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## Protecting Women's Interest (Maslahah) in Marriage Through Appointment of a Guardian (Wali) Under Islamic Law

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PERTANIKA JOURNAL OF SOCIAL SCIENCE AND HUMANITIES

Volume: 23 Pages: 75-84 Special Issue: SI

Published: NOV 2015

Document Type: Article

### Abstract

The term Wali (loosely translated as guardian in English) in general refers to a person who consents to or executes a marriage contract. Under the majority school of law (jumhur) including the Shafie, wali constitutes one of the pillars of marriage, the absence of whom will render the marriage void. However, under the Hanafi school of law, wali is not a pillar but merely one of the conditions for execution of a marriage contract and his absence does not appear to render the marriage invalid so long as the marriage fulfils some other conditions and the wali does not intervene in the marriage of his ward. Nevertheless, this condition does not deny the importance of wali in the marriage of his ward. This paper attempts to highlight and emphasise on the fact that the appointment of wali in marriage of a woman is significant in protecting the women's or the wards' welfare (maslahah). The paper also examines the importance and wisdom of having wali in marriage of a woman and explores why the consent of wali is considered crucial particularly under the majority school of law. Additionally, a comparative analysis on the requirement of wali under the law in Malaysia and several Muslim countries will be conducted. The paper is based primarily on library research though interviews with certain scholars and their opinions on the importance of having wali in marriage have been taken into consideration. It is believed this study will contribute significantly to knowledge on this subject especially on the philosophy and wisdom of having a guardian (wali) under Islamic law. This is in the face of a rising trend among many Muslim women nowadays (with special reference to Malaysia) to disregard the need for a wali while contracting their marriage.

### Keywords

Author Keywords: [Marriage](#); [Guardian in marriage \(Wali\)](#); [Women's Interest](#); [Maslahah](#)

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### Funding

Funding Agency	Grant Number
International Islamic University Malaysia through EDWB research grant scheme	

[View funding text](#)

### Publisher

UNIV PUTRA MALAYSIA PRESS, SERDANG, SELANGOR, 00000, MALAYSIA

### Categories / Classification

Research Areas: Social Sciences - Other Topics

Web of Science Categories: Social Sciences, Interdisciplinary

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