

ABSTRACT

Azhari, Faisal, 11210010, 2015. *The Review of Maqashid al-Shari'ah as Hikmah Tasyri on Marriage Representative (The Comparative Study of the Perspectives of Imam Al-Shafi'i and Imam Hanafi Using Hermeneutics and multi perspective)*. Thesis. Al-Ahwal Al-Syakhshiyah Department, Faculty of Sharia, Maulana Malik Ibrahim State Islamic University Malang. Advisor: Erfaniah Zuhriah, MH.

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The role and position of marriage representative need special attention. It is due to its function as an inseparable part in determining marriage legitimacy. Qur'an and Hadith mention the basis of representative in a marriage. However, several fiqh literature have different interpretation and ulema *ijtihad*, especially imam *madzahib al-arba'ah*. In Islam, every law prescribed by God has its own purpose and reason. *Maqashid al-Syari'ah* is the purpose of law. Therefore, the *mujtahid* keep trying to study and comprehend sharia texts to understand *Maqashid al-Syari'ah*, including the law of marriage representative.

The problems of the study consist of the differences and similarities analysis of Hanafi's and Shafi's's perspectives on the law of marriage representative. In addition, the study also analyzes the review of *Maqashid al-Syari'ah* on the law of marriage representative in hermeneutics. Then *maqashid al-syari'ah* gender perspective analysis. The study employs the review of *Maqashid al-Syari'ah* using hermeneutic approach. It is a normative research which involves literary study. It employs secondary data written in fiqh kitab use the comparative analysis.

In conclusion, the differences in the study include the status of marriage representative whether it is a main pillar in a marriage, the marriage representative order, and the legitimacy of marriage done by an adult woman without the presence of marriage representative. The similarities include the illegitimate status of marriage done by immature woman without the presence of her representative. In the *maqashid al sharia* analysis of hermeneutics, it is concluded that in the methodology of Fazlur Rahman, the double movement makes an analysis in interpreting messages of Quran, that more suitable to period condition, because it use sosio-history approach. While based gender perspective, to get sense of *maqashid al-syari'ah* on marriage representative , is a solution for the problem solving about gender. *Ijbar* right, not to be a necessity reason, but used fro to prectect women whom adult yet, and for the communication media by the adult women.