressive approach through intradoctrinal and extradoctrinal reform lenses, highlighting the transformation of Islamic legal thought in response to modern societal demands.

This study aims to critically examine the legal status of the marriage guardian in Tunisia's Islamic family law and identify the doctrinal, cultural, and political factors that led to its legal reform, while comparing it with Indonesia's current legal framework.

This research will enrich academic discourse on Islamic legal reform, particularly personal status law. It also offers practical insights for policymakers and legal practitioners in Muslim countries seeking to construct more inclusive, gender-just, and contextually relevant legal frameworks while remaining faithful to the objectives of Sharia (maqāṣid al-sharī'ah).

METHOD

The approach used is normative juridical research examining literature studies, laws, and regulations. This is intended to examine the intersection between the opinions of conservative, contemporary scholars and the legal system in Tunisia. However, in order to assist in obtaining analytical data, this paper also uses a comparative approach (Islamic family law in Tunisia and Indonesia).

The type of data taken is primary data consisting of the Koran, Hadith, Conventional Books, and Legislation in Tunisia, which regulates the existence of women in marriage. The supporting data in this paper are data collected or obtained from articles and scientific journals related to the theme of the discussion. The nature of this research is descriptive analysis, which aims to present the results of observations without further testing of hypotheses.

RESULTS AND DISCUSSION

Meaning of Guardian / معنى الجارديان

In the fiqh literature, guardianship comes from the word al-walayah (al-region), like the word ad-dalalah, also called ad-dilalah. (Mudzhar 2003) Etymologically, it has several meanings, including: love (al-mahabbah), and help (al-nashrah) as contained in the fragment of the verse wa man yatawallaha wa Rasulullah and ba`dhuhum awliya`u ba`dhin. Based on Q.S. al-Taubah verse 61, which means power/authority (al-shulthah wal-qudrah) as contained in the expression al-wali (الوالي), namely one who has power (Zuhaily, 2011) (take care of / control something).

As for the terminology, guardianship is "the power or authority of a person to directly act on his own without having to depend on another person's permission." People who manage or control something (contract/transaction). The word al-waliyy muannatsnya al-waliyyah (الولية) and the plural al-awliya` (الاولياء) come from the word wala-yali-walyan-wa-walayatan (ولي-يلي-وليا-وولاية), literally meaning one who loves, friend, close friend, helper, ally, follower, caretaker, and person who takes care of someone's affairs.

Guardianship is closely related to mastery and protection. A person who is given guardianship powers is called a guardian. Etymologically, a guardian comes from the Arabic language الوالي, which means a person who takes care of someone's case. Meanwhile, in terminology, a guardian is a person

who has the authority to marry a woman who is under his guardianship; without his permission, the marriage will not be legal (Dukhno & Skuybedina, 2022b)

Muhammad Jawad Mughniyah defines guardianship as a *syar'i* power or authority over a group of people, which is delegated to a perfect person, because of certain deficiencies in the person he controls, for their benefit. Meanwhile, according to Sayyid Sabiq, the guardian of marriage must be there, according to Sharia, the one in charge of carrying out the law on other people by force. Added by Amir Syarifuddin, a marriage guardian acts on behalf of the bride to carry out the marriage contract.

Provisions for Marriage Guardian According to Imam Madhhab/ أحكام ولي الأمر بحسب الإمام مذهب

A marriage guardian is one of the pillars or requirements for the validity of a marriage according to Islamic law; even according to Imam Syafi'i, a marriage is not valid if a marriage guardian does not attend it. If the guardian carries out a reasonable and mature woman's marriage, the consent of the prospective bride is valid. (Syaltut 2005) Meanwhile, if a woman carries out the marriage ceremony herself or represents it to someone else, there is a clerical disagreement about whether the marriage is legal. In the opinion of Imam Idris as-Syafi'i and his followers, the guardianship is the pillar of marriage. The legal basis is the hadith narrated by Imam Ahmad from al-Tirmidhi from Siti Aisyah: "Whoever of the women marries without the permission of their guardian, their marriage is annulled". Strengthened by the hadith of the Prophet narrated by Imam Ahmad, that:

- a. Marriage is not valid except with a guardian and two fair witnesses.
- b. Do not marry a woman through another woman (as her guardian) and do not let her marry herself. (H.R. Ibn Majah)
- c. Every woman who marries without her guardian's permission has a null and void marriage.
- d. If they disagree about the guardian, then the guardian is the guardian of the sultan or the guardian of the judge. Likewise, for women who do not have a guardian at all. (H.R. Abu Daud, al-Tirmidhi, Ibn Majah, and Imam Ahmad).

Apart from being based on the hadith of the Prophet Muhammad, Imam Syafii also put forward the arguments for the texts of the Koran, including:

- e. Q.S. al-Baqarah: 221
- f. "And marry those who are alone among you, and those who are worthy (married) of your male slaves and your female slaves."
- g. Q.S. al-Nur: 32

"And do not marry polytheistic women to believing men before they believe."

These two verses are addressed to the wali; If the woman has the right to marry herself, there is no meaning in the *khitbah*. Imam Malik, Syafii, Ahmad, Ishaq, and the majority of scholars think that it is illegal for a woman to carry out her marriage or represent it. However, David argued that marriage was valid if the woman was not a virgin. Meanwhile, according to Abu Saur, marriage is valid if the guardian permits it and becomes void if the guardian does not allow it. Imams Syafii, Maliki, and Hambali think: "If a woman who is intelligent and mature is still a girl, then the right to marry her rests with the guardian."

However, if she is a widow, that right belongs to both of them (the guardian may not marry without her consent, and women may not marry without the guardian's approval). Because the guardian pronounces the contract correctly. Contracts that are said only by women are invalid even if the contract requires her consent. (Syaltut 2005)

Imam Abu Hanifah is among the scholars who argue that the guardian is not a pillar of marriage. According to the Hanafi school of thought, guardianship of marriage is not a pillar or condition of marriage. Some of his followers followed this, stating that the marriage contract pronounced by an adult and intelligent woman was absolutely valid. Abu Yusuf, Imam Malik, and Ibn Qasim followed this opinion.

The legal basis that supports this opinion is contained in the texts of the Koran and hadith:

- a. Q.S. al-Baqarah: 230

"If the husband divorces his wife after the second divorce, then the woman is no longer lawful for him, so she marries her new husband."

b. Q.S. al-Baqarah: 232

"If you divorce your wives and then their iddah expires, then we (the trustees) should not prevent them from marrying their future husbands."

According to the Hanafi school of thought, the asbabun nuzul of these two verses is due to the case of Ma`qil bin Yasar. This happened when Ma`qil bin Yasar did not allow his sister's ex-husband to reconcile after previously being talaq. After arriving at Rasulullah SAW about this news, came down Q.S. al-Baqarah: 232, which forbids marriage guardians to prevent them from marrying their ex-husbands. The hadiths of Rasulullah SAW related to the existence of this guardian include:

a. الأيم احق بنفسها من وليها Meaning: "Women (widows) have more rights over themselves than their guardians, and girls are asked for their permission, while their permission is silence."

b. It was narrated from Umm Salamah that when Rasulullah SAW asked for her hand and said: "O Rasulullah SAW, none of my guardians were present". Then the Prophet said: "None of your guardians, whether present or absent, rejects our marriage."

Based on these two arguments, the Hanafi school advocates giving full rights to women regarding their own affairs by eliminating the interference of other people (wali) in marriage matters. It adds that rationally and logically, consent is usually given by a woman in a contract, but because a woman is shy by nature, she must be represented by her parents, who act as guardians.

However, if viewed from a juridical perspective, the word of Allah SWT is addressed to men, not to women. As the prohibition in Q.S. al-Nisa': 22, 23, & 24, the man should also bear the consent, and the qabul must be borne by the woman, so that a woman who says qabul is enough to nod to show her approval, as hadith Rasulullah SAW.

Overview of Islamic Family Law in Tunisia / نظرة عامة على قانون الأسرة الإسلامي في تونس

The Republic of Tunisia is located in North Africa, bordering Algeria (West), the Mediterranean (North & East), and Libya (South)¹⁰. The population reaches 9,593,402, with 98% Muslim, 1% Christian, and 1% Jewish. With an area of 163,610 km², this country became independent in 1956 with Habib Bourguiba as its first president, overseeing 23 provinces. Before independence, Tunisia was an autonomous region of the Ottoman Empire, and in 1883 it became a commonwealth of France under the Treaty of La Marsa. Tunisia occupies a strategic geopolitical position because it links Europe and Africa. Tunisia, Morocco, and Algeria form a regional zone called the Arab Maghreb, where most Muslim communities adhere to the Maliki school of thought. (Rasyid 2015)

Tunisia is a Muslim Arab country in North Africa, Islam is the majority religion there, Tunis is the capital, and the republic is the system of government. (Supriyadi 2013) Since his independence, Habib Bourguiba ruled for 31 years, and during his reign, he gave women more rights than other Arab countries. (Mulia 2010) A few months after its independence, the Tunisian government immediately imposed Islamic family law laws with the promulgation of Law Number 66 of 1956, which raised pros and cons in its application. (Husna 2008) This reconstruction of Islamic family law opposed traditional Muslim practices, and was even accused of confrontation with it, which the French had never done before.

Since the entry and development of Islam in Tunisia, the majority of the population adheres to the Maliki school of thought, but in its development, Tunisia has also been influenced by the Hanafi school of thought. This is because, before independence, Tunisia was an autonomous region of the Ottoman Turks (1574). After that, France controlled Tunisia by giving balance to judges to resolve family law issues brought before the court based on each school of thought (Maliki or Hanafi). Over time, Tunisia has gradually adopted French legal principles in resolving cases. The legal system born in Tunisia is a synergy between the principles of Islamic law based on the Maliki and Hanafi school of thought and the principles of French law (French civil law).

On March 20, 1956, Tunisia officially became independent, a few months after Tunisia imposed the Code of Personal Status, whose material law was a fusion between the Maliki and Hanafi schools, which was then adjusted to the cultural, social, and cultural changes there. Even this effort was successful with the issuance of a family law named Majallat al-Ahwal al-Syakhsiyyah Number 66 of 1956, which consisted of 10 books, 170 articles covering marriage law, divorce, and child

rearing, whose stipulations were different from conventional fiqh. During this law, it was amended several times, namely through Law Number 70 of 1958, Law Number 41 of 1962, and Law Number 7 of 1981, according to Tahir Mahmood's records. (Rahmat 2014)

While the literature found by the author of Law Number 66 of 1956 underwent the last amendment on July 26, 2010, with the enactment of Majallat al-Ahwal al-Syakhsiyyah Number 39 of 2010. (Sakhri 2013) There are several reasons regarding this amendment, including:

- a. Avoiding conflict between followers of the Maliki and Hanafi schools of thought.
- b. The judiciary will be unified to become the National Court, so there will no longer be any difference between the Religious Courts and the District Courts.
- c. Legislative statutes.
- d. Unite the community's views to reduce the friction of fiqh views.
- e. Implement modern laws and regulations, in accordance with the times. (Wiyono 2016)

With the enactment of this law, Tunisia has become a country that provides reforms in Islamic family law that are more representative and revolutionary than those in other Muslim countries. (Rahmat 2014) This is motivated by the historical formation of the country, the fusion between two different schools of thought (intradoctrinal reform), and combined with the legacy of French colonial law (extradoctrinal reform) to produce representative and revolutionary legal products, which are characterized by higher respect for women, and also safeguarding their rights compared to other countries.

Majallat al-Ahwal al-Syakhsiyyah, or The Code of Personal Status, has undergone several amendments, including:

- a. July 4, 1958, through Law No. 70 of 1958.
- b. June 19 through Law No. 77 of 1959.
- c. April 21, 1964 through Law No. 1 of 1964.
- d. June 3, 1966 through Law No. 49 of 1966.
- e. February 18, 1981, through Law No. 7 of 1981.
- f. July 12, 1993 through Law No. 74 of 1993.
- g. March 6, 2006 through Law No. 10 of 2006.
- h. May 14, 2007, through Law No. 32 of 2007.
- i. March 4, 2008 through Law No. 20 of 2008.
- j. July 26, 2010 through Law No. 39 of 2010. (Sakhri 2013)

The matters regulated in the Majallat al-Ahwal al-Syakhsiyyah or The Code of Personal Status Number 39 of 2010, include:

- a. Chapter 1 regarding marriage, which is regulated in articles 1-27.
- b. Chapter 2 regarding divorce, which is regulated in articles 29-33.
- c. Chapter 3 regarding iddah, which is regulated in articles 34-36.
- d. Chapter 4 regarding maintenance is regulated in articles 37-53.
- e. Chapter 5 regarding hadhanah is regulated in articles 54-67.
- f. Chapter 6 regarding lineage, which is regulated in articles 68-76.
- g. Chapter 7 regarding people who cannot use property, which is regulated in articles 77-80.
- h. Chapter 8 regarding people who are mafqud, which is regulated in articles 81-84.
- i. Chapter 9 regarding inheritance, which is regulated in articles 85-152.
- j. Chapter 10 regarding people who are allowed and people who are not allowed to use property, which is regulated in articles 153-170.
- k. Chapter 11 regarding wills, which are regulated in articles 171-199.
- l. Chapter 12 regarding grants, which are regulated in articles 200-213.

Of the many rules above, those governing the existence of marriage guardians are contained in Chapter I concerning Marriage, Article 3. The contents of the provisions of Article 3 of Law Number 39 of 2010:

لا ينعقد الزواج إلا برضا الزوجين. ويشترط لصحة الزواج إشهاد شاهدين من أهل الثقة وتسمية مهر للزوجة

"A marriage cannot be carried out without permission from both parties. And it is required in the validity of a marriage the presence of two witnesses from trusted experts, and with an amount of dowry for the prospective bride."

Guardianship Provisions in Tunisia / أحكام الوصاية في تونس

Based on\ the provisions of Article 3 of Law Number 3 of 2010:

لا ينعقد الزواج إلا برضا الزوجين. ويشترط لصحة الزواج إشهاد شاهدين من أهل الثقة وتسمية مهر للزوجة

A marriage cannot be carried out without permission from both parties, which in this case is from the prospective groom and the prospective bride. The provisions explain that a condition for a valid marriage is the existence of two trusted witnesses and a certain amount of dowry given to the prospective bride. This is a very representative and revolutionary formulation compared to the rules in conventional or classical fiqh.

Based on this provision, we can also conclude that in the application of Islamic family law in Tunisia, especially in the field of marriage, the guardian is no longer a pillar or condition of marriage. This is because there are no further rules that indicate the existence of a guardian in a marriage. The following articles emphasize the agreement of both parties, as is the opinion of Imam Abu Hanifah or the Hanafi school of thought. New marriage guardians are recognized for marriages carried out by minors, as contained in the provisions of Article 6 of Law Number 39 of 2010. The provisions of Article 6 read as follows: "Article 6: The marriage of a minor requires the agreement of the guardian and the mother. If the guardian or the mother refuses to agree and the minor insists on their desire [to be married], the matter shall be raised with the judge. Permission to marry may not be appealed in any manner."

If the marriage guardian is reluctant to give permission, the case is submitted to the court to ask the judge to serve as the marriage guardian. This is as contained in the provisions of Article 6, which reads:

وإن امتنع الولي أو الأم عن هذه الموافقة وتمسك القاصر برغبته لزم رفع الأمر للقاضي والإذن بالزواج لا يقبل الطعن بأي وجه

Based on the provisions of Law Number 39 of 2010, which is the last amendment of the Majallat al-Ahwal al-Syakhsiyyah or The Code of Personal Status in Tunisia, men and women can only marry if they have reached the age of 18. As for marriages under this age, they must obtain permission from the court (Article 5 of Law No. 39 of 2010). This permission can only be granted for urgent reasons or based on the right and clear interests of both parties (the prospective bride and groom). This shows that there is a reduction in the existence of a guardian; if he does not give his consent to underage marriages, he can be brought to court (explanation of the contents of Article 5 Law No. 39 of 2010)

According to the author, this provision is very representative and revolutionary compared to what is regulated in classical fiqh books, where there is no age limit for marriage, and regarding the existence of marriage guardians in a marriage. (Mudzhar 2003) Article 3 of Law no. 39 Yr. 2010: "Marriage can only be carried out with the consent of the bride and groom and witnessed by two witnesses and an amount of dowry for the prospective wife". (Sana`i 2014)

CONCLUSION

From the description above, it can be concluded that a marriage guardian (wali) is deemed essential by most Islamic scholars, including Imam Malik, Imam Shafi'i, and Imam Hanbali. According to their opinions, followed by the majority of classical jurists, the guardian is considered a pillar or legal requirement (rukn) of marriage, whether the woman is a virgin or a widow. In this view, a marriage is invalid without the consent of a guardian. However, a differing opinion is held by Imam Abu Hanifah, who argues that a guardian is only required for women who are not yet mature. For mature women, particularly widows, marriage may be contracted independently without the presence or approval of a guardian.

Tunisia adopts Imam Abu Hanifah's opinion in its national legislation, allowing mature and competent women to marry without a guardian. This stance is formalized in Law Number 39 of 2010. However, the law also stipulates that underage girls who wish to marry without guardian approval must seek court permission, which will be granted based on specific circumstances, justifications, and legal merits. The formulation of this rule reflects a fusion of the two dominant legal schools present in Tunisia, shaped by socio-historical, cultural, and contemporary developments.

As a recommendation for future research, scholars are encouraged to conduct comparative legal analyses between Tunisia and other Muslim-majority countries to explore how different interpretations of guardianship influence women's rights in marriage. Further empirical studies on the societal reception and practical implementation of Tunisia's marriage laws would enrich the discourse on Islamic legal reform and gender justice.

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