

## Mechanism for Settlement of Wali Adhal Cases in the Determination of Guardian Judges in Banda Aceh

\*Cut Amirah Fatinah<sup>1</sup>, Khairani Mukdin<sup>2</sup>, Nik Salida Suhaila Nik Saleh<sup>3</sup>, Rishat Ameer Ġafurof<sup>4</sup>, Kasuwi Saiban<sup>5</sup>

<sup>1,2</sup> Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia

<sup>3</sup> Universiti Sains Islam Malaysia, Malaysia

<sup>4</sup> Kazan Federal University, Russian Federation

<sup>5</sup> International Islamic University Islamabad Pakistan, Pakistan

\*Email Correspondence: [210101012@student.ar-raniry.ac.id](mailto:210101012@student.ar-raniry.ac.id)

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### Abstract

*This study aims to examine the factors that lead to the appointment of a marriage guardian judge (wali hakim) due to the refusal of a legitimate guardian (wali adhal), as well as the mechanism of its implementation at the Office of Religious Affairs (KUA) in Lueng Bata District, Banda Aceh. The research employs a qualitative approach with a sociological-empirical method, using in-depth interviews, observation, and documentation with the Head of KUA and KUA staff as the primary sources, supported by secondary data from literature and legal documents. The findings reveal that the appointment of a wali hakim generally arises from non-shar'i reasons, including personal conflicts between guardians and prospective brides, excessive social considerations related to the groom's status, economic concerns, and long-standing family disputes. These factors restrict women's rights to marry in accordance with Islamic law. The resolution mechanism consists of several stages, starting from reconciliation efforts, mediation by KUA and community leaders, and, if necessary, filing a petition to the Religious Court. Once the court transfers guardianship rights, the marriage can be solemnized with a wali hakim appointed by the judge. This study highlights the crucial role of KUA and the Religious Court in safeguarding women's rights and ensuring the validity of marriage under both Islamic and state law in Indonesia.*

**Keywords:** Marriage Determination; Marriage Guardian Judge; Refusing Guardian.

### Abstrak

Penelitian ini bertujuan untuk mengkaji faktor penyebab penetapan wali hakim akibat wali adhal serta mekanisme penyelesaiannya di Kantor Urusan Agama (KUA) Kecamatan Lueng Bata, Kota Banda Aceh. Penelitian menggunakan pendekatan kualitatif dengan jenis sosiologis empiris melalui wawancara mendalam, observasi, dan dokumentasi dengan Kepala KUA serta pegawai KUA sebagai informan utama, didukung data sekunder berupa literatur dan peraturan terkait. Hasil penelitian menunjukkan bahwa penetapan wali hakim terjadi karena berbagai faktor non-syar'i, antara lain konflik pribadi antara wali dan calon mempelai, pandangan sosial yang berlebihan terkait status calon suami, pertimbangan ekonomi, serta perselisihan keluarga yang diwariskan. Kondisi ini berdampak pada terhambatnya hak perempuan untuk menikah secara sah menurut agama. Mekanisme penyelesaian dilakukan secara bertahap, dimulai dari upaya perdamaian antara wali dan calon mempelai, mediasi oleh KUA bersama tokoh masyarakat, hingga pengajuan permohonan penetapan wali hakim ke Pengadilan Agama. Setelah adanya putusan pengadilan yang mengalihkan hak kewalian, KUA dapat melangsungkan akad nikah dengan wali hakim sesuai penunjukan majelis hakim. Penelitian ini menegaskan peran KUA dan



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Mahkamah Syar'iyah dalam melindungi hak perempuan dan memastikan keabsahan pernikahan sesuai hukum Islam dan hukum positif di Indonesia.

**Kata Kunci:** Penetapan Perkawinan; Wali Hakim; Wali Adhal.

## INTRODUCTION

One of the pillars of marriage in Islam that must be fulfilled in the process of marriage contract is wali nikah, If this marriage pillar is not fulfilled then the marriage is said to be invalid. The requirements that must be met by a person in order to become a marriage guardian are: male, Muslim, aqil and puberty. At the time of the marriage contract, ijab (handover) is carried out by the bride's guardian or her representative and qabul (acceptance) is carried out by the groom.<sup>1</sup>

The concept of guardianship according to the Marriage Law No. 1 of 1974 explains that the marriage guardian has an important role in the validity of the marriage contract. Article 6 paragraph (2) states that a person who is not yet 21 years old must get permission from his parents to get married. In addition, Article 26 paragraph (1) explains that a marriage can be annulled if it is held in the presence of an unauthorized marriage registrar, an invalid marriage guardian, or without the presence of two witnesses. Thus, it is clear that a marriage without a legal guardian is at risk of being annulled or annulled according to the law.<sup>2</sup>

The concept of guardianship according to Islamic family law is stated in article 19 which states that the marriage guardian is a pillar of marriage that must exist. The Compilation of Islamic Law Article 19 confirms that every bride-to-be must be married by her guardian. Article 20 explains that the guardian of marriage must be male, Muslim, and puberty, and is divided into two types, namely guardian nasab and guardian judge. The guardian of the nasab has a certain order: first the father or grandfather, then the biological brother or the stepfather and his descendants, then the biological uncle or stepfather and his descendants, and finally the grandfather's brother and his descendants. If there are several guardians in a group, then the most entitled is the one closest to the blood relative, preferably a biological relative rather than a father, and older as long as they are eligible. In KHI, the term wali adhal is also known, which is a wali who refuses to marry without sharia reasons.<sup>3</sup>

The guardian has the right to prohibit marriage if there is a valid reason according to the sharia, for example, the prospective husband is not married, the woman has been proposed to by someone else, has bad morals, or has a physical disability that prevents the marriage. In such conditions, the guardian, especially the father, still has the right to become a guardian of the marriage and his authority cannot be transferred to the guardian of the judge. However, if the wali refuses to marry without sharia reasons, even though

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<sup>1</sup> Suhaendi Salidja dan Aan Anjani, "Ijab Qabul Perkawinan yang diwakilkan berdasarkan Hukum Islam dihubungkan dengan Undang-undang Nomor 1 Tahun 1974 tentang Perkawinan," *Jurnal Yustitia* 2, no. 11 (2016): 232–47, <https://doi.org/10.31943/yustitia.v2i11.3>.

<sup>2</sup> Moh. Ali Wafa, *Hukum Perkawinan di Indonesia: Sebuah Kajian dalam Hukum Islam dan Hukum Materil* (Jakarta: YASMI (Yayasan Asy-Syari'ah Modern Indonesia), 2018)

<sup>3</sup> Muzemmil Aditya dan Irzak Yuliardy Nugroho, "Komparasi wali mujbir dalam madzhab Syafi'i dan madzhab Hanafi," *Al-Muqaranah: Jurnal Perbandingan Mazhab dan Hukum* 1, no. 2 (2023): 71–82, <https://doi.org/10.55210/jpmh.v1i2.305>.

the prospective husband is both religious and moral, then the wali is called wali 'adhal, which is a wali who is unjust.<sup>4</sup>

The handling of the case of wali adhal at the KUA of Lueng Bata District is carried out through several steps. First, the bride-to-be who was rejected by her guardian came to the KUA and brought the marriage requirements documents. The KUA officer then called the guardian for information and tried to mediate. If it turns out that the reason for the rejection of the guardian is not in accordance with Islamic law or the rule of law, the KUA makes a minutes and advises the bride-to-be to submit an application for the determination of guardian judges to the Banda Aceh City Syar'iyah Court. After the court grants the application, the KUA carries out the marriage contract with the guardian judge as the marrying party. This mechanism ensures that the bride-to-be can still marry according to religious and state rules.<sup>5</sup>

Based on the results of interim research at the KUA of Lueng Bata District, there are seven cases in which the guardian judge is determined to marry the bride-to-be due to the constraint of the guardian adhal. Some of the cases found include: first, the bride-to-be did not get the approval of the guardian due to strained family relations due to parental divorce. Second, the rejection of the guardian occurred due to disagreements regarding the criteria for prospective spouses, even though these reasons did not contradict Islamic law. Third, the rights of guardians are transferred to other relatives who refuse to marry because of less harmonious family relationships.<sup>6</sup>

In this regard, this study focuses on two main problems, namely the factors that cause the occurrence of wali 'adhal in the case of marriage in KUA Lueng Bata District and the mechanism for resolving it. By examining these two aspects, it is hoped that a comprehensive understanding of guardianship practices that deviate from the provisions of sharia can be found, as well as providing an overview of the steps taken by the marriage institution in resolving these problems.

Previous research has discussed the issue of wali adhal, such as research by Erha Saufan Hadana and Rahmatul Akbar (2019) at the Tapaktuan Syar'iyah Court found that wali rejection is usually due to socioeconomic factors, such as low education, poor financial condition, or the social status of the prospective husband. In the case under review, the judge decided to accept the application for the appointment of a guardian because the reason for the rejection of the guardian had no legal basis, either according to laws and regulations and Islamic sharia.<sup>7</sup> Another study by Tri Wahyono et al. (2023) at KUA Sukoharjo Regency shows that cases of guardian adhal generally occur due to the rejection of guardians without a valid reason. In these conditions, the bride-to-be can submit an application for a guardian judge to the Religious Court. This research also emphasizes the active role of KUA in helping the community solve the problem of wali adhal in accordance with the provisions of Islamic law and laws and regulations.<sup>8</sup>

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<sup>4</sup> Akhmad Shodikin, "Penyelesaian Wali Adhal dalam Pernikahan menurut Hukum Islam dan Perundang-undangan di Indonesia," *Mahkamah: Jurnal Kajian Hukum Islam* 1, no. 1 (2016): 61–70, <http://dx.doi.org/10.24235/mahkamah.v1i1.102>.

<sup>5</sup> Mahfudz, "Penghulu/Kepala KUA Kecamatan Lueng Bata," 7 Agustus 2025.

<sup>6</sup> Irfan, "Staff KUA Kecamatan Lueng Bata," 12 Agustus 2025.

<sup>7</sup> Erha Saufan Hadana dan Rahmatul Akbar, "Penyelesaian Perkara Wali Adhal pada Mahkamah Syar'iyah Tapaktuan," *El-Usrah: Jurnal Hukum Keluarga* 2, no. 2 (2019): 1–17, <https://doi.org/10.22373/ujhk.v2i2.7654>

<sup>8</sup> Tri Wahyono, Muhammad Kurniawan Budi Wibowo, dan Baehaqi Baehaqi, "Dinamika Penyelesaian Permasalahan Wali Adhal: Studi Kasus Peran Kepala Kantor Urusan Agama di Kabupaten Sukoharjo," *Tasyri': Journal of Islamic Law* 2, no. 2 (2023): 375–98, <https://doi.org/10.53038/tsyr.v2i2.84>.

Several previous studies have discussed the phenomenon of wali adhal, but more have highlighted formal legal aspects or socioeconomic factors behind it. Studies that specifically discuss the practice of determining guardians due to guardians in KUA Lueng Bata District, by looking at social dynamics, family conflicts, and the role of KUA with community leaders, are still rarely carried out. In fact, the local context in Banda Aceh shows the existence of complex emotional, cultural, and family relationship factors that require a more in-depth study. This void is the reason for the importance of this research to make a new contribution to understanding the practice of guardianship in Islamic family law, especially related to the protection of women's rights in the case of wali adhal.

Based on this description, the author is interested in researching the factors that led to the appointment of guardians due to guardians at the Lueng Bata District Religious Affairs Office and the mechanism carried out by the KUA in determining guardians as a substitute for guardians. This research is expected to provide a clear picture of the procedures, stages, and considerations in resolving the wali adhal case, so that the bride-to-be's right to marry is still protected.

## RESEARCH METHODS

This study uses a qualitative approach with the type of empirical sociological research. This approach was chosen because it is appropriate to understand social phenomena in depth through the experiences and views of informants.<sup>9</sup> The research was conducted at the Religious Affairs Office (KUA) of Lueng Bata District, Banda Aceh City, with the main informant of the Head of KUA and KUA employees as primary data sources. Secondary data was obtained from literature in the form of books, journals, archives, regulations, and related documents.

The data collection technique was carried out through interviews with the KUA, brides-to-be, and community leaders, direct observation of the marriage service process at the KUA of Lueng Bata District, as well as document studies in the form of marriage files, mediation minutes, and court decisions. These three techniques are used to obtain complete data on the factors that cause guardians and the mechanism for determining guardian judges.

The data of this study was analyzed by a qualitative descriptive method through three stages, namely data reduction, data presentation, and conclusion drawn.<sup>10</sup> In the reduction stage, the researcher selects data from interviews, observations, and documentation that are relevant to the causative factors of guardians and the mechanism for determining guardians of judges. Furthermore, the data is presented in the form of narrative descriptions and tables so that patterns such as the reasons for the guardian's refusal, KUA mediation steps, and court decisions can be seen more clearly. The last stage is drawing conclusions by linking field findings with Islamic family law theories and applicable regulations. To maintain the validity of the data, a triangulation technique is used, which is comparing information from various sources and combining several data collection methods, so that the results of the research are more valid and accountable.

## RESULTS AND DISCUSSION

### The Concept and Legal Basis of the Guardian

Wali comes from the Arabic word (ولاية) which means protector, forgiver, protector of a person's life, wali is also someone who has the right and authority to take legal action on behalf of the person under his dependents, in accordance with the provisions of Islamic

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<sup>9</sup> Muhaimin, *Legal Research Methods* (Mataram: Mataram University Press, 2020)

<sup>10</sup> Muhaimin.

law, in marriage also a wali is a person who has the power to marry someone even though the right can be transferred to another person with his permission.<sup>11</sup>

Linguistically, guardianship means affection and the provision of assistance. This term can also be interpreted as power and authority, as *al-Waali* says which means the party who has authority. According to the terms of jurisprudence (*fuqaha*), guardianship is the ability of a person to carry out legal actions independently without having to obtain permission from other parties.<sup>12</sup>

According to the Great Dictionary of the Indonesian Language (KBBI), the meaning of wali is as a parent, a caregiver for someone, where the caregiver here is the caregiver of the bride when she is performing the sacred bond of marriage promise to the groom.<sup>13</sup> As for his opinion, As-Shan'any wali is the closest person to the woman from the asabah group, namely relatives from her father's side and not from the dzawil arham, namely her mother's side. In asma'ul husna there is also the asthma "al-wali" which means the owner as a whole and who has the right to regulate everything.<sup>14</sup>

There are several types of guardians, which are written in the Compilation of Islamic Law in article 20 paragraph 2 it is explained that the guardian of marriage consists of two guardians of the nasab and the guardian of the judge. The guardian of the nasab is a person who has a blood relationship (family) with the bride-to-be, The order of the group of the female guardian consists of male relatives from a straight line upwards, namely father, grandfather, great-grandfather and so on. Then the siblings and their descendants. Furthermore, the relatives of the uncle (father's brother) and their descendants. Lastly, the relatives of the brothers, grandfathers and their descendants.<sup>15</sup>

The legal basis of wali is also found in the hadith of the prophet which explains the existence of wali in marriage, namely:

لا نكاح الا بولي وشاهد ين عدل

It means: "There is no marriage except with a guardian and two fair witnesses." (HR. Tirmidzi).<sup>16</sup>

According to Law No. 1 of 1974 concerning Marriage, it is also explained that the requirements for marriage must use a guardian, contained in article 6 paragraph 2 explains that "to carry out a marriage a person who has not reached the age of 21 years must have the permission of both parents." also contained in article 26 paragraph 1 it is stated "marriage that is carried out in front of an unauthorized marriage registration supervisor, and guardians of the marriage that are invalid, or carried out without two witnesses, the

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<sup>11</sup> Mr. Waritsul Firdaus. F Waris and M. Fahrudin, "The Paradigm of the Islamic Community of Purbolingo District on Wakalah in the Procession of the Marriage Contract from a Legal Sociological Perspective," *al-Mawarid Journal of Sharia and Law (JSYH)* 6, no. 1 (2024): 1–16, <https://doi.org/10.20885/mawarid.vol6.iss1.art1>.

<sup>12</sup> Masna Yunita and Intan Sahera, "Wakalah Wali Nikah (Study of the Office of Religious Affairs of the Coastal Realm)," *Al-Ahkam Journal* 13, no. 1 (2022): 91–106, <https://doi.org/10.15548/alahkam.v13i1.4428>.

<sup>13</sup> KBBI (Online), "Wali," <https://kbbi.web.id/wali>.

<sup>14</sup> Agus Fiatna, "The Essence of Marriage Guardians of the Qur'an's Perspective of Surat An-Nisa and Its Relevance to the Life of Modern Society," *Syntax Idea* 6, no. 2 (2024): 542–54, <https://doi.org/10.46799/syntax-idea.v6i2.2961>.

<sup>15</sup> "Compilation of Islamic Law (KHI)," t.t.

<sup>16</sup> "HR. At-Tirmidzi No. 1102," t.t.

family can request the annulment of the marriage from the line of descent upwards from the husband, wife, prosecutor."<sup>17</sup>

### **Qualifications and Classification of Guardians**

The guardian is responsible for the validity of a marriage contract. The guardianship is established to assist the inability of the person who is the object of the guardianship to express himself. Therefore, not everyone can be accepted as a guardian or witness, but should be those who meet the requirements. The requirements for becoming a guardian are as follows:

- a) Islam, that is, people who are not Muslims are not valid as guardians or witnesses.
- b) Puberty is that the person has dreamed of junub / ihtilam (semen), or he is at least 15 years old.
- c) Sensible is that the insane and children are not valid as guardians, because the unreasonable, will definitely not be able to do so and cannot represent others, so that others are more entitled to receive the guardianship, whether the unreasoned person is because of his or her childhood existence or because of memory loss or due to the elderly factor.
- d) Independence, scholars differ in determining the guardianship of slaves. Some scholars say that a slave has no guardianship, either over himself or others. Meanwhile, Hanafiah scholars say that a woman can be married by a slave with her permission. On the grounds that the woman could marry herself.
- e) A man, i.e. a woman, should not be a guardian in marriage.
- f) Fair means not fasiq, however, Sayyid Sabiq argues that a wali is not declared fair. So a disobedient person does not lose the right of a guardian in marriage, unless his iniquity exceeds the limits of severe modesty, because the guardian clearly does not appease the soul of the person he sends. Therefore, the right to be a guardian is lost.<sup>18</sup>

The compilation of Islamic Law in article 20 paragraph 2 reads that the guardian of marriage consists of 2 types, namely guardian nasab and guardian judge.

1. The guardian of the nasab is the closest person from the bride's side who is related by blood.

This guardian of the family consists of several groups, namely: First, the lineage of the highest family relationship, namely: father, grandfather, great-grandfather. Second, siblings (brother/sister) and half-brothers. Third, the father's uncle and brother. Fourth, the grandfather's brother or grandfather's brother.

The order of the nasab group that has the most right to be the guardian of the bride is closer to the relationship between her and her biological relatives or relatives with the bride.

- a. In terms of the type of close or distant relationship of the prospective bride, wali nasab is further divided into two mentions, namely, First, wali aqrab is the wali who is closer to the line of relationship with the prospective woman to be married, for example the father. Second, wali ab'ad, which is a wali whose relationship is further along with the prospective woman to be married, for example, a grandfather.

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<sup>17</sup> "Law No. 1 of 1974 concerning Marriage," t.t.

<sup>18</sup> Misbahul Munir Hasmy, Muhammad Ridho, dan Anggi Harianto, "Keutamaan Ayah menjadi Wali Nikah dibandingkan Ulama dalam Perspektif Hukum Islam," *Maqashiduna: Jurnal Hukum Keluarga Islam* 3, no. 1 (2025): 63–77, <https://doi.org/10.47732/maqashiduna.v3i1.624>.

- b. In terms of the power that has the right to marry a prospective woman, in the wali nasab there are two mentions, namely, First, the wali mujbir consists of the father and grandfather, they are called wali mujbir because in Islam they have full power of ijbar in marrying their children or grandchildren who are still girls and puberty without the prior permission of their children or grandchildren, Unless their children and grandchildren are already widowed, then the grandfather and father do not have the authority of ijbar to marry without their permission.
2. The guardian judge is the guardian of the marriage who is given a mandate by the court judge.

The court judge appoints a guardian judge and is given the right and authority to act as a guardian for the prospective bride who does not have a guardian and her guardian who is reluctant to marry her or her guardianship who is expert to the guardian judge.

As for the reasons for the validity of the guardian judge, namely if the guardian of the nasab is not present, the requirements for the guardian of the aqrab and the guardian of the ab'ad are not met, the guardian of the aqrab is reluctant to marry (adhal), the guardian of the aqrab goes on a long journey with a distance of +- 92.5 km or for two days of travel and the guardian of the aqrab is in prison.<sup>19</sup>

### **Wali Adhal in Marriage**

In language, the word "adhal" means to narrow, obstruct, prevent and obstruct. In terms, wali adhal is a barrier to the wali who is reluctant to marry or prohibit his daughter who has reached puberty and is sensible with the man of his choice to marry without sharia reasons where the wali is unjust while both parties want to perform the marriage.

The refusal of the wali to marry can be accepted or rejected depending on the reason, whether it is in accordance with the sharia or not. If there is an obstacle to sharia, such as the prospective husband is not sekufu or the woman has been proposed to by someone else, then the guardian has the right to refuse the marriage. However, if the prospective husband meets the requirements of the sharia, especially in terms of religion and morals, then the wali is not allowed to refuse without a valid reason. If he is still reluctant to marry, the guardian is called wali adhal.<sup>20</sup>

A wali can be said to be adhal if he forbids and refuses to marry his daughter to the man of his choice on the grounds that it does not violate the shari'a', the wali wants to marry his daughter to the man of his choice who he thinks is sekufu but his daughter already has her own choice who is sekufu with him and asks his guardian to marry him of his choice.<sup>21</sup>

The legal basis of wali adhal as the determination of wali nikah as the pillar of marriage is found in Surah al-Baqarah verse 232 which reads:

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<sup>19</sup> Nurul Faizah Kamaruddin et al., "The Urgency of Understanding Nasab Guardianship for Brides-to-be in Religious Counseling in KUA Kec. Tanete Riattang Barat," *La Tenriruwa: Journal of Islamic Counseling Guidance* 3, no. 2 (December 2024), <https://doi.org/10.30863/jbpi.v3i2.7958>.

<sup>20</sup> Faridatus Sholihah and Irzak Yuliardy Nugroho, "The Determination of Wali Adhol in the Perspective of Islamic Law and Positive Law," *Al-Muqaranah: Journal of Comparative Madhhab and Law* 2, no. 1 (2024): 15–29, <https://doi.org/10.55210/jpmh.v2i1.340>.

<sup>21</sup> Iqbal Adam Pradana, Riyan Erwin Hidayat, and Dri Santoso, "Factors of Wali Adhal's Absence in Marriage: A Case Study of Family Conflict and Employment Status," *Bulletin of Community Engagement* 4, no. 3 (2024): 415–25, <https://doi.org/10.51278/bce.v4i3.1453>.

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَلَا تَعْصُلُوهُنَّ أَنْ يَنْكَحْنَ أَرْوَاجَهُنَّ إِذَا تَرَاضَوْا بَيْنَهُمْ  
بِالْمَعْرُوفِ ذَلِكَ يُوعَظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَمْ آرَكَى لَكُمْ وَأَطَهَرَ  
وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ

Meaning: "If you think of your wives, and their iddah period is over, then you (the saints) should not prevent them from marrying again with their future husbands, if there is a willingness between them in a ma'ruf manner. That is what is advised to those who believe among you in Allah and the Hereafter. It is better for you and more holy. God knows, but you do not know." (QS. Al-Baqarah: 232).<sup>22</sup>

Because this verse was revealed so that the guardian would not refuse to marry a woman who was responsible under the auspices of his guardianship, which is taken from the story of mat'qil ibn Yasar, When he refused to marry his sister who had been rejected by her husband, then they both wanted to be together again but he refused to marry her sister. Therefore, the Shafi'i, Hanbali and Maliki schools are of the opinion that there must be a wali in marriage, and also that the wali is forbidden to complicate and reject the marriage of the woman if she has obtained sekufu in the Islamic view.<sup>23</sup>

The hadith about the wali is the hadith of the Prophet Muhammad (saw) from Aisha narrated by at-Tirmidhi

عن عائشة ان النبي صلى الله عليه وسلم قال :ايما امرأة نكحت بغيراذن وليها فنيكاحه باطل ،  
فنيكاحها باطل، فاءن دخل بما فلها المحر بما استحل من فرخها، فاءن اشتجروا فالسلطان ولي  
من لا ولي له، روايه الترمذي.

It means: "From Aisha, the Prophet PBUH said: "A woman who marries without a guardian, her marriage is void. Her marriage was annulled. Her marriage was annulled. If someone associates with her, then the woman is entitled to dowry, so that she is lawful against her genitals. If they are wandering (without a wali), then the ruler is the wali for whom (a woman who does not have a wali). (HR At-Tirmidzi).<sup>24</sup>

As for the opinion of Imam Shafi'i, Maliki and Hanbali from the above hadith, marriage without a guardian is not valid for adult women or those who are under the age limit of marriage who have never been married, but it is different with widows, the right belongs to both, where the guardian may not marry a widow without the woman's consent first and a widowed woman may not marry without the permission of the guardian as well.<sup>25</sup>

<sup>22</sup> "QS. Al-Baqarah: 232," t.t.

<sup>23</sup> Abu Bakar, Abd Hannan, dan Hazem Mofid, "Pendapat Empat Imam Madzhab tentang Wali Nikah Wanita," *As-Sakinah Journal of Islamic Family Law* 1, no. 1 (2023): 1–8, <https://doi.org/10.55210/jhki.v1i1.278>.

<sup>24</sup> "HR. At-Tirmidzi No. 1201," t.t.

<sup>25</sup> Fathonah K. Daud and Ramdani Wahyu Sururuie, "The Authority of Marriage Guardians in Islam: An Analysis of Marriage Without a Guardian in Indonesia Perspectives on Fiqh and Positive Law," *Journal of Akademika* 15, no. 2 (2021), <https://doi.org/10.30736/adk.v15i2.544>.



### Determination of Wali Adhal and Determination of Guardian Judges

The factors that cause the determination of guardians due to guardians in KUA Lueng Bata District cannot be separated from social, cultural, and family relationship dynamics in the community. In recent years, there have been at least three cases of the appointment of guardian judges because the guardian of the marriage is reluctant or refuses to marry the woman without a reason justified by the sharia.

**Table 1.** The Cause of the Determination of the Guardian Judge Due to the Guardian of the Adhal at KUA Lueng Bata District

No.	Case	Cause	Role KUA
1.	Catin ZT	Parental divorce	Unsuccessful mediation
2.	Catin CF	No sekufu	Unsuccessful mediation
3.	Catin PF	Big family conflicts	Unsuccessful mediation

Following the findings and results of interviews with the Bride-to-be involved, the first case, it is known that she experienced a wali adhal case due to her biological father's refusal to become a marriage guardian. This rejection stemmed from a family conflict that occurred after his parents' divorce in 2010, when ZT was 15 years old. Since then, the father's relationship with his children has deteriorated. ZT and his siblings' decision to live with his mother offended his father and accused them of abandoning him. Communication becomes strained, and any attempt to improve the relationship always leads to emotional rejection.

The situation peaked in 2022, when ZT's older brother got into a fierce argument with his father who often demeaned his mother and sister. Since the incident, family ties have become more strained, and ZT and his family are afraid to communicate with their father. When ZT intended to get married in 2024, KUA, her husband-to-be, and her father's cousin tried to make an approach. At first the meeting went well, but when the conversation led to a request for the father to be the guardian of the marriage, he refused on the grounds that he no longer considered ZT as a child. Even though he had been given a legal explanation and asked to sign a power of attorney for the transfer of guardians, the father still refused with emotion.

Because all attempts at the approach failed, ZT followed the direction of the KUA to submit an application for the determination of guardians to the Religious Court. At the first trial, ZT was present with witnesses, namely mother, older brother, husband-to-be, and KUA officers. They provided information about ZT's relationship with his father and the reason for the refusal. The father did not appear at the trial despite having been officially summoned. The panel of judges considered that the reason for the father's rejection was not based on sharia provisions, but on personal and emotional issues.

Based on these considerations, the judge determined that ZT's father had the status of a guardian and transferred the guardianship rights to the guardian judge, namely the Head of the KUA of Lueng Bata District. This right is not directly transferred to other guardians because the biological father as the guardian of aqrab is still alive and sensible. In law, guardianship can only be transferred to the guardian judge if the guardian of the

aqrab does not meet the requirements of sharia, such as disappearing, insane, or refusing without a valid reason as happened in the case of ZT.<sup>26</sup>

*The second case, the* second case of guardian adhal occurred when the biological father refused to marry his daughter to CF's future husband. This rejection is based on social reasons and subjective views that are not actually contrary to sharia law. The guardian thinks that the future husband has a lower economic status because he comes from a simple family, has a high school education, and his job is still in the early stages. Although the prospective husband is known to be responsible and diligent, the guardian considers the living conditions of his family to be not good and relate it to the personality of the prospective husband.

During the six years of relationship, CF and her future husband initially received the blessing of their parents. In fact, the husband-to-be is treated like his own child. However, when he showed his seriousness to apply, the guardian's attitude changed drastically. Three applications were made, but they were always rejected. Various attempts at approaches, apologies, and communication have not yielded results. The guardian even refused to hand over his guardianship authority to another party and even expelled the future husband. Mediation carried out through village officials, including gampong imams and geuchiks, was also unsuccessful.

Finally, CF and her future husband submitted an application for the determination of wali adhal to the Banda Aceh Syar'iyah Court. The process follows official procedures, including cross-regional coordination with the Langsa Syar'iyah Court to send a summons directly to the guardian's residence. However, the guardian still never attended the trial or sent a representative. The trial was held three times. At the first hearing, CF provided information about the chronology of the relationship and the rejection of the guardian. At the second hearing, the husband-to-be explained the seriousness of his intention to get married, his economic condition, and his readiness to get married. The third trial presented witnesses, namely CF's aunt, gampong imam, and husband-to-be's parents. All witnesses provided testimony that supported and strengthened CF's statement.

The panel of judges considered that the rejection of the guardian was motivated by worldly factors that could not be justified legally or sharia. Based on the testimony of witnesses and the evidence presented, the judge ruled that even if the guardian was not present, the facts of the trial were sufficient to make a decision. In his consideration, the judge emphasized that as long as the marriage does not contradict the law of the state and the sharia, then it is a worship that should not be hindered. Finally, the Banda Aceh Syar'iyah Court granted CF's application, appointed his father as the guardian of the court, and transferred the guardianship rights to the guardian judge, namely the Head of the KUA of Lueng Bata District.<sup>27</sup>

*In the third case,* his biological father had passed away and he had no brother. Based on consultation with the KUA of Lueng Bata District, the guardianship rights were transferred to the nearest relative, namely the paternal uncle. However, the uncle refused to become a guardian on the grounds that there was a family conflict in the past between PF's late father and his extended family. They considered that PF's late father had deviated from the family's decision, so the uncle refused to marry PF. The reason for this rejection is not related to the provisions of Islamic law or the pillars of marriage. Mediation efforts, both familial and through community leaders, have been carried out, but have not resulted in an agreement.

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<sup>26</sup> ZT, "Interview with Bride-to-be," August 8, 2025.

<sup>27</sup> CF, "Wawancara dengan Calon pengantin," 8 Agustus 2025.

Finally, PF submitted an application for the determination of wali adhal to the Syar'iyah Court. After reviewing the case, the Panel of Judges considered that the rejection of the guardian of the nasab was not based on valid reasons according to the sharia. Based on these considerations, the judge appointed PF's uncle as the guardian of the court and transferred the guardianship to the guardian judge, namely the Head of the KUA of Lueng Bata District. The appointment of this guardian judge aims to ensure that PF marriages can be carried out in accordance with the provisions of Islamic law and applicable regulations.<sup>28</sup>

From these three cases, it can be concluded that the factors that trigger the occurrence of wali adhal in Lueng Bata District include personal problems, excessive social views, economic considerations, and grudges or family disputes that have nothing to do with sharia. This condition has the potential to harm women because it hinders their right to marry legally according to religion. Therefore, the determination of guardian judges by the Syar'iyah Court is an important step to ensure that marriage continues to be carried out in accordance with the principles and conditions of marriage, as well as protecting women's rights from guardian decisions that are not based on the right reasons according to sharia.

Based on the findings at the Lueng Bata District KUA, the determination of the judge due to the guardian 'adhal in the Lueng Bata District KUA shows that the rejection of the guardian in the three cases found was more influenced by personal, socio-economic, and family conflicts than sharia reasons. In the first case, the guardian refused to marry the child because of the heartache caused by the divorce, which was clearly an abuse of the guardianship's authority. In the second case, consideration of the economic status of the prospective husband is used as a reason for rejection, even though Islam emphasizes religion and morals as the main measure. Meanwhile, the third case shows how old family grudges are inherited to affect the decision of the guardian. These three cases confirm that the practice of guardianship is often dominated by emotions, social biases, and cultural conflicts, thus contrary to the purpose of sharia which is supposed to protect women's right to marry in a fair and legal manner.

#### **Determination of Guardians Due to Wali Adhal**

The determination of guardian judges due to guardian adhal is one of the legal mechanisms regulated in laws and regulations to ensure the fulfillment of women's rights in holding marriages. In the context of implementation at the KUA of Lueng Bata District, the determination of guardian judges becomes relevant when guardians, especially fathers or close male relatives, refuse or refuse to marry the prospective bride without a reason justified by sharia. Such rejection can have an impact on the delay or even inhibition of the implementation of the marriage contract, so that the state through laws and regulations provides a solution in the form of appointing a guardian judge.

This condition not only requires clarity of administrative procedures, but also the thoroughness of the KUA apparatus in verifying, including collecting information and supporting evidence, to ensure that the refusal truly meets the criteria of wali adhal as stipulated by Islamic law and positive law. Thus, every determination of the guardian judge must be carried out carefully so as not to cause disputes in the future and still ensure the protection of the rights of the bride-to-be.

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<sup>28</sup> PF, "Wawancara dengan Calon pengantin," 8 Agustus 2025.

**Table 2.** Mechanism for Determining Guardians Due to Wali Adhal in  
KUA Lueng Bata District

No.	Stages
1.	Seeking peace between the guardian and the bride-to-be with the help of other families.
2.	If these efforts fail, the KUA acts as a mediator and involves community leaders such as imams or gampong keuchik.
3.	If all efforts do not yield results and the rejection of the guardian is proven without a valid reason according to religion, the bride-to-be will be directed to submit an application to the Syar'iyah Court by bringing evidence, witnesses, and strong reasons.
4.	If all the requirements are met, then the court will decide on the transfer of guardianship rights to the judge's guardian.
5.	After the court decides on the transfer of guardian rights to the guardian, the KUA can only hold a marriage with the guardian in accordance with the appointment by the panel of judges.

Based on the results of research at the KUA of Lueng Bata District, there have been seven cases of guardian adhal in the last five years and all of them can be resolved with the help of the Syar'iyah Court. According to Mahfudz, the Head of KUA of Lueng Bata District, there are cases that are easy to solve, but there are also quite complicated. One of the causes is the relationship between father and daughter that is broken up due to divorce. The father, as the guardian, refused to meet or marry his child and cut off communication because of hurt feelings for his ex-wife.

Another case occurred when the guardian disagreed with the prospective husband who was considered unsuitable in terms of family, education, and work. This rejection was also supported by the gampong imam and the bride's family. There are also cases that originate from family disputes, where the uncle is appointed as the guardian after the father dies. However, because the refusal was not in accordance with the sharia, the Syar'iyah Court again transferred the rights of guardians to the guardian judges.

Each transfer of guardians is carried out in accordance with religious and state rules, taking into account the applicable conditions. KUA also educates brides-to-be about the importance of legal marriage requirements, including the role of guardians and their order. According to Irfan, a staff member of the Lueng Bata District KUA who handles the case of wali adhal, the first step taken is to encourage the bride and groom to try to reconcile with the guardian, assisted by respected families. If this method fails, KUA will help as a mediator and ask the bride-to-be to report the progress of her efforts.

If family mediation is unsuccessful, KUA suggests the help of community leaders such as imams or geuchik gampong. If all these efforts fail and the guardian refuses without a religiously justified reason, the bride-to-be can apply to the Religious Court. This application must be accompanied by evidence, strong reasons, and at least two witnesses who know the bride-to-be and her guardians. The biggest obstacle is usually the guardian who is difficult to talk to, not present when summoned, and not even come to the trial. Even so, KUA always ensures that the process is in accordance with the law and sharia, including ensuring the correct order of guardians. If all conditions are met,

then the rights of guardians will be transferred to the guardian judge through a court decision.<sup>29</sup>

The Lueng Bata District KUA handles cases like this gradually. The first step is to seek peace between the guardian and the bride-to-be with the help of a respected family. If these efforts fail, the KUA acts as a mediator and involves community leaders such as imams or gampong geuchik. If all efforts are fruitless and the rejection of the guardian is proven to be without a valid reason according to religion, the bride-to-be will be directed to apply to the Religious Court by bringing evidence, witnesses, and strong reasons. After the court decides on the transfer of guardian rights to the guardian, the KUA can only hold a marriage with the guardian in accordance with the appointment by the panel of judges.

This process is often encountered, especially because it is difficult for guardians to communicate with or avoid court calls. However, KUA always ensures that each stage is carried out in accordance with sharia rules and positive law, including ensuring the correct order of guardians. If all the requirements are met, then the court will decide on the transfer of guardianship rights to the guardian judge, so that women's right to marry is maintained without ignoring religious provisions and applicable legal procedures.

Based on findings at the KUA of Lueng Bata District, the case of wali adhal that has occurred in the last five years shows that the rejection of wali is generally not due to sharia reasons, but is influenced by personal conflicts, socio-economic factors, or inherited family problems. This condition shows the abuse of guardianship authority, where the guardian is more concerned with personal interests and feelings than the welfare of the child. The settlement process taken by KUA through family mediation efforts, involving community leaders, and submission to the Syar'iyah Court reflects that this institution functions as a guardian of justice so that women's right to marry is protected. However, obstacles in the form of guardians' attitudes that avoid communication or hearings indicate the weak awareness of some guardians of their sharia and legal responsibilities. Thus, these cases affirm the importance of strengthening legal education and awareness for guardians, so that the function of guardianship does not turn into a tool of restraint of rights, but remains in accordance with the purpose of sharia, which is to protect and honor girls.

## **CONCLUSION**

Based on the results of the study, it was concluded that the determination of guardians due to guardians in Lueng Bata District was motivated by non-sharia factors, such as personal problems between guardians and prospective brides, excessive social construction of the status of the prospective husband, economic considerations, and family conflicts inherited from generation to generation. These findings show a gap between the normative principles of guardianship in Islam which actually function as a form of protection for women and the social realities on the ground which are often influenced by emotions, material interests, and patriarchal culture. As a result, women's right to marry legally can be hampered by guardians' decisions that are not in line with the goals of sharia. In this context, the existence of the Syar'iyah Court has important significance as a legal authority that functions to maintain justice, ensure the validity of marriage, and protect women's rights from forms of restraint that are not based on religious teachings.

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<sup>29</sup> Irfan, "KUA Staff of Lueng Bata District," August 12, 2025.

Furthermore, the process of determining the guardian judge is proven to be carried out through stages, starting from internal peace efforts between the guardian and the prospective bride, followed by mediation by the KUA with community leaders. If the problem is not resolved, the bride-to-be can submit an official application to the Religious Court by attaching evidence and witnesses. This mechanism reflects the synergy between religious institutions and the state in upholding the principles of *maqashid al-shari'ah*, which is to protect individual rights and prevent abuse of guardian authority. This also emphasizes the role of the KUA and the religious courts in maintaining that marriage is carried out legally, fairly, and in accordance with the provisions of Islamic law and positive Indonesian law.

This study recommends that the study of guardianship and the determination of guardianship be expanded with a cross-regional or cross-cultural comparative perspective, in order to see the variation in practices and social dynamics that affect similar cases in other regions. In addition, advanced research can also integrate legal, sociology, and gender studies approaches to examine more deeply how the role of the state, religious institutions, and social constructs interact in determining women's access to marriage rights. Thus, the results of the research are expected to make a more comprehensive contribution to the development of family law policies in Indonesia.

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