

Navigating Pluralism in Islamic Jurisprudence: A Comparative Analysis of Mut'ah Marriage in Ja'fari and Sunni Schools of Thought

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ABSTRACT

This study examines the differing views on mut'ah (temporary) marriage between the Ja'fari and Sunni schools of Islamic jurisprudence through a comparative analysis of their legal reasoning methodologies. Employing qualitative research methods including textual analysis of primary sources, historical examination, and comparative legal analysis, the study explores the origins of these divergent interpretations and their implications for contemporary Muslim societies. The findings reveal that differences in scriptural interpretation, hadith authentication, and legal principles contribute to the contrasting positions on mut'ah marriage. While the Ja'fari school considers it permissible based on Quranic verses and certain hadith, Sunni schools generally prohibit it, citing abrogation and potential social harms. The study highlights how these differing views reflect broader patterns of legal pluralism in Islamic jurisprudence and impact contemporary debates on gender, marriage, and religious authority in Muslim communities. By critically evaluating arguments from both traditions, this research contributes to a more nuanced understanding of Islamic legal diversity and its ongoing negotiation in modern contexts.

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1. INTRODUCTION

Pluralism in Islam has been an undeniable social reality since its early development (Anjum et al., 2020; Hamzah, 2020; Rahman & Setia, 2021). This diversity is reflected in various aspects of Muslim life, including the interpretation and practice of Islamic law. One of the most significant manifestations of pluralism is the existence of various schools of fiqh (Islamic jurisprudence), each with its own methodology and legal interpretation (Hamzah, 2020; Kamali, 2009). The two main streams in Islam, Sunni and Shia, have long colored the socio-religious landscape of Muslims with their differing views on various aspects of Islamic jurisprudence.

As explained by Atabik (2015), "Broadly speaking, Muslims to this day are divided into two major groups, namely the Sunni group and the Shia group. This division is based on each group's understanding of the position and status of the Prophet's companion named Ali bin Abi Talib." These differences are not merely theoretical but have practical implications in the daily lives of Muslims, including in matters of marriage and family law.

One issue that reflects significant differences between these two streams is the practice of nikah mut'ah (temporary marriage). This phenomenon is not only an academic debate but also has real social implications in the lives of Muslims. In some Shia-dominated areas, such as Iran and parts of Iraq, nikah mut'ah is still practiced, while in Sunni-majority areas, this practice is generally rejected and considered invalid. Rais (2014) explains that "the question that arises is whether or not it is permissible to perform nikah mut'ah. In this case, an explanation must be obtained from scholars or imams regarding what caused the emergence of nikah mut'ah and what underlies someone performing nikah mut'ah based on history and strong arguments so that matters concerning or relating to nikah mut'ah can be better understood."

Classical and contemporary literature on Islamic jurisprudence has extensively discussed the differences of opinion regarding nikah mut'ah. The Ja'fari school, which is the main school in the Shia tradition, has a view that allows this practice based on their interpretation of the Quran and Hadith. Rouf (2017) asserts that "when talking about fiqh in the Shia group, it is always synonymous with the Ja'fariyyah school." On the other hand, the majority of Sunni scholars from various schools such as Hanafi, Maliki, Shafi'i, and Hanbali generally consider nikah mut'ah as a practice that has been prohibited (Sulikhodin et al., 2023; Suryani, 2023).

Syarifuddin (2006) quotes Ibn al-Hajar al-Asqallaniy as saying, "There are several authentic hadiths that explicitly prohibit mut'ah marriage after it was previously allowed." This view reflects the position of the majority of Sunni scholars who consider that the permissibility of nikah mut'ah has been abrogated or canceled. However, this interpretation is contested by the Ja'fari school, which maintains the legitimacy of the practice.

These differences of opinion are not limited to the interpretation of religious texts but also involve different legal methodologies (usul al-fiqh) (Parray, 2012; Weiss, 1978). The Ja'fari school, for example, places special emphasis on the role of the Imam in legal interpretation, while Sunni schools rely more on scholarly consensus (ijma') and legal analogy (qiyas). Faza (2015) explains that "Ahlu sunnah is a specialized term that refers to a group that follows and adheres to the Sunnah and becomes mainstream. It is also used to denote anyone who follows one of the popular Imams of the schools of fiqh (such as Shafi'i, Hanafi, Maliki, Hanbali)."

Although many studies have been conducted on nikah mut'ah from the perspective of each school, there is still a gap in the literature analyzing this issue from the viewpoint of pluralism in Islamic jurisprudence. Most previous research tends to focus on theological or legal arguments from a particular perspective, without providing an in-depth comparative analysis.

Some contemporary scholars have begun to explore the theme of pluralism in Islamic jurisprudence, but the focus on nikah mut'ah as a case study to understand the dynamics of this pluralism is still limited. Previous studies often failed to connect differences in legal opinions with the socio-historical context and contemporary implications of this diversity of interpretations.

This article offers a new approach by analyzing the issue of nikah mut'ah through the lens of pluralism in Islamic jurisprudence. By comparing the arguments and methodologies of the Ja'fari and Sunni schools, this research aims to provide a more nuanced understanding of how the diversity of Islamic legal interpretations develops and persists in the modern context.

The significance of this study lies in its contribution to inter-school dialogue and cross-cultural understanding in the global Muslim community. In an era of globalization where interactions between followers of various schools are increasingly intense, a better understanding of the roots of differences and potential common ground becomes increasingly important.

This research aims to conduct a comprehensive analysis of pluralism in Islamic jurisprudence, focusing on the differences of opinion between the Ja'fari and Sunni schools regarding nikah mut'ah. We will explore the historical roots of these differences, tracing their development from the early days of Islam to the contemporary era. A comparative analysis will be conducted on the legal methodology (*usul al-fiqh*) used by both schools in interpreting religious texts related to nikah mut'ah, considering differences in *ijtihad* approaches, use of legal sources, and hadith interpretation. Furthermore, this research will investigate the social and legal implications of these different interpretations in the context of contemporary Muslim societies, analyzing how these differing views affect marriage practices, family law, and social dynamics in diverse Muslim communities. Finally, this study will attempt to identify potential common ground and areas for constructive dialogue between the two perspectives, with the aim of facilitating better understanding and bridging differences in the context of modern Islamic pluralism.

Thus, this article aims not only to provide academic analysis but also to provide a foundation for more constructive dialogue between various traditions in Islam. In doing so, we hope to contribute to a deeper understanding of the complexity and richness of Islamic legal traditions, as well as their role in shaping the identity and social practices of Muslims worldwide.

2. METHODS

This study employs a comprehensive qualitative research approach (Hennink et al., 2020; Hollstein, 2011; Mello, 2022) to explore pluralism in Islamic jurisprudence through the lens of mut'ah marriage, combining historical analysis, comparative legal study, and content analysis. The research methodology begins with an extensive literature review of primary and secondary sources, including classical Islamic texts, contemporary academic literature, and relevant religious rulings (*fatwas*) from both Ja'fari and Sunni

scholars. This provides a solid foundation for understanding Imam Ja'far, the Ja'fari school of thought, and the concept of mut'ah marriage.

Following the literature review, a thorough historical examination (Alalwani et al., 2003) is undertaken to trace the development of the Ja'fari school and its legal methodology, focusing on Imam Ja'far's influence in shaping Shi'a jurisprudence, particularly the shift from political to religious orientation in Shi'a thought. This historical context is crucial for understanding the evolution of legal interpretations regarding mut'ah marriage.

The core of the research involves a comparative legal analysis of the *istinbat* (deduction) methods employed (Zahraa, 2003) by the Ja'fari and Sunni schools, with specific attention to their interpretation and application of the Qur'an, Sunnah, *Ijma* (consensus), and reason (*aql*) in the context of mut'ah marriage. This comparative approach is complemented by a detailed examination of Qur'anic exegesis (*tafsir*) by Ja'fari scholars, focusing on Surah An-Nisa verse 24, which is often cited as the textual basis for the legitimacy of mut'ah marriage. The Ja'fari interpretation is then compared with Sunni interpretations of the same verse to highlight differences in approach and conclusion.

The study also includes a comprehensive analysis of relevant hadith (prophetic traditions) (Nukhba, 2023) cited by both Ja'fari and Sunni scholars regarding mut'ah marriage, examining the authentication methods and interpretative approaches used by each school. This is followed by a systematic content analysis of contemporary fatwas, religious rulings, and scholarly opinions (Bakar & Abdghani, 2011) on mut'ah marriage from both perspectives to understand current interpretations and their socio-legal implications.

To ground the research in contemporary realities, the study investigates the practical implications of differing views on mut'ah marriage in modern Muslim societies, examining how these interpretations affect marriage practices, family law, and social dynamics in diverse Muslim communities. Based on the collected data and analyses, a comparative framework is developed to systematically juxtapose the Ja'fari and Sunni positions on mut'ah marriage, highlighting areas of convergence and divergence in their legal reasoning and methodologies.

The final phase of the research involves synthesizing the findings from all previous steps to provide a comprehensive understanding of pluralism in Islamic jurisprudence as reflected in the mut'ah marriage debate. This synthesis aims to identify potential areas for dialogue and mutual understanding between the two schools of thought, contributing to a deeper appreciation of the diversity within Islamic jurisprudence and its implications for contemporary Muslim societies. Through this multifaceted methodology, the study aspires to offer a nuanced and balanced analysis of the complex issue of mut'ah marriage within the broader context of Islamic legal pluralism.

2.1. Analysis Textual to Primary Legal Sources

One of approach main in analysis comparative about mut'ah marriage involving study careful textual content to primary sources of Islamic law, including the Koran and corpus hadith (Rokhmad & Susilo, 2017). Researcher research Relevant Quranic verses and reports about the words and actions of the Prophet Muhammad (peace be upon him), endeavored For understand meaning and legal implications of these texts are deep context debate about mut'ah marriage. Apart from that, the works of classical scholars from tradition Ja'fari and Sunni were also studied in a way in-depth , with a focus on legal

arguments and methodology their interpretation use when discussing this issue (Black et al., 2013). Analysis This textual involves careful application of various tools and methods interpretation of traditional Islamic law, such as analysis linguistics, research on context revelation, and consideration precedent historical. Through careful engagement with these primary sources, researchers try for reconstruct basics textual from different legal positions about mut'ah marriage and for track development these arguments over time.

2.2. Approach Historical

Besides analysis textual , approach historical play important role in research on mut'ah marriage (Sulihkhodin et al., 2023). Researcher browse evolution views and practices relating to marriage temporary from period the beginning of Islam to the present, considering various social, political and cultural factors that shape it this development. This involves research about legal debates and discussions among scholars from various schools of thought during centuries , as well exploration about how conditions change historically it may have been influence understanding and application of laws related to mut'ah marriage (Akhtar, 2018; Muslimin, 2005). Through historical analysis, the author attempts to situate contemporary debates in a broader context, illustrating continuities and changes over time in Islamic legal thought on this issue. This approach helps clarify origins and significance difference opinion between tradition Ja'fari and Sunni, as well more dynamics wide from evolution and adaptation of Islamic law throughout history.

2.3. Approach Anthropological and Sociological

For complete analysis textual and historical , researchers also use method anthropological and sociological For explore social reality of deep mut'ah marriage contemporary Muslim society (Akhtar, 2018). It's involving studies field, interview in-depth, and survey for investigate how mut'ah marriage is understood, practiced, and experienced by individuals and communities in various contexts. Through involvement directly with the people involved in or influenced by mut'ah marriage practices, researchers try for get more understanding nuanced about motivation, challenges, and social consequences associated with this phenomenon. Approach anthropological and sociological help base discussion about internal mut'ah marriage reality life contemporary Muslim society, illustrating complexity coloring experiences and perspectives debate about this issue. This is also possible researcher for investigate connection between religious normativity and social practices, as well the dynamics of gender, power and inequality that influence and are influenced by the practice of mut'ah marriage context certain.

2.4. Triangulation Methodological

Strength analysis comparative about mut'ah marriage lies in the application of various research methodologies simultaneously (Parani et al., 2024). By combining approach textual, historical, anthropological, and sociological, researchers try for get more understanding comprehensive and multidimensional about a complex and frequent subject this is debatable. Triangulation This methodology makes it possible researcher for traverse boundaries discipline knowledge traditional, drawing outlook from various fields investigation for produce richer and more analysis reflects various perspectives and experiences. For example, findings from field research anthropologists can help inform and contextualize analysis textual legal sources, temporary exploration historical can

highlight origins and development from debate and practice contemporary. By adopting approach this multifaceted, research on mut'ah marriage can contribute to greater understanding nuanced and inclusive, which values problem complexity and diversity perspective in tradition of Islamic legal thought.

3. RESULTS AND DISCUSSION

3.1 Background of Imam Ja'far

Abū 'Abdullāh Ja'far ibn Muḥammad al-Bāqir ibn 'Ali Zaynal Ābidīn ibn Husayn ibn Alī ibn 'Abī Ṣālib al-Hāshimī al-'Alawī al-Madanī al-ṽādiq. His birthplace was Medina. Historians disagree on his birth year. He was born in 80 A.H., according to one theory. There is a different view that he was born in 83 A.H. Some claim he was born prior to It is widely believed, nevertheless, that Imam Ja'far was born in 80 A.H., the same year as his uncle Zayd ibn 'Alī Zaynal 'Abidīn (Muhtada, 2015).

Muhammad al-Baqir bin Ali Zaynal Abidin, a renowned Medina scholar who passed away at the age of 115, was the father of Imam Ja'far. He was a Prophet's descendant through Husayn bin Ali bin Abi Talib's line. Regarding his mom, Ummu Farwah bint al-Qasim bin Muhammad bin Abu Bakr al-Shiddiq. In her day, she was a respectable woman. Imam Ja'far thus has a lineage from the prophet Muhammad through the Ayar line. Muhammad's ancestry extends up to Abu Bakr al-Shiddiq, even though he is descended from his mother (Zahro, 1996). That is why Imam Ja'far is one of the imams of the Shia group who would be very angry if anyone denigrated his brother Abu Bakr al-Siddiq (Muhtada, 2015).

Growing up, Imam Ja'far was a resident of Medina. He received his religious education from Muhammad al-Baqir, his father. Subsequently, he traveled to the renowned academics of his era to seek knowledge. He studied under the long-living companions of the Prophet, including Anas bin Malik and Sahl bin Sa'id as-Sa'idi. Major tabi'in figures including Atha bin Abi Rabah, Muhammad bin Shihab az-Zuhri, Urwah bin Zubair, Muhammad bin al-Munkadir, Abdullah bin Rafi', and Ikrimah Maula Ibn Abbas were among those with whom Imam Ja'far studied. He also related stories from al-Qasim bin Muhammad bin Abi Bakr, his grandfather. The majority originated in Medina (Zahro, 1996).

Apart from his expertise in fiqh, Imam Ja'far possessed a broad knowledge base in other scientific fields, including medicine, chemistry, philosophy, and tasawauf. One of the foremost authorities on chemistry and medicine in the eighth century AD, Jabir bin Hayyan, was one of his pupils. He is one of the world's most renowned Sufi teachers and figures, acknowledged by both Sunnis and Shiites (Muhtada, 2015).

The Shia community regards him as the founder of the legal school known as the Ja'fari school due to his mastery of the scientific field of fiqh. His proficiency in the field of fiqh was acknowledged by the sunni group as well, as demonstrated by the fact that two of his pupils were prominent sunni group imams: Abu Hanifah al-Nu'man (d. 150 AH) and Malik bin Anas (d. 179 AH). Yahya b. Sa'id, Ibn Juraid, Sufyan al-Tsauri, Sufyan b. Uyainah, Shu'bah b. al-Hajjaj, Fadhail b. Iyadh, and thousands of narrators were among Imam Ja'far's other pupils in addition to these two (Rodin, 2013). In the science of hadith criticism, the traditions narrated by him are also accepted by all groups and he even belongs to the rank of tsiqah.(Al-'Asqalanī, n.d.)

He is renowned for being a patient, giving, and courageous person. Abu Bakr al-Sadiq, the grandfather of his mother, gave him the nickname "al-Sadiq" because of his

reputation for honesty (Zahro, 1996). Furthermore, Imam Ja'far was renowned for his reverence for God. Jalaluddin Rahmat claims that because of this, Imam Ja'far's fiqh was frequently questioned by Caliph al-Manshur, the second Caliph of the Abasids (Rakhmat, 2007).

Regarding the history of the Shi'a group's development, Imam Ja'far is among the most significant figures. As an opposition movement to the Umayyad government, the Shi'a group initially tended to be political in nature. This group underwent a transformation by Imam Ja'far, turning into a more religiously oriented group of movements. Given the painful experience of his forebears' excessive political involvement, which resulted in the deaths of numerous people, including Ali bin Abi Talib and his two sons Hasan and Husein, this may have been influenced by his own propensity to detest being directly involved in politics (Muhtada, 2015).

3.2 Istinbath Methods and Sources of Law

Every school of thought, including the Ja'fari school, needs to have unique features that pertain to how it extracts Islamic law. The Qur'an, the Sunnah, the Ijma, and reason are the four sources used by the Ja'fari school to determine the application of the law (Motahari, 2012). Although there are certain parallels between the four legal sources and the sources cited by other madhhabs, the Ja'fari madhhab is unique due to its interpretation and set of criteria for the four sources. More information about the four sources of law will be provided below.

3.2.1. Al-Qur'an

It is common knowledge that the Qur'an serves as the primary source for interpreting Islamic law. The Ja'fari School is another place where this occurs. The Ja'fari school holds that the Qur'an has both internal and external meaning, in addition to explicit meaning. This school holds that marja', or a type of fatwa giver, such as the imams or naib al-imam (the heirs to the infallible imam maxum), is necessary in order to understand the meaning of this batikn. Accordingly, the Qur'an contained in the mushaf-mushaf is referred to as al-Qur'an alSamit (the Qur'an that dwells), and the Imams are referred to as al-Qur'an al-nathiq (the Qur'an that speaks) (Rouf, 2017). There is a contradiction between the Qur'an and what the infallible Imams say. Clarification is necessary because the content of the Qur'ān is mujmal, or global. The reason behind the Imams' infallibility can be found here. Based on this, the Ja'fari school of thought holds that infallible Imams are the best source of guidance for comprehending the meaning of the Qur'an because Allah directly guides these Imams due to their devotion and moral rectitude (Rouf, 2017).

3.2.2. Sunnah

Scholars agree that Islamic law can also be found in the Sunnah. The standards by which the sunnah will be regarded as a source of law differ. According to the Ja'fari school of thought, the Prophet's and the infallible Imams' sayings, deeds, and explanations are included in the sunnah (Motahari, 2012). As such, the teachings of the prophet and the Imams are identical. This is a result of the Imams' perfection still being above that of humans in general but below that of the prophet. As the Prophet's successors in delivering God's message, these Imams are infallible (Rouf, 2017).

The Ja'fari school holds that since the Imams are also infallible, the sayings, deeds, and explanations of the infallible Imams through their silences are included in the sunnah, which serves as a source of law. The Qur'an's Surah al-Ahzab verse 33 and the hadiths related by Zaid ibn al-Arqam serve as the foundation for the Imams' infallibility. The Qur'an and hadith are as follows:

وَقَرْنَ فِي بُيُوتِكُنَّ وَلَا تَبَرَّجْنَ تَبَرُّجَ الْجَاهِلِيَّةِ الْأُولَىٰ وَأَقِمْنَ الصَّلَاةَ وَآتِينَ الزَّكَاةَ وَأَطِعْنَ اللَّهَ وَرَسُولَهُ إِنَّمَا يُرِيدُ اللَّهُ لِيُذْهِبَ
عَنكُمُ الرِّجْسَ أَهْلَ الْبَيْتِ وَيُطَهِّرَكُمْ تَطْهِيرًا ٣٣

Meaning: Remain in your houses and do not adorn (and behave) like the people of old. Establish prayer, pay the zakat, and obey Allah and His Messenger. Indeed, Allah only wants to remove sin from you, O ahl al-bayt, and cleanse you as cleanly as possible. (Al-Ahzab/33:33).

There are several traditions that explain mut'ah marriage, such as the traditions from the Sahih Muslim book number 1404, 1406 and 1407 (Al-Hajjaj, n.d.). Sahih Bukhari hadith number 5115 (Abi Abdillah Muhammad bin Ismail bin Ibrahim bin Al-mughirah Bardizbah Al-Bukhari), and Sunan Ibn Majah hadith number 1963 (Nasar, n.d.).

The Ja'fari school holds that, like the Prophet Muhammad, their Imams are also infallible. Consequently, the sunnah also includes the sayings, deeds, and explanations provided by the infallible Imams through their silence (Motahari, 2012).

Accepting the sunnah as the foundation for law requires two things according to the Ja'fari school. The Sunnah's narrator is connected to the first. This school holds that a sunnah is legitimate if it comes from trustworthy sources, particularly from their twelve imams and scholars who share their opinions. Consequently, the justice of each and every Companion is not acknowledged by the Ja'fari school. They held that the Companions of the Prophet were, on the whole, human, with some being good and some being bad, and some being just and some being unjust (Mughniyah, n.d.).

The second prerequisite is that the sunnah's teachings must not conflict with the Qur'an. The Ja'fari school requires this relationship to exist in order to operate. According to Tabataba'i, which Abdul Rouf quotes, there is a sunnah of the prophet and the infallible Imams that has been passed down through a legitimate sanad. However, because the sunnah's content conflicts with the Qur'an, this school rejects it and sees no value in it (Rouf, 2017).

As a result, the sunnah of the prophet or the Imams is not always accepted by the Ja'fari school. Not all sunnahs are saheeh; some are regarded as *da'if* and *maudlu'*. These include customs that suggest modifications to the Qur'an because they are thought to be in conflict with both the Qur'an and reality. Similar to this, customs that are thought to be *mutawatir* from the Ahlul Bayt are regarded as *da'if* if the hadith text contradicts the meaning of the Qur'an and cannot be understood. "Do not accept any narration ascribed to us (Ahlul Bayt) except that which is in line with the Qur'an and the authentic Hadith," Imam Ja'far stressed to his disciples.

3.2.3. Ijma'

Ijma' serves as the Ja'fari school of law's third source of law. This school defines *ijma'* as the scholars' unanimous agreement on a subject. Ijma, or the consensus of all Muslims on a specific viewpoint, serves as evidence that the prophet supported this viewpoint. Muslims are unable to hold the same beliefs that originate with their own perspectives; instead, their beliefs originate with the prophet or imam. from the prophet or imam (Motahari, 2012).

According to the Ja'fari school of thought, *ijma* can only happen among scholars who were alive during the time of the prophet Muhammad or the Imams. This implies that if an agreement or *ijma'* is made at a time other than this window of time, it will not be enforceable against the subsequent community. Similar to how the sunnah is established through reliable narration, *ijma'* in the eyes of the Ja'fari school is merely an explanation or conclusion about the sunnah rather than a source of independent evidence (Mughniyah, n.d.).

Reason According to the Ja'fari school, reason can serve as a source of law as long as its conclusions do not conflict with the Quran and Sunnah. Therefore, reason can only be used to comprehend laws that are essentially implied in the Qur'an or Sunnah. They contend that sharia and reason are inextricably linked.

Any decision made by reason is also determined by the text, according to the Ja'fari school of thought. They actually hold the theological tenet that good and evil may be determined by reason independently of revelation, which leads to this point of view. A person must act upon knowledge of what is good; conversely, he must refrain from doing anything harmful without waiting for the Shari'ah to provide an explanation (Lufaei, 2019). The Ja'fari school, with two exceptions, does not apply qiyas to interpret Islamic law. First, when the prohibition is made explicit in the text, like in the case of the intoxicating wine. Secondly, whether it is a part of Mafhum Awlawiyyah. So, rather than being based on qiyas, the prohibition of anything other than drunken wine is based on the text (Rouf, 2017).

The Ja'fari school of thought does not accept qiyas as a source of religious law because qiyas' al-Shāri' is man, whereas Allāh is the lawmaker (al-Shāri') of religion. They disagreed with the idea that qiyas was in existence when the Prophet lived and could be used. The Prophet's appointment of Mu'adz is a reason to employ reason in interpreting the Quran and Sunnah, not qiyās. This is due to the fact that applying reason is required of the qadi and mufti when resolving various issues and elucidating halal and haram matters.

We can observe the Ja'fari school's distinctiveness from this point on. The Ja'fari school both broadens and narrows the application of reason, following in the footsteps of Abu Hanifah and Ahmad bin Hanbal. The Qur'an and Sunnah are considered by the Ja'fari school of thought to be the primary sources of knowledge.

The Ja'fari school was split into two during its growth. First, there is the Shiite school known as the Akhbari school, which prefers not to use the ratio; second, there is the Ushulli school, which is more likely to use the ratio when extracting the law. Shaykh Mufid founded the ushulli school, which was later expanded upon by Sayyid al-Murtaḍā and al-Ṭḥsī with assistance from the Buwaih Dynasty. The Safawi dynasty, which was more oriented toward the imam's hadith and fatwa, supported the emergence of the Akhbari school in the tenth century AH/16 AD (Muhtada, n.d.).

3.3 Mut'ah Nikah According to the Jafarist Mazhab

Contract marriage is also known as mut'ah marriage. In this type of mut'ah marriage, the parties to the contract specify how long the marriage will last, e.g., one month, six months, a year, and so forth (Subhan, 2018).

Imam Ja'far allowed mut'ah marriage based on the argument in the Qur'an Surah al-Nisa verse 24, namely :

وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ ۚ كَتَبَ اللَّهُ عَلَيْكُمْ ۖ وَأَجَلَ لَكُمْ مَا وَرَاءَ ذَلِكَ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ
غَيْرِ مُسْفِحِينَ ۚ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا تَرَاضَيْتُمْ بِهِ مِنْ بَعْدِ الْفَرِيضَةِ ۚ إِنَّ اللَّهَ
كَانَ عَلِيمًا حَكِيمًا ۚ (النساء/4: 24)

“(It is also forbidden for you to marry) married women, except for the female slaves (prisoners of war) whom you own¹⁵²) as Allah has decreed over you. It is also forbidden for you to marry married women, except for female slaves (prisoners of war) whom you own¹⁵²) as Allah has decreed over you. For the pleasure you have derived from them, give them their dowry as an obligation.

There is no sin on you in regard to what you mutually agree upon after determining the obligation.153) Verily, Allah is the All-Knowing, the All-Wise." (An-Nisa'/4:24)

From the verse, the focus is on the word *istamta'tum*. The Ja'fari school considers that what is meant by the word *istamta'tum* is *mut'ah* marriage (Subhan, 2018), whereas by other madhhabs the word means marriage as usual or in the Ja'fari madhhab it is called *nikah daim* (marriage by marriage).

Moreover, in one *qiraat* narrated from Ibn Abbas and Ubay bin ka'ab, the verse is added to *Famastatho'tum ila ajalim musamma* (Nursihah, 2016). The Qur'an explicitly permits *mut'ah* marriage, but there is no verse in the Qur'an prohibiting the practice of *mut'ah* marriage. It is from this verse that the Ja'fari school argues that *mut'ah* marriage is permissible.

Certain scholars belonging to Sunni groups believe that Surah al-Nisa verse 24 governs the legitimacy of *mut'ah* marriages. However, these scholars also contend that verse 24 has been equated with another verse, Surah al-Nisa verse 12, which specifies that a woman can be "owned" in two ways: either through marriage or as a slave (Gourij, 1991).

In addition, *mut'ah* marriage was also practiced by the companions of the prophet and justified by the Prophet. Imran bin Hushain said, "The verse relating to *mut'ah* marriage was revealed during the time of the Prophet, and we used to practice it." (Subhan, 2018) It is not forbidden by any verse, and the Prophet himself never forbade it while he was alive. Therefore, the prophet's *sunnah* serves as the second legal foundation that the Ja'fari school uses to determine the law of *mut'ah* marriage. The prophet's remarks and silence regarding his companions' practice of *mut'ah* marriage. Both Sunni and Shi'ah factions concur that *mut'ah* marriage was permitted in the early days of Islam. What The distinction is whether or not *mut'ah* marriage is thereafter prohibited (Mughniyah, n.d.).

Some Sunni scholars claim that the prophet's hadith, which expressly permits *mut'ah* marriage during a war, is the foundation for the legitimacy of *mut'ah* marriage. Subsequently, though, the prophet modified the law regarding *mut'ah* marriage, declaring it unlawful and prohibited (Subhan, 2018). As mentioned in the hadith narrated by Tirmidhi. Muhammad ibn Ka'b reported that Ibn 'Abbas said: "In fact, *mut'ah* marriage was only practiced at the beginning of Islam, when a man came to a country where he had no knowledge of the land, and he married a woman while he was staying there, and she took care of his goods and served him, until the verse "except for their wives or the slaves they own" was revealed: So any intercourse other than in these two ways (marriage and ownership of slaves) is forbidden" (HR Tirmizi).

Sunni scholars also use a hadith narrated by Ahmad Bukhari, and Muslim. "And from 'Ali, that the Prophet. Prohibited *mut'ah* marriage and the meat of domesticated himar at the time of the battle of Khaibar". Thus, according to *ushul fiqh*, the prophet's hadith can supersede the law (*nasakh*) that has been established by the hadith as well.

As for the Prophet's hadith narrated by 'Ali ibn Abi Talib himself, which talks about the prohibition of *mut'ah* marriage, the Ja'fari school still does not accept the prohibition of *mut'ah* even though it is narrated by 'Ali, because not all the narrators are from *ahl bayt* (Nursihah, 2016). In addition, after the issuance of this hadith, scholars agreed that the Prophet still allowed *mut'ah* marriage to resume. On the other hand, while the *sanad* is considered invalid, the *matan* is also considered to contradict the Qur'an. Yet in their belief, it is impossible for the prophet's words to contradict the Qur'an.

According to the Ja'fari school, Caliph Umar's statement that he would punish those who engaged in mut'ah marriage indicates that a large number of the prophet's companions were still involved in this practice at the time of the speech. According to the Ja'fari, Umar's words cannot annul the law that Allah established in the Qur'an (Rouf, 2017). Umar's ban was merely a short-term political ploy. Unfortunately, they say, the prohibition was later made official and thus appeared to be part of the original shar'i provision. According to the Sunni perspective, the ban imposed by Caliph Umar was a validation of the ban that Allah and his messenger had already instituted.

3.4 Analysis of Sunni Ulama Against Mut'ah Nikah Mazhab Jafari'h

According to Imam Thahawi, "Umar had forbade mut'ah marriage in the presence of the Prophet's other companions." This demonstrates that the Prophet's companions agreed and did as he had forbidden. It also demonstrates their agreement that the mut'ah marriage ruling has been overturned. All scholars, with the exception of the Rafidhah (Shi'a group), were in agreement that mut'ah marriage should be prohibited, according to Qadhi Iyadh. Al-Khattabi added that, with the exception of some Shi'ah, the majority of scholars oppose mut'ah marriage (May, 2012). According to Imam Nawawi, the Prophet said:

قد كنت أذنت أكم في الاستمتاع من النساء وإن الله قد حرم ذلك إلى يوم القيامة فمن كان

عنده منهن شيء فليخل سبيله ولا تأخذوا مما آتيتموهن شيئا

"I once made it permissible for you to do mut'ah marriage with women, but Allah has forbidden it until the Day of Resurrection. So whoever still keeps mut'ah women, then clear his way and do not do not take anything from what you have given them."

The meaning of the terms "mansukh" and "nasikh," which refer to the law that abrogates, is explained in this hadith. As stated in the Hadith: "Make a pilgrimage; I once forbidden you from visiting graves." This Hadith clarifies why mut'ah marriage is forbidden until the Day of Judgment, even though the Hadith is understood to imply that the Prophet's companions continued to practice mut'ah during the time of Abu Bakr and Umar because the nasikh had not been transmitted to them.

In his Tafsir Al-Mishbah, modern tafsir expert Prof. Dr. M. Quraish Shihab writes that most scholars believe mut'ah marriage to be haram. Quraish Shihab compares it to the goal of marriage. He claims that mut'ah marriage goes against the intent of the Qur'an and Sunnah, which is for a marriage to last a lifetime, including until the Day of Judgment. Quraish Shihab continued by saying that one goal of marriage is to have children, and that children should receive both of their parents' nurturing and education. This is undoubtedly unachievable if the marriage lasts only a few days or even a few years (Shihab, 2005).

Dr. Didin Hafidhuddin, in his book, Tafsir Al-Hijri: A Study of the Tafsir of Surah An-Nisa ", confirms that temporary marriage (mut'ah) is forbidden because it is not in accordance with the purpose of life intended by Allah SWT. Didin quotes the book Tafsir Rawa'i Al-Bayan that there are several reasons why mut'ah marriage is forbidden. First, in an ordinary marriage, there is a clear line of descent between the parents and children, a clear iddah, and the consequences of inheritance. In contrast, these three elements are ambiguous or nonexistent in contract marriages. Second, temporary marriage (mut'ah) is

expressly forbidden by the Prophetic traditions (musharrihah). Till the Day of Judgment, there isn't a single hadith that permits mut'ah marriage without a clear prohibition. Thirdly, Umar ibn al-Khattab, upon becoming caliph, reaffirmed the Companions' agreement (ijma) that mut'ah marriage is forbidden. Fourthly, getting married Unlike regular marriage, mut'ah marriage has no lofty objectives like raising children in a religious manner, creating a peaceful family, or having pious children. Every mut'ah marriage is arranged out of passion. As a result, it bears a striking resemblance to zina (yusybihu al-zina), leading the scholars' ijma to concur that mut'ah marriage is forbidden.

Mut'ah marriages are classified by the Shafi'iyah as invalid (broken) marriages. The primary explanation for this is that mut'ah marriages are time-limited. An agreement on time cancellation of the contract is possible. Imam Shafi'i contends that mut'ah marriage is prohibited in this instance. His case is supported by a number of well-known customs that forbid mut'ah marriage. First, the Hadith of 'Ali ibn Abi Talib states that the Prophet forbade the eating of the flesh of a donkey that was kept on the day of the battle of Khaibar, which is when the Prophet forbade mut'ah marriage. Second, the custom passed down from Rabi' ibn Sabrah's father, according to which the Prophet forbade mut'ah marriage.

3.5 Social Impact of Mut'ah Marriage

3.5.1. Lack of Recognition from State and Religion

As an example of research on marriages that occur in Puncak Cisarua (Arifin, 2020), it is unlike marriages that are usually carried out by the community in general, because this marriage is carried out without a civil record from the KUA. In addition, in the implementation of this mut'ah marriage, the perpetrators who carry out the contract without any guardians and witnesses from both parties, even if there are guardians and witnesses who act in essence are not true guardians and witnesses in accordance with the rules applied by religion, guardians and witnesses who usually carry out mut'ah marriage contracts as described by Mr. Enjang are only fake guardians and witnesses.

With unclear status and recognition from the state and religion, it is clear that it is very detrimental, especially from the women's side, regarding women's rights in marriage such as maintenance and inheritance. Also the status of children born as a result of mut'ah marriage, then the child is a burden to the mother. The fate of the child becomes a victim of an act committed only for pleasure and material gain. This is a portrait of social inequality where mut'ah marriage behavior should have a broad view, especially of the impact that will occur on social himself and his community, as well as on the fate of offspring who should get love and attention from their parents. Education and good direction for his future.

3.5.2. Undermining the Dignity and Morals of Women

In history, women are known as weak creatures, Islam makes women honorable creatures, one of which is the process of marriage, the purpose of Islam making marriage is a way to raise the dignity and dignity of women from oppression and injustice. The purpose of Islam making marriage is a way to raise the dignity of women from oppression and injustice. How not, long ago in the jahiliyah period before the arrival of Islam, women were like goods that could be traded at any time, with the existence of Islam, women's dignity was raised because the rules in Islam are very concerned about women's rights, they get maintenance and inheritance like men, this is where the justice of Islamic rules is seen.

Likewise with mut'ah marriage, as discussed, mut'ah marriage (Ali, 2016) only aims to satisfy lust for the man, and only fulfill material needs for the woman. If contract marriages are like this, then what is the difference between this condition and the zahiliyah era. It is like merchandise that is bought, used and then discarded, and it appears to degrade the status of women because it is as if they are renting themselves out to men to fulfill their lust for a certain period of time and in return for a certain amount of money.

3.5.3. Destroying the Purpose of Marriage

Article 1 of the 1974 Marriage Law explains that the purpose of marriage is to form a happy and lasting family. The Compilation of Islamic Law also states that marriage according to Islam is a very strong contract. The word eternal in the marriage law as well as the word very strong contract are words that are in harmony, which means that marriage is essentially only because it wants to form a strong and eternal family, strong meaning unbroken and eternal meaning forever (Ali, 2016). When compared to the objectives in contract marriages, which aim to fulfill biological and material needs, it is clear that this deviates from the objectives described in the marriage law as well as in the Compilation of Islamic Law.

Mut'ah marriage, which is only limited by time, causes this marriage to depart from existing norms and objectives. Indirectly the existence of this mut'ah marriage undermines the purpose of marriage as usual. As the narrative of one of the ustads who is among the Cisarua, they regret the existence of this mut'ah marriage phenomenon very much, even though according to their narrative, socialization about the impact and consequences of mut'ah marriage has been held optimally to the Cisarua community. They warned the community not to fall into actions that could destroy their future lives by doing this momentary marriage.

3.5.4. Children's Nasab is Neglected

In the act of adultery, if a woman becomes pregnant and gives birth to a child, then the child is not related to the father, the father also has no obligation to provide or find clothing and food for the child and his wife and does not inherit his father's property and vice versa. And in contract marriages, this situation is the same, where the man is not obliged to provide for his wife, husband and wife do not inherit each other, although the child can inherit the property of the father and mother. In adultery the issue of children is also neglected. The child that is born is not considered to be the father's child - that is why he does not inherit his father's property - and makes a mess of the human lineage because if this has been done by many people, then the children of adultery that are scattered along with their descendants will certainly have unclear lineage, thus obscuring the relationship between individuals in society, these children do not have a clear father, If the mother commits adultery or remarries, and worse, if the mother commits adultery again with many other men and gives birth to many children, then the adulterous children will lose their father and the mother herself will have difficulty or will not be able to find food and clothing for her many adulterous children (Muhajir, M., & Kamil, 2020).

Almost the same thing would happen in a mut'ah marriage. Many children from mut'ah marriages will have different fathers so it is difficult to imagine how they could possibly live in harmony with one mother ten fathers or one father ten mothers, for example. mut'ah marriage also certainly disrupts human descendants up and down to the left and right, very troublesome for the mother in meeting the needs of her child, the difficulty of determining whose child the child is if he is married in a relatively short period of time, one hour or one day for example. this is what will happen if this contract marriage is not carefully addressed.

3.6. Comparative Analysis of Legal Reasoning Methodologies between Ja'fari and Sunni Schools Regarding Mut'ah Marriage

The comparative analysis of legal reasoning methodologies between the Ja'fari and Sunni schools concerning mut'ah marriage uncovers significant complexities and differences in opinion. The Ja'fari school employs a literal interpretation of Quranic verses and relies on narrations from the Ahl al-Bayt, while the Sunni school uses a more comprehensive approach, incorporating various hadiths and the consensus of scholars (Mutahhari, 2010). These methodological divergences reflect fundamental differences in the hierarchy of legal sources and the contextual understanding of Islamic law's development in its early period (Motzki, 2002; Niedermeier, 2020).

The stark differences in opinion on mut'ah marriage between the Ja'fari and Sunni schools highlight the multidimensional nature of Islamic legal sources and the various ways they can be understood and applied in different contexts (Imam et al., 2023; Leckey, 2017). Ongoing dialogue and constructive engagement among scholars from diverse traditions are essential for developing a more inclusive understanding of this rich Islamic intellectual heritage.

3.7. Historical Contextualization of Divergent Views between Ja'fari and Sunni Schools

The historical contextualization of divergent views between the Ja'fari and Sunni schools regarding mut'ah marriage reveals the crucial role of historical developments and socio-political contexts in shaping interpretations of Islamic law. The political schism following Prophet Muhammad's demise laid the foundation for interpretative differences (Malam, 2021), with the Ja'fari school maintaining practices associated with Ali's legacy and the Sunni school adopting interpretations aligned with the ruling authority (Ahmad, 2014). These socio-political factors influenced specific interpretations and shaped distinct communal and theological identities, reinforcing divergent views on legal issues like mut'ah marriage (Amin, 2014).

While historical context is crucial for appreciating the origins and significance of these differences, it should not obscure the intellectual integrity and sincere dedication to interpreting sacred sources within both Ja'fari and Sunni traditions. The debate on mut'ah marriage cannot be reduced to a mere product of political schism or identity differences but must be understood as a result of genuine differences and substantive legal argumentation within complex and diverse intellectual traditions (Ahmady, 2020; Enayat & Enayat, 1982). Engaging constructively with this rich jurisprudential heritage requires acknowledging the intricate interaction of historical, social, and intellectual factors shaping Islamic legal thought.

3.8. Implications of Pluralism in Islamic Jurisprudence

The divergent views between the Ja'fari and Sunni schools regarding mut'ah marriage reflect the inherent pluralism within Islamic jurisprudence. This pluralism enriches the Islamic intellectual tradition with a broad spectrum of perspectives, enabling Islamic law to remain relevant in the face of new challenges (Duderija, 2014; Kamali, 2015). However, it also creates challenges in achieving consensus on controversial issues, potentially leading to divisions and tensions within Muslim communities (Hamoudi, 2017).

Navigating legal pluralism requires a balanced approach that recognizes diversity as an integral part of the Islamic intellectual tradition and values differences as results of

sincere legal reasoning (Abou El Fadl, 2014). Genuine inter-school dialogue and comparative education can foster greater understanding and appreciation for the complexity and nuances of each position (Duderija, 2014). By embracing pluralism and seeking common ground amidst diversity, Muslims can develop models of constructive engagement with their legal sources that align with contemporary realities and aspirations, ensuring Islamic law remains relevant and responsive to modern challenges (Kamali, 2009).

3.8. Critical Evaluation of Arguments from Ja'fari and Sunni Schools

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3.9. Social and Legal Implications

The divergent views between the Ja'fari and Sunni schools concerning mut'ah marriage have generated significant debate among Muslim communities, often centering on the interpretation of sacred texts and the authority of various schools in interpreting these sources (al-Kifae, 2010). The resulting tensions can complicate relations between Shi'a and Sunni communities and pose challenges in achieving mutual understanding and cooperation. Furthermore, these divergent views have implications for policies and laws governing marriage and women's rights in Muslim-majority countries, reflecting the influence of diverse religious interpretations on legal systems and social norms (Böttcher, 2002).

The complexity of addressing issues related to mut'ah marriage in diverse Muslim societies underscores the need for ongoing dialogue and cooperation between scholars and legal authorities from various schools (Fauzi, 2021; Huis, 2015). Developing more integrated and coherent approaches to marriage and divorce issues in pluralistic Muslim societies is crucial for promoting clarity, protecting the rights and welfare of individuals involved, and fostering social harmony (Azzouz, 2022). This requires a nuanced understanding of the interplay between religious interpretations, legal frameworks, and societal norms, as well as a commitment to constructive engagement and mutual understanding among diverse Muslim communities.

3.10. Contemporary Developments in Thought Regarding Mut'ah Marriage

In contemporary Islamic legal thought, some Sunni scholars have begun to reconsider the traditional approach to mut'ah marriage, acknowledging its existence in early Islamic sources and calling for a re-evaluation of its prohibition in light of contemporary social realities (Hanum et al., 2024). Meanwhile, Shi'a scholars have increasingly sought to understand mut'ah marriage in its broader historical and social context, exploring ways to address potential abuse and promote women's rights within this practice (Lubis et al., 2021). These developments reflect the dynamic nature of Islamic legal thought and the ongoing efforts to interpret and apply religious principles in response to changing circumstances.

The debate on mut'ah marriage among contemporary scholars highlights the resilience and flexibility of the Islamic legal tradition, as well as the importance of ongoing dialogue and exchange of ideas among various schools and perspectives (Hasannia & Masoudian, 2021). By engaging with textual sources, examining historical precedents, and considering current social realities, scholars from diverse backgrounds can contribute to the development of a more nuanced and inclusive understanding of Islamic law that responds to the needs and aspirations of contemporary Muslims (Helandri et al., 2023). This process of critical reflection, constructive dialogue, and creative adaptation is essential for ensuring the continued relevance and vitality of the Islamic legal tradition in the modern world.

3.11. Inter-School Dialogue: Towards Understanding and Cooperation

Despite significant differences in viewpoints between the Ja'fari and Sunni schools regarding mut'ah marriage, there have been important efforts to establish dialogue and reconciliation between these two traditions (Krause et al., 2019). Prominent scholars from both schools have engaged in substantive discussions, exploring textual sources and legal foundations, considering broader historical and social contexts, and identifying points of commonality and potential areas for cooperation (Kayaoglu, 2015). These dialogue efforts reflect a growing recognition of the importance of cross-school exchanges in addressing challenges faced by Muslims in the contemporary world (Hakim, 2021).

Inter-school dialogue on mut'ah marriage emphasizes the diversity of opinions and interpretative pluralism within Islamic legal tradition, stressing that differences should be understood within the context of a broader spectrum of diversity in Islamic legal thought (Amal, 2020). By acknowledging shared concerns and emphasizing common grounds, such dialogues seek to establish a foundation for cooperation and mutual understanding, fostering respect, tolerance, and collaboration among diverse Muslim communities (Elgvin, 2023; Ismail, 2015). Ultimately, inter-school dialogue reflects a growing commitment in contemporary Islamic legal thought to constructive engagement and collaborative efforts in addressing the complexities of the modern world, contributing to the development of a more nuanced and inclusive understanding of Islamic law.

3.12. The Debate on Mut'ah Marriage: Bridging Tradition and Contemporary Demands

The debate on mut'ah marriage has significant implications for broader contemporary issues concerning women's rights and gender equality in Muslim societies (Zuhriyah & Muna, 2023). Critics argue that this practice perpetuates gender inequalities, placing women in vulnerable positions without adequate legal protections and potentially

facilitating exploitation and abuse (Nisa, 2021). Conversely, proponents contend that mut'ah marriage can promote women's rights and autonomy in certain contexts, providing a legal framework and protection for women's relationships while allowing them to maintain personal autonomy (Makmun, 2021).

At a deeper level, the debate on mut'ah marriage reflects ongoing tensions between traditional religious interpretations and modern demands for gender equality in Muslim societies (Dewi, 2020; Helandri et al., 2023; Yusuf & Azizah, 2021). This controversy can be understood as a manifestation of broader negotiations about gender roles, sexuality, and religious authority in changing Muslim societies, indicating the need for ongoing critical reflection, dialogue, and reform within Islamic legal and theological traditions (May, 2012). Resolving debates on issues such as mut'ah marriage in a manner that respects the integrity of religious traditions while advancing justice and dignity for all individuals requires a process of careful and sustained engagement and evolution.

3.13. Embracing Pluralism and Dynamics in Contemporary Islamic Law

A comparative analysis of nikah mut'ah between the Ja'fari and Sunni schools reveals an extraordinary level of complexity and diversity within the Islamic legal tradition (Asghari, 2023). The differences in conclusions regarding the validity and legal status of this practice reflect distinct hermeneutical and methodological approaches, influenced by various historical, social, and political factors (Kayane, 2020). This demonstrates that Islamic law is not a monolithic system, but rather a rich mosaic of diverse traditions and perspectives, sometimes harmonious and sometimes competing (Jiwa, 2015).

The most important lesson from this comparative analysis may be the need for an understanding of Islamic law that embraces pluralism and welcomes the challenges of the modern age (Asghari, 2023; Jiwa, 2015; Kayane, 2020; Mahmood et al., 2024). By adopting a more inclusive and nuanced outlook, Muslims can effectively engage with contemporary challenges, seeking common ground among diverse perspectives and developing innovative solutions that remain faithful to the enduring values and principles of their tradition. Embracing the spirit of inquiry, dialogue, and adaptation that has long characterized the best of Islamic legal thought is key to ensuring the relevance, dynamism, and responsiveness of this tradition amidst the ever-shifting realities of the Muslim world today. In doing so, Muslims will fulfill the aims of justice and compassion at the heart of Islamic law while making a valuable contribution to the development of human civilization as a whole.

4. CONCLUSION

This comparative analysis of mut'ah marriage between the Ja'fari and Sunni schools reveals the complexity and diversity within Islamic legal traditions. The divergent views on this practice stem from distinct hermeneutical approaches and methodologies, shaped by various historical, social, and political factors. This study demonstrates that Islamic law is not monolithic, but rather a rich mosaic of diverse perspectives. The ongoing debate surrounding mut'ah marriage reflects broader tensions between traditional interpretations and contemporary demands for gender equality in Muslim societies. Moving forward, embracing legal pluralism while seeking common ground will be crucial for developing innovative solutions that remain faithful to Islamic principles while addressing modern challenges. This research underscores the need for continued inter-school dialogue and comparative education to foster greater understanding and

cooperation among diverse Muslim communities in navigating complex issues at the intersection of religion, law, and society.

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