

# THE CONCEPT OF KAFA'AH IN MARRIAGE ACCORDING TO ISLAMIC FAMILY LAW AND ITS RELEVANCE IN THE MODERN ERA

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*Inputed* : April 25, 2025  
*Accepted* : April 30, 2025

*Revised* : May 10, 2025  
*Published* : May 30, 2025

## Abstract

*Kafa'ah is the principle of equality in marriage widely discussed in classical Islamic jurisprudence literature, encompassing aspects of religion, lineage, economic status, profession, and honor. This concept aims to maintain the welfare and stability of the household. Although kafa'ah is not included in the pillars or requirements for valid marriage according to Islamic law, in social practice—especially in traditional Indonesian communities—the consideration of kafa'ah is still used, often as a reason for marriage rejection due to differences in social status or family background. However, rapid social change has driven a shift in the meaning of kafa'ah, especially among the younger generation and urban communities. This study uses a qualitative normative approach with a literature review method. Data were obtained from fiqh books of four schools of thought, laws and regulations such as Law Number 1 of 1974 and the Compilation of Islamic Law, as well as secondary sources in the form of scientific journals and social surveys. Data analysis techniques were carried out descriptively-analytical and contextually with a maqashid sharia approach. The results of the study indicate that although kafa'ah does not have formal legal force in national law, this concept is still alive in the community's culture. The relevance of kafa'ah in the modern era lies in the substantial values that support the goals of marriage, such as a shared vision for life, religious commitment, and morals. Therefore, kafa'ah needs to be understood as a dynamic concept that can be reinterpreted contextually to create a family that is peaceful, loving, and compassionate.*

**Keywords:** *Kafa'ah, Islamic Family Law, Marriage*

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### Citation:

Septiani, R. 2025. The Concept of Kafa'ah in Marriage According to Islamic Family Law and its Relevance in the Modern Era. MSJ: *Majority Science Journal*, 3(2), 253-262

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## 1. Introduction

Marriage is a social and spiritual institution that holds a central place in the Islamic legal system and Muslim society. Islam views marriage as a contract that is not only contractual, but also sacred, containing the goal of building a family that is *sakinah*, *mawaddah*, and *rahmah* (KHI, Article 3 paragraph 1; Al-Qur'an, Ar-Rum: 21). In the context of classical fiqh, scholars developed various legal principles to ensure the continuity and balance of the household, one of which is the concept of *kafa'ah* (equivalence or equality between prospective marriage partners), which has strong social, cultural, and moral dimensions (Ali, 2019; Qadir, 2021).

Historically, *kafa'ah* has been debated in various schools of fiqh, such as the Hanafi, Shafi'i, Maliki, and Hanabilah. The Hanafi school emphasizes *kafa'ah* as an essential requirement for maintaining family honor, while the Shafi'i school emphasizes religious and moral elements as the core of *kafa'ah* (Az-Zuhaili, 2007; Hasan, 2020). In practice, *kafa'ah* encompasses aspects of religion, lineage (lineage), occupation, wealth, freedom (slave or free), and morals (Azzam, 2019). Scholars agree that *kafa'ah* is not intended to limit an individual's right to choose a partner, but rather to promote social harmony within the marriage bond (Rofiah, 2020).

The statement means that the concept of *kafa'ah* in marriage is not meant to restrict a person's freedom to choose their life partner. Instead, its primary purpose is to ensure

compatibility that supports long-term harmony within the marital relationship. Scholars generally view kafa'ah as a social consideration, not a legal barrier. It is meant to guide families and individuals in making wise and thoughtful decisions that can reduce potential conflict, misunderstanding, or social pressure that might arise from major differences between spouses. In this context, kafa'ah emphasizes balance—not as a strict requirement, but as a way to promote mutual respect and social stability within the union. For example, while differences in background, education, or economic status may not invalidate a marriage, they can sometimes create challenges. Kafa'ah encourages addressing those differences before marriage, not to prevent love or commitment, but to foster shared understanding and a solid foundation. Ultimately, the principle is not about control or social hierarchy; it is about helping couples build a life based on shared values and mutual acceptance. When interpreted with flexibility and wisdom, kafa'ah supports—not hinders the formation of a peaceful, respectful, and enduring marriage.

However, with the development of modern society and increasing awareness of human rights, gender equality, and individual autonomy, the concept of kafa'ah has faced serious challenges. Many believe that kafa'ah has lost its relevance in today's social context, which prioritizes the principles of freedom of choice, education, and emotional compatibility (Fatimah, 2023; Widodo Sari, 2021). In Indonesian positive law, for example, there is no explicit provision that mentions kafa'ah as a valid requirement for marriage, as reflected in Law No. 1 of 1974 and the Compilation of Islamic Law (KHI).

This indicates a paradigm shift from a normative-textual approach to a sociological-constitutional approach in responding to the dynamics of marriage (Rofiq, 2020). Previous studies have examined the concept of kafa'ah from various perspectives. For example, a study by Ramadani (2020) highlighted the imbalance in the application of kafa'ah, which is often used to reject partners based on economic status and lineage, without considering spiritual and moral qualities. Meanwhile, Hasanah M. (2021) examined kafa'ah in religious court practice in Indonesia and found that kafa'ah considerations tended to be disregarded in judges' decisions, especially in the absence of objections from guardians or family members. Comparative studies across Muslim countries also show that kafa'ah tends to be deconstructed in modern family law, as seen in Tunisia, Egypt, and Turkey, which prioritize personal freedom (Arabi, 2021; El Fadl, 2018).

The sentence explains how the concept of kafa'ah or compatibility in marriage—is applied in religious court practices in Indonesia, and how it is generally not treated as a decisive factor in legal rulings. In practice, judges in Indonesian religious courts often do not use kafa'ah as a reason to approve or reject a marriage, especially when there are no objections from the bride's guardian or family. This shows that the legal system tends to prioritize consent and agreement between the marrying parties over traditional expectations of social or economic equality. It also highlights that this trend is not unique to Indonesia.

When comparing how kafa'ah is treated in other Muslim-majority countries like Tunisia, Egypt, and Turkey, a similar pattern appears. In these countries, modern family laws have shifted focus away from social class or family background and moved toward protecting individual choice and personal freedom in marriage. This suggests a broader move across the Muslim world to reinterpret kafa'ah not as a strict requirement, but as a flexible guideline one that should not stand in the way of two people marrying, as long as they both give full consent and are legally eligible. In summary, kafa'ah today is seen less as a legal condition and more as a cultural or ethical consideration, particularly in countries with modern legal frameworks.

However, there are few studies that explicitly discuss the recontextualization of the kafa'ah concept in modern urban society in Indonesia, which experiences high levels of social mobility and values of gender equality. This gap in this research is the lack of studies that examine how kafa'ah can be reinterpreted within a contemporary Islamic family law framework that is inclusive and adaptive to the current social context (Harahap Maya, 2023; Siregar, 2022). Most studies still focus on textual interpretations of classical Islamic jurisprudence, without developing a contextual approach based on maqasid al-shari'ah or the principle of maslahat (benefit-oriented). In the study of Islamic family law, there is an urgent

need to reposition kafa'ah not as a rigid legalistic requirement, but as an indicator of maslahat that can be adapted to the socio-cultural conditions of society. This approach aligns with the development of social jurisprudence, which prioritizes the principles of contextualization and *ijtihad* in responding to changing times (Hallaq, 2015; Kamaruddin, 2021).

Therefore, this study attempts to offer novelty in the form of strengthening the *maqashid* approach to kafa'ah in the context of contemporary urban marriage, as well as formulating more applicable kafa'ah criteria in national family law policy. The sentence emphasizes that in the field of Islamic family law, there is a growing need to rethink how kafa'ah is understood and applied. Instead of treating it as a fixed legal rule that must be strictly followed, kafa'ah should be seen as a flexible guideline that promotes the overall well-being (*maslahat*) of the marriage. This means that the concept should be adjusted according to the social and cultural realities of different communities, rather than being based on rigid standards such as class, lineage, or profession.

This approach is in line with the idea of social-based Islamic legal thinking, which encourages laws to be responsive to time, place, and changing social norms. It supports the use of *ijtihad* independent reasoning—to reinterpret traditional concepts like kafa'ah in ways that are more relevant and compassionate in today's world. Building on that perspective, the study proposes a new contribution by strengthening the use of *maqashid syariah* the higher objectives of Islamic law as a basis for understanding kafa'ah. Specifically, it focuses on the realities of urban life today, where marriage decisions are more often influenced by shared values and emotional readiness rather than family background. The study also seeks to create more practical and inclusive criteria for kafa'ah that could be considered in shaping national policies on Islamic family law.

This research is important because it touches on a social reality still felt in Indonesian society, particularly in matters of marriage. Many couples face rejection from their families simply because of differences in ethnicity, economic background, or social status. Cases like these demonstrate that although kafa'ah is not explicitly mentioned in state law as a valid requirement for marriage, the concept remains alive and powerfully influential in societal perspectives. Many families still uphold the principle of "equality" in its traditional form: partners should be from the same ethnicity, have similar economic backgrounds, or come from comparable social backgrounds (Afifah, 2023; Nugroho, 2021).

In an increasingly open society, this situation creates tension between old values and new realities. The younger generation, especially those pursuing higher education, are beginning to question the meaning of kafa'ah. For them, compatibility is measured by deeper factors: shared values, religion, education, and a vision for building a family. This is reinforced by the findings of Rahman Hasan (2022), who showed that Muslim students prioritize shared faith and mindset over economic status when choosing a partner. However, on the other hand, the concept of kafa'ah is also often used as a justification to maintain inequality. Research by Mansur Diah (2023) shows that in some matchmaking practices, kafa'ah is used to perpetuate male dominance and suppress women's position in the partner selection process. Therefore, this study aims to re-explore the meaning of kafa'ah in a more just manner not as a barrier, but as a bridge between the noble values and justice that exist in society.

Unlike previous studies that tend to examine the concept of kafa'ah normatively based on classical *fiqh* or as a social norm in traditional societies, this study presents a new approach through the recontextualization of kafa'ah using the perspective of *maqashid sharia* and an interdisciplinary approach between Islamic law, family sociology, and gender studies. This study specifically examines the absence of kafa'ah regulations in Indonesian positive law and highlights the dilemma between social values that still maintain status hierarchies and the principle of equality in modern law.

By focusing on urban Muslim communities in Indonesia, this study offers a new theoretical construction in the form of a contextual kafa'ah model that is more adaptive, humanistic, and applicable in building harmonious households in an era of increasing social mobility and gender equality. Based on this information, the purpose of this study is to

analyze the concept of kafa'ah in marriage from the perspective of Islamic family law and assess its relevance in the social and legal context of Indonesian Muslim society in the modern era.

## 2. Method

This research uses a normative qualitative approach with a library research method. This approach is used to explore, describe, and analyze the concept of kafa'ah in Islamic family law and assess its relevance in the social and legal context of the modern era. This research is descriptive-analytical, namely describing legal and social phenomena systematically, then analyzing them critically using the framework of Islamic law, maqashid sharia, and national positive law. This research was conducted at the Faculty of Sharia and Law, Syarif Hidayatullah State Islamic University (UIN) Jakarta as a center for Islamic law and contemporary family law literature, with access to various collections of classical books and national-international scientific journals. The research period lasted for four months, from January to April 2025. Data in this study were collected through primary and secondary literature searches.

1. Primary sources consist of classical fiqh books such as Al-Mabsuth, Al-Umm, Al-Mudawwanah, and Al-Mughni, as well as Indonesian positive legal texts such as Law Number 1 of 1974 concerning Marriage, the Compilation of Islamic Law (KHI), and verses of the Qur'an and hadith related to kafa'ah.
2. Secondary sources include nationally (SINTA) and internationally (Scopus) accredited scientific journals, contemporary Islamic family law books, academic opinion articles, and previous research results related to marriage, gender, and social dynamics.

Data collection techniques were conducted through documentation, namely by searching, reading, recording, and classifying relevant literature. Researchers also used online searches through Google Scholar, ScienceDirect, and national journal databases to access the latest scientific publications from 2019–2025. The data in this study were analyzed descriptively and analytically with a normative and contextual approach. The first step was carried out by classifying data sources based on their type, namely classical fiqh literature, positive legal regulations, and contemporary references.

Next, researchers conducted a normative analysis of fiqh texts from various schools of thought to understand the concept of kafa'ah doctrinally. Juridical analysis was conducted on the Marriage Law and the Compilation of Islamic Law to examine the position of kafa'ah in the national legal system. A contextual approach was applied to assess the extent to which the concept of kafa'ah remains relevant in modern Muslim society, taking into account the principles of maqashid al-shari'ah, the value of gender equality, and urban social dynamics. The results of this entire analysis process were then synthesized to formulate a conceptual model of kafa'ah that is adaptive and applicable in the context of Islamic family law in the modern era.

**The following is a flowchart of the research conducted:**

### Diagram Alur Metode Penelitian

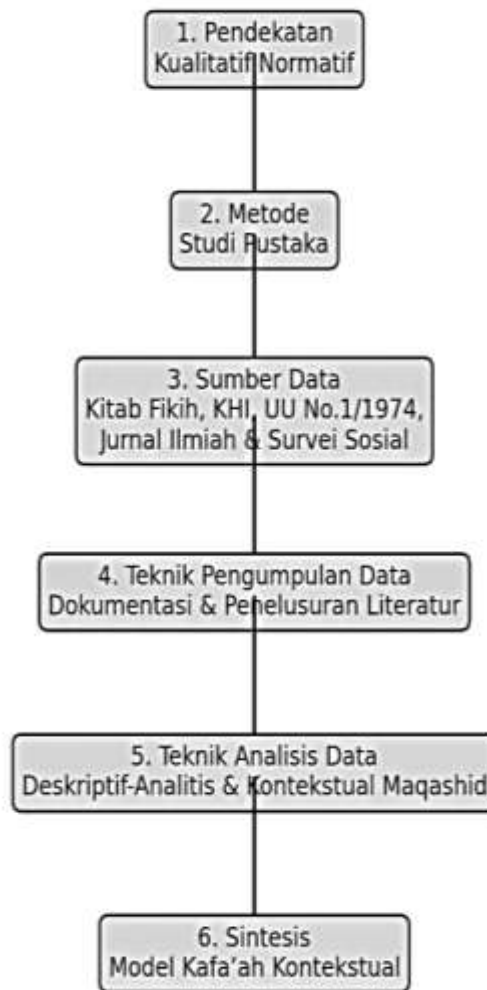


Figure 1. Research Flow Diagram

### 3. Results and Discussion

#### a. The Normative Concept of Kafa'ah in Classical Fiqh Literature

Analysis of classical jurisprudence books shows that the concept of kafa'ah is an important part in determining the suitability of a partner before marriage. In the view of Hanafiyah scholars, kafa'ah is interpreted as equality in aspects of religion, lineage, profession, wealth and freedom (Az-Zuhaili, 2007). This opinion refers to the hadith of the Prophet Muhammad SAW which emphasizes the importance of choosing a partner who is compatible in religious and moral aspects. In Ibnu Qudamah's *Al-Mughni*, kafa'ah is explained as a preventive device to maintain household honor and stability (Qudamah, 1996).

However, there are differences between schools of thought. The Maliki school of thought only recognizes religion and freedom (not slavery) as important aspects of kafa'ah. Meanwhile, the Syafi'iyah emphasize kafa'ah in religious and moral aspects. The Hanbali school recognizes kafa'ah in aspects of work and social reputation, but does not make it a legal condition for marriage (Al-Kasani, 2000). This analysis shows that from the start, kafa'ah was not a legal requirement for the validity of a marriage, but rather a social aspect that was flexible and could change according to the context of society. In fact, several contemporary scholars such as Wahbah Az-Zuhaili and Yusuf al-Qaradawi state that kafa'ah is not an absolute necessity as long as there is consent between the couple and the guardian (Az-Zuhaili, 2007; Qaradawi, 1998).

## **b. The Position of Kafa'ah in Indonesian Positive Law**

A study of Law No. 1 of 1974 and the Compilation of Islamic Law (KHI) shows that the term kafa'ah is not explicitly mentioned as a valid requirement for marriage. In the Marriage Law, the only valid requirements are the *ijab-qabul* (consent), the presence of a guardian, and two witnesses (Articles 2 and 6), without mentioning social status (Hukumonline, 2022). The KHI, as a guideline for religious court practice, also only addresses the importance of mutual consent and religious and age-appropriateness, without mentioning kafa'ah as a legally binding principle (MA, 2018) .

In Religious Court decisions, the principle of kafa'ah is also not used as a legal basis for annulment or rejection of marriages. A study by Zainuddin (2021) at the Sidoarjo Religious Court showed that cases of marriage rejection due to differences in social or economic status were often rejected by judges, on the grounds that kafa'ah is not a valid requirement regulated by law. This demonstrates that Indonesia's national legal system takes a substantive approach to marriage—emphasizing good intentions, maturity, and moral responsibility over equivalence of social status. In the context of Religious Court decisions in Indonesia, the concept of kafa'ah is generally not used as a legal reason to cancel or reject a marriage. Even if there are concerns about differences in social class or financial background between the couple, judges typically do not treat these as valid grounds to annul a marriage. This is because kafa'ah is not listed as a formal legal requirement under national marriage laws.

This situation reflects the way the Indonesian legal system views marriage. Rather than focusing on whether the couple comes from similar backgrounds, the law prioritizes more meaningful elements—such as mutual consent, emotional and mental maturity, and a sense of moral responsibility. In other words, what matters most is the readiness of the individuals to build a stable and respectful household, not whether their families are considered socially equal. This shows that the legal framework in Indonesia takes a substantive approach to marriage. It looks beyond surface-level social differences and instead considers the real purpose of marriage: creating a healthy, committed, and harmonious relationship. As a result, traditional ideas like kafa'ah may still carry cultural weight, but they do not have formal legal power in court decisions.

## **c. Public Views on the Practice of Kafa'ah in the Modern Era**

To understand social realities, researchers examined the results of several surveys and field studies from social institutions and scientific journals. According to a national survey by the Indonesian Survey Institute (LSI, 2023), 68% of Muslim respondents aged 20–35 stated that economic status or descent were not primary considerations in choosing a partner. Instead, religion and personality were the primary factors. A study by Maulidiyah (2022) in Yogyakarta showed that couples from different economic backgrounds did not face significant obstacles in their marriage, provided they shared values and maintained healthy communication.

Conversely, some cases of forced inter-social marriages actually led to domestic conflict (Rahmah, 2021). Meanwhile, a study by Ahmad, (2022) in West Java found that the practice of kafa'ah (unmarried marriage) remains strong within Islamic boarding schools (*pesantren*) and local aristocratic families, particularly in areas of lineage and profession. Guardians' rejection of prospective partners deemed "unsuitable" still occurs, despite the lack of formal legal basis. This suggests that kafa'ah remains a cultural norm, not a legal one.

## **d. Social Dynamics and Challenges of Implementing Kafa'ah**

In an increasingly egalitarian modern society, the concept of kafa'ah faces various challenges. One of these is the rise in inter-ethnic, inter-religious (in the context of converts to Islam) marriages, as well as differences in social class. Data from the Central Statistics Agency (BPS) (2022) shows a 23% increase in inter-regional and inter-social marriages in the past five years. This indicates a shift in values from

traditional social structures to more fluid and open ones. However, traditional values remain influential in some communities.

A study by Damayanti (2023) showed that 38% of upper-class families in East Java still consider family background when approving their children's marriages. This demonstrates that although the law does not require *kafa'ah*, this value still carries weight in socio-cultural considerations. In today's modern society, which is becoming increasingly focused on equality and individual freedom, the traditional concept of *kafa'ah* is being challenged in various ways. One of the main challenges comes from the growing number of marriages that cross ethnic, cultural, or even religious boundaries particularly in cases where one partner has converted to Islam. Differences in social class are also becoming less of a barrier for couples who prioritize shared values over background.

The increase in these types of marriages shows a shift in how people view compatibility. Instead of strictly following traditional structures based on lineage or social status, many now focus on personal connection, emotional readiness, and mutual respect. Social values are becoming more fluid, allowing individuals to choose their life partners based on love and shared goals, rather than family expectations. However, traditional views have not disappeared completely. In some communities, especially among wealthier or more conservative families, considerations like family background or social rank still play a role in approving marriages. This shows that while *kafa'ah* may no longer be enforced legally, it continues to influence how families think and behave. In short, *kafa'ah* today operates more as a cultural value than a legal rule, and its importance can vary depending on social setting and generational perspective.

#### e. The Maqashid Syariah Perspective on Kafa'ah

When examined through the *maqasid al-syari'ah* approach, *kafa'ah* can actually be positioned as a tool to maintain the welfare of marriage, not as an obstacle. The objectives of sharia in marriage are to preserve offspring (*hifz al-nasl*), maintain religion (*hifz al-din*), and create harmony (*al-sakinah*) (Auda, 2019). *Kafa'ah*, interpreted substantively, can actually strengthen these aspects if it focuses on equality of values, faith, and morals.

A study by Yusuf, (2021) emphasized that reinterpreting the concept of *kafa'ah* needs to be done with the principle of *maslahah*, so that it does not become a tool for social exclusivity. For example, in the marriage of a Muslim woman to a new convert to Islam, the *kafa'ah* aspect of religion must be understood in the context of faith and commitment, not merely a formality of status. This approach is also in line with the idea of Islamic legal reform that encourages *tajdid* and *ijtihad* in responding to the dynamics of the times, as voiced by contemporary thinkers such as Azra, (2016) and Huda (2020).

This sentence highlights that when a Muslim woman marries someone who has recently converted to Islam, the idea of *kafa'ah* in terms of religion should not be judged only by formal labels or the newness of the person's status as a Muslim. Instead, it should be understood more deeply—based on the individual's sincerity, faith, and commitment to living as a Muslim. In this case, what matters is not how long someone has been Muslim, but how genuinely they practice the faith and share core religious values with their partner.

Such an understanding reflects a more thoughtful and compassionate view of *kafa'ah*. It moves away from rigid interpretations and allows room for flexibility, especially in situations where people from different backgrounds come together in marriage. This perspective also supports the broader idea of updating and rethinking traditional Islamic law in response to modern realities. Rather than following fixed rules that may not suit current social conditions, this approach encourages fresh thinking and adaptation. It promotes the use of reason and reflection to ensure that Islamic principles continue to serve justice, harmony, and the well-being of families in changing times.

**f. The Contextual Kafa'ah Model in Indonesian Islamic Family Law**

Based on normative, legal, and sociological analyses, the author formulates a contextual kafa'ah model, namely the interpretation of kafa'ah that is relevant to contemporary Indonesian society. This model emphasizes three main pillars:

- Spiritual kafa'ah: religious similarity, commitment to worship, and religious vision.
- Kafa'ah values and character: equality of morals, personality, and ethics of life.
- Adaptive socio-cultural kafa'ah: not based on economic status or descent, but on the ability to adapt to the social environment and accept differences.

This model does not deny classical fiqh teachings, but rather places them within the framework of maqasid (the principles of Islamic jurisprudence) and the complex needs of Indonesian urban society. As Najmuddin (2023) points out, reinterpreting fiqh concepts is crucial to addressing the needs of the times without losing sight of sharia principles. To clarify the differences between the kafa'ah approach in classical fiqh and the modern contextual approach proposed in this study, the following table presents a comparison of the main aspects of kafa'ah:

No	Aspect of Kafa'ah	Classic Kafa'ah	Contextual Kafa'ah
1.	Religion	Obligation to be of the same religion (Muslim vs. non-Muslim); scholars have different views on the People of the Book	Focus on shared faith, religious commitment, and tolerance
2.	Lineage/Descendant	Highly prioritized (Arab vs non-Arab, noble vs commoner)	Put aside; emphasis on human equality before God
3.	Work	Priority is given to honorable professions (traders vs craftsmen)	The value of hard work and professionalism is more important than the type of work
4.	Riches	Economic balance is important	Emphasis is placed on shared economic readiness, not initial status.
5.	Social Status (Slave/Free)	Slaves were considered unequal to free people	Irrelevant in the context of modern law and human rights
6.	Reputation/Morals	It is important to maintain family honor	Focus on morals, character, and ethics of interaction
7.	Education	Not considered explicitly	Important as an indicator of the ability to build a household
8.	Equality of Values and Vision of Life	Not discussed explicitly	Prioritized for long-term harmony in marriage

The comparative table above illustrates how the understanding of the concept of kafa'ah in marriage has shifted over time. In classical Islamic jurisprudence, kafa'ah is viewed as a socio-structural equality. Early scholars emphasized the importance of partners being equal in terms of religion, descent, occupation, wealth, and even freedom whether they were free or slaves. Lineage was considered crucial for maintaining family honor. Professions were also hierarchically differentiated, with manual labor, such as craftsmanship, being subordinate to those of merchants, religious scholars, or soldiers. This approach was heavily influenced by the rigid and hierarchical social structure of the time.

Meanwhile, in contemporary Muslim society, particularly in urban Indonesia, this approach is increasingly being abandoned. Kafa'ah is beginning to be interpreted more broadly and deeply. Equality is no longer measured by family status or wealth, but rather by life values, character, and readiness to build a household. Couples who share a similar life vision, emotional maturity, and shared perspectives on fulfilling their domestic roles are considered more important. Education, religious understanding, and communication skills have become new benchmarks for assessing a couple's compatibility. This shift does not diminish the essence of kafa'ah, but rather enriches its meaning. The concept is now more directed toward achieving the ideal goals of marriage namely, tranquility, love, and affection in line with the principles of maqasid sharia, which emphasize the welfare, honor, and continuity of the family in a just and civilized manner.

#### 4. Conclusions and Suggestions

This study concludes that the concept of kafa'ah in marriage according to Islamic family law is a principle of social and moral equality, aimed at maintaining household harmony. In classical Islamic jurisprudence, kafa'ah encompasses aspects of religion, lineage, economics, occupation, and social status. Although not a valid requirement for marriage, kafa'ah is considered for the benefit and honor of the family. In the context of Indonesian positive law, kafa'ah is not explicitly mentioned in the Marriage Law or the Compilation of Islamic Law (KHI), so it has no legal standing. However, in social practice, the values of kafa'ah still influence family decisions, especially in traditional communities. Meanwhile, urban communities and the younger generation tend to emphasize equality of values, religion, and emotional readiness in choosing a partner. Kafa'ah remains relevant if interpreted contextually, not structurally. Therefore, this study offers a contextual kafa'ah model that emphasizes spiritual equality, life values, and the vision of marriage. With this approach, kafa'ah can be a bridge between classical Islamic jurisprudence teachings and modern social dynamics, and support the goal of Islamic law to form a family that is peaceful, loving, and compassionate.

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