Jurnal Ilmiah: Suara Edukasi Hukum
Vol. 2 No. 2 (2026)
P-ISSN: 3090 - 8434 | E-ISSN: 3090 - 8469

Appointment of A Judicial Guardian In The Case Of Guardian Adhal: An Analysis of Decision Number 48/Pdt.P/2025/PA.Pwr

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Keywords:
Wali Adhal, Wali Hakim, Islamic Law.

ABSTRACT

Marriage is a physical and spiritual bond between a man and a woman aimed at establishing a happy and lasting family based on the belief in God Almighty. In Islamic law, a marriage guardian (wali nikah) is one of the essential pillars of marriage. Problems arise when a biological guardi-an (wali nasab) refuses to marry off a woman under his guardianship without a valid syar'i or legal reason, known as wali adhal. This study aims to analyze the legal considerations of the judge in determining a ju-dicial guardian (wali hakim) in Decision Number 48/Pdt.P/2025/PA.Pwr and to evaluate the legal validity of the guardian's refusal under Islamic law and Indonesian positive law. This research employs normative legal research using statutory and case approaches with descriptive-qualitative analysis. The results show that the appointment of the wali hakim is con-sistent with Islamic law and Indonesian positive law. The judge ruled that the guardian's refusal—based on differences in religious organizational affiliation between LDII and NU as well as the short seven-month dura-tion of the couple's relationship—does not constitute a valid syar'i or le-gal impediment to marriage. Differences in organizational affiliation do not equate to differences in religion, and the duration of a relationship is not a legal requirement for marriage. Consequently, the determination of a wali hakim provides legal certainty, justice, and protection for the pro-spective bride's right to marry.

1. INTRODUCTION

Marriage is one of the oldest social and religious institutions in hu-man life. It is not merely a union between a man and a woman, but also a legal, social, moral, and religious bond aimed at establishing a harmonious and lasting family. Under Islamic law, marriage must fulfill certain essential requirements and pillars, one of which is the presence of a marriage guardi-an (wali nikah). Article 14 of the Compilation of Islamic Law (KHI) explicitly

recognizes the marriage guardian as one of the essential pillars of marriage (Shodikin, 2016). Therefore, the existence and authority of a marriage guardian hold a central position in determining the validity of a marriage.

In practice, however, the role of the marriage guardian may become a legal obstacle to the realization of marriage. A biological guardian (wali nasab) may refuse to marry off a woman under his guardianship for various reasons. While some reasons are legally justified under Islamic law, others lack sufficient legal or religious grounds. The refusal of a guardian to marry off a woman without a legally recognized justification is known as wali adhal (Melnia et al., 2023). This issue is significant because an unjustified re-fusal prevents a prospective bride from exercising her fundamental right to enter into a lawful marriage.

Indonesian Islamic family law provides a mechanism for resolving cases of wali adhal. Article 23 of the Compilation of Islamic Law stipulates that a judicial guardian (wali hakim) may act as a marriage guardian when the biological guardian (wali nasab) is absent, cannot be presented, is unknown, is in an inaccessible location, or is adhal (unwilling to perform guardianship) (Maulana, 2023). In cases of wali adhal, the judicial guardian may act only after a formal determination has been issued by the Religious Court (Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991).

Previous studies on wali adhal have largely focused on general legal procedures, domestic conflict dynamics, or standard philosophical reviews of court decisions (Pradana et al., 2024; Maulana, 2023). However, there is a distinct lack of critical legal analysis regarding cases where guardian refusal stems specifically from non-doctrinal sociological factors, such as differ-ences in Islamic organizational affiliation (ormas) and personal perceptions regarding the duration of a courtship. This research fills that gap by examining Decision Number 48/Pdt.P/2025/PA.Pwr of the Purworejo Religious Court (Purworejo Religious Court Decision Number 48/Pdt.P/2025/PA.Pwr, 2025). Unlike generic wali adhal cases, this study specifically scrutinizes the judge's legal reasoning in overruling a guardian's refusal based on affilia-tion differences between Lembaga Dakwah Islam Indonesia (LDII) and Nahdlatul Ulama (NU), combined with the argument of a seven-month rela-tionship period.

Based on these background considerations, this study addresses two primary analytical questions:

1. How did the panel of judges examine and evaluate the legal considerations in declaring the biological guardian (wali nasab) as

adhal and appointing a judicial guardian (wali hakim) in Decision Number 48/Pdt.P/2025/PA.Pwr?

2. Are the reasons for refusal presented by the biological guardian—namely differences in religious organizational affiliation and the duration of the relationship—legally justifiable under Islamic law and Indonesian positive law?

2. RESEARCH METHOD

This research employs normative legal research (doctrinal legal research) to examine legal norms, statutory provisions, and judicial reasoning related to wali adhal and wali hakim. The research utilizes both a statutory approach (pendekatan perundang-undangan) and a case approach (pendekatan kasus). The case approach focuses specifically on Decision Number 48/Pdt.P/2025/PA.Pwr of the Purworejo Religious Court, while the statutory approach examines relevant legislation including Law No. 16 of 2019, the Compilation of Islamic Law (KHI), and Minister of Religious Affairs Regulation No. 20 of 2019.

The legal materials consist of primary legal materials (court decisions and statutory regulations) and secondary legal materials (scholarly law journals, books, and legal literature). Legal materials were gathered through library research and case documentation.

To ensure analytical rigor, case data was examined through a systematic legal analysis technique following a five-stage framework:

Analysis Stage	Juridical Focus & Evaluation
Identification of Legal Facts	Extracting relevant facts established during court hearings, party positions, and guardian refusal grounds
Evaluation of Judicial Considerations	Examining the ratio decidendi and evidentiary assessments of the panel of judges.
Mapping Legal Rules	Correlating facts with KHI, Marriage Law, and relevant Minister of Religious Affairs Regulations
Author's Juridical Analysis	Critically evaluating the validity of arguments regarding organizational differences and relationship length.

Analysis Stage	Juridical Focus & Evaluation
Legal Synthesis & Conclusion	Deriving definitive conclusions regarding the validity of the guardian's refusal and the decree's legal standing.

3. RESULT AND DISCUSSION

3.1. Judicial Considerations in Decision Number 48/Pdt.P/2025/PA.Pwr

Decision Number 48/Pdt.P/2025/PA.Pwr originated from a petition submitted by a Muslim woman whose biological father (wali nasab) refused to act as her marriage guardian. The prospective couple had been in a relationship for approximately seven months and intend-ed to marry. The prospective groom's family had formally proposed twice to the applicant's father. However, the father consistently rejected the proposal and refused to perform his duties as marriage guardian.

The primary reasons cited by the father for his refusal were:

1. **Organizational Affiliation:** The applicant's family was affiliated with Lembaga Dakwah Islam Indonesia (LDII), whereas the prospective husband was affiliated with Nahdlatul Ulama (NU).
2. **Duration of Relationship:** The father argued that seven months was too brief for the couple to understand each other's character, requesting a delay of one to two years.

Due to the father's refusal, the Kutoarjo Religious Affairs Office (KUA) issued a Marriage Intention Refusal Letter (Model N-7). The applicant then filed a petition to the Purworejo Religious Court to declare her father adhal and authorize the Head of KUA Kutoarjo to act as judicial guardian (Purworejo Religious Court Decision Number 48/Pdt.P/2025/PA.Pwr, 2025).

During court proceedings, the panel of judges examined documentary evidence (identity cards, family cards, divorce certificate, and Model N-7 form) and testimony from two witnesses. The court established the following core legal facts:

1. Both prospective spouses are Muslims and meet all statu-tory and syar'i requirements for marriage.

2. There is no blood, marital, or foster (radha'ah) prohibition between the couple.
3. The prospective husband is gainfully employed (as an angkot driver), possesses good character, and has formally proposed twice.
4. The applicant's father was properly and legally sum-moned (dipanggil secara patut) but failed to appear in court and offered no formal legal defense.

Applying a structured legal analysis framework (Facts of Case → Judicial Considerations → Statutory Basis → Juridical Analysis → Legal Conclusion), the panel of judges held that differences in religious organization and the length of courtship do not constitute valid legal impediments (mani') to marriage under Islamic law or statutory regulations. The Purworejo Religious Court correctly granted the application, declared the father adhal, and legally transferred guardianship authority to the judicial guardian (wali hakim).

3.2. Analysis of the Validity of Guardian Refusal Reasons

3.2.1. Conceptual Distinction: Difference in Religion vs. Difference in Or-ganizational

The guardian's first objection rested on the difference in religious organizational affiliation (LDII vs. NU). In legal analysis, it is critical to draw a sharp conceptual distinction between:

1. Difference in Religion (Ikhtilaf ad-Din): A valid legal impedi-ment under Islamic jurisprudence and Article 40(c) of KHI, which explicitly prohibits a Muslim woman from marrying a non-Muslim man.
2. Difference in Organizational/Societal Affiliation (Ikhtilaf al-Jam'iyyah): A sociological variation in religious practice, ad-ministration, or school of thought (madhhab) within the broad-er umbrella of Islam.

Both prospective spouses are Muslims who share the founda-tional tenets of faith (aqidah). Differences in organizational culture be-tween LDII and NU do not alter the Islamic identity of either party. In Islamic jurisprudence (fiqh), assessing a prospective husband focuses on kafa'ah (compatibility), which primarily emphasizes adherence to religion and moral character (akhlak), as supported by the hadith nar-rated by At-Tirmidzi. Because the prospective husband demonstrated sound religious commitment

and good character, treating organiza-tional affiliation as an impediment represents an arbitrary exercise of guardianship (abuse of right).

3.2.2. Critical Review of the Short Duration of Relationship (7 Months)

The father's second objection was that a seven-month relation-ship was insufficient to gauge character, demanding a 1–2 year post-ponement.

From a formal legal standpoint, the duration of acquaintance or courtship is nowhere recognized as a requirement (syarat) or pillar (rukn) of marriage in the Marriage Law (Law No. 16 of 2019) or KHI. Legal validity depends entirely on consent, age capacity, absence of prohibitions, and fulfillment of legal pillars.

From a critical legal perspective, a distinction must be drawn between:

1. Parental Concerns (Maslahah Perspective): Parents naturally desire emotional maturity and stability for their children. Re-questing adequate acquaintance is a reasonable moral recom-mendation.
2. Juridical Boundary (Legal Standing): While parental caution is understandable, converting a subjective desire for a longer courtship into an absolute veto power over a child's legal right to marry crosses the boundary into adhal. Parental concern cannot override statutory rights when the couple is legally competent and fully consenting.

Delaying a marriage without a clear syar'i impediment exposes the couple to moral and social harms (mufsadah). Therefore, the court correctly prioritized the fundamental right to marry (hifz an-nasl) over subjective parental preferences.

3.3. Verification of Applicable Legal Regulations

To ensure legal accuracy, this study verifies the current status of relevant regulations governing marriage guardianship in Indonesia:

Statutory Regulation	**Legal Standing & Applicability**
Compilation of Islamic Law (Inpres No. 1/1991)	Fully active; Articles 19, 20, and 23 remain primary substantive

Statutory Regulation	Legal Standing & Applicability
	guidelines for evaluating wali adhal and appointing wali hakim.
Law No. 16 of 2019 (amending Law No. 1/1974)	Fully active; Establishes statutory age limits and formal national marriage requirements.
Minister of Religious Affairs Regulation No. 20 of 2019	Fully active; Governs marriage registration procedures and ex-officio appointment of KUA Head as wali hakim. (Note: PMA No. 30 of 2005 has been revoked and superseded by PMA No. 20 of 2019).

4. CONCLUSION AND RECOMMENDATIONS

Based on the results of the research and discussion, it can be concluded that the determination of wali hakim in Decision Number 48/Pdt.P/2025/PA.Pwr was consistent with Islamic law and Indonesian positive law. The Purworejo Religious Court declared the applicant's father to be wali adhal after establishing that he had refused to perform his duties as wali nasab without a valid syar'i or legal reason. The court examined the ev-idence, witness testimony, status of the wali nasab, and the absence of mar-riage impediments before authorizing the wali hakim to perform the mar-riage guardianship. This determination was in accordance with Article 23 of the Compilation of Islamic Law, which regulates the authority of the wali hakim in cases where the wali nasab is adhal.

The reasons for the refusal, namely the difference in religious organizational affiliation between LDII and NU and the relatively short duration of the relationship, could not be considered valid reasons for preventing the marriage. Both prospective spouses were Muslims, fulfilled the require-ments for marriage, and had no prohibited relationship. Therefore, the re-fusal constituted wali adhal, and the determination of the wali hakim was an appropriate legal mechanism to protect the applicant's right to enter into a lawful marriage. It is recommended that wali nasab exercise their guardianship authority in accordance with Islamic law and applicable legislation and avoid refusing a marriage based solely on personal considerations. The Religious Court and the Religious Affairs Office (KUA) are also expected to

provide legal education concerning wali adhal and wali hakim to prevent disputes and ensure the protection of the rights of prospective brides.

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