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The Legal Complexities of *Wali Hakim* in Islamic Marriages: Comparative Insights from Indonesia and Beyond

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ABSTRACT

This study explores the legal complexities surrounding Islamic marriages, focusing specifically on the critical role of *Wali Hakim* in circumstances where *Wali Nasab* is unavailable or deemed 'adhal' (recalcitrant). In Islamic jurisprudence, the *Wali Hakim* acts as a legal guardian appointed to perform marriage ceremonies in cases where the traditional *Wali Nasab* is either absent, incapacitated, or refuses to perform the marital contract. This research utilizes a mixed-methods approach, including qualitative interviews with religious and community leaders, analysis of existing legal frameworks, and comparative studies of international practices. The findings reveal significant variations in the application and understanding of *Wali Hakim* across different jurisdictions, highlighting both the challenges and legal interpretations faced within Indonesia. Comparative insights are drawn from other Islamic countries and international legal standards to provide a broader context. The study identifies key discrepancies and recommends potential reforms to align Indonesian practices with international norms. The implications of these findings underscore the need for a nuanced approach to the application of *Wali Hakim*, balancing traditional Islamic principles with contemporary legal practices. This work contributes to the ongoing discourse on the evolution of Islamic family law and its intersection with modern legal systems.

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1. INTRODUCTION

Marriage in Islam is regarded as a sacred contract that establishes legal and moral rights between a husband and wife (Banoo & Ahmed, 2024; Shahnaz, 2021). The process of marriage, however, involves several legal and religious considerations, one of which is the role of a *wali* (guardian) in conducting the marriage contract, particularly for the bride (Hussain et al., 2022). In an Islamic marriage, the presence of a *wali* is critical, as it serves to ensure that the marriage contract is carried out by both legal and religious principles. Traditionally, the *wali nasab*—the closest male relative—holds the authority to act as the guardian (Faizah, 2023). However, in certain circumstances where the *wali nasab* is unavailable, unwilling, or refuses to give consent without valid reason, the *Wali Hakim* (judicial guardian) is appointed to ensure that the marriage proceeds without infringing upon the rights of the bride (Hassan et al., 2021). This study explores the complexities surrounding the role of the *Wali Hakim* in cases of *Wali Adhal*, where the refusal of a *wali nasab* complicates the process of marriage under Islamic law.

The concept of *Wali Adhal*, wherein a *wali nasab* refuses to perform their duties as a guardian, presents a significant challenge within the Islamic matrimonial framework. A *wali* may become *adhal* for various reasons, including personal objections to the bride's choice of spouse, concerns over the socioeconomic status of the groom, or cultural differences (Afrizal, 2023; Haq, 2023). Islamic jurisprudence recognizes that such refusals, when based on non-legitimate grounds, could undermine the rights of the bride and disrupt the sanctity of the marriage process (Fajriyah, 2024; Morris, 2016). To address this issue, the authority to appoint a *Wali Hakim* is vested in the Kantor Urusan Agama (KUA) or the religious court, as outlined in Indonesia's Compilation of Islamic Law and other related legal frameworks. This legal mechanism ensures that the bride's rights are protected, particularly in situations where delaying or denying marriage could result in harm or social stigma (Sebyar & A. Fakhruddin, 2020; Shobur & Soni Irawan, 2023).

The appointment of a *Wali Hakim* is not without its legal complexities. In the context of Indonesia, the role of the *Wali Hakim* is clearly defined within the country's religious and legal framework. The Regulation of the Minister of Religion Number 30 of 2005 outlines specific conditions under which a *Wali Hakim* can be appointed, including instances where a *wali nasab* is absent, unknown, or refuses to fulfill their duties due to *adhal* (Candra et al., 2023; Nisa, 2018). Additionally, the involvement of the Pengadilan Agama (Religious Court) in verifying claims of *wali adhal* introduces a critical judicial oversight that balances religious principles with legal enforcement (Anne et al., 2022; Annisa et al., 2024). The requirement for judicial intervention ensures that the claims of *adhal* are substantiated, and that the decision to appoint a *Wali Hakim* is based on legitimate grounds. This process reflects the broader principles of justice and fairness inherent in Islamic jurisprudence, particularly in the protection of women's rights within the marriage contract.

Despite these provisions, the application of *Wali Hakim* in cases of *wali adhal* often raises questions about the balance between traditional guardianship roles and the evolving needs of Muslim societies. In certain communities, such as those in Kelurahan Istiqlal (Kampung Arab) in Manado, Indonesia, societal awareness of the *Wali Hakim*'s role in resolving *wali adhal* cases is limited. While Islamic legal texts and government regulations provide a clear framework, many individuals remain unaware of the legal avenues available to address cases of guardianship refusal. This lack of awareness often results in confusion or delays in resolving marriage disputes, which can exacerbate tensions between families and lead to broader social issues, including the potential for extramarital relationships, a concern underscored by Islamic teachings.

This study seeks to contribute to the understanding of the *Wali Hakim*'s role in Islamic marriages, particularly in the context of *wali adhal* cases, by examining the legal and social implications of guardianship disputes. It draws on interviews conducted with religious figures, former KUA officials, and local community members in Kelurahan Istiqlal, where the issue of *Wali Hakim* is both a religious and legal concern. By analyzing the perspectives of these

stakeholders and reviewing existing legal frameworks, this research aims to clarify the procedures for appointing a *Wali Hakim* and the conditions under which such appointments are necessary. Additionally, the study will address the broader ethical considerations of guardianship in Islamic law, particularly how the *Wali Hakim* serves as a safeguard against the misuse of traditional guardianship roles to oppress or unjustly control women's rights in marriage.

The role of the *Wali Hakim* in Islamic marriages, particularly in cases of *wali adhal*, is essential to ensuring that the legal and religious rights of the bride are upheld. While the legal framework in Indonesia provides clear guidance on the appointment of a *Wali Hakim*, further exploration is needed to understand how these legal mechanisms are applied in practice, especially in communities with limited awareness of Islamic legal principles. This research aims to provide a comprehensive analysis of the legal complexities involved and the critical function of the *Wali Hakim* in resolving guardianship disputes, ultimately contributing to the broader discourse on justice, gender equity, and the evolving interpretation of Islamic law in contemporary society.

2. METHODS

This study adopts a qualitative approach to explore the legal complexities and the critical role of *Wali Hakim* in resolving cases of *wali adhal* within Islamic marriage practices, particularly in the Indonesian context (Smith & Smith, 2018). A qualitative method is ideal for this research as it allows for an in-depth examination of the socio-legal nuances, religious interpretations, and lived experiences surrounding the role of guardianship in Islamic marital law (Megannon, 2020; Yilmaz, 2024). The method enables a comprehensive exploration of the perspectives of key stakeholders, including religious scholars, legal practitioners, and affected individuals, to understand the legal, cultural, and religious dimensions of the *Wali Hakim*'s involvement in such cases.

The research employs a case study approach, focusing on the application of *Wali Hakim* in cases of *wali adhal* within the community of Kelurahan Istiqlal (commonly referred to as Kampung Arab) in Manado, Indonesia. The case study method is suitable for this research as it allows an in-depth investigation of the phenomenon of *wali adhal* in its real-life context. This approach facilitates a nuanced analysis of the legal processes, religious interpretations, and socio-cultural dynamics that inform the appointment of a *Wali Hakim*. Data collection methods involved semi-structured interviews, document analysis, and participant observation, ensuring the triangulation of data to enhance the validity and reliability of the findings (Bush, 2012). The research design is iterative, with ongoing refinement of research questions and objectives based on emerging data insights throughout the study.

Data were collected primarily through semi-structured interviews with key stakeholders, including religious leaders, Islamic legal scholars, and affected families. Religious leaders and scholars provided insights into the jurisprudential foundations and religious norms governing guardianship in Islamic law, with particular attention to the interpretation of *wali adhal*. Interviews with current and former officials from the Kantor Urusan Agama (KUA) offered practical perspectives on the procedural aspects of appointing a *Wali Hakim* and the legal challenges associated with handling guardianship disputes. Affected individuals, including brides and their families, shared personal experiences of navigating *wali adhal* situations, offering valuable insights into the emotional and social complexities that accompany such cases. In total, 15 interviews were conducted, with participants selected through purposive sampling to ensure relevance to the study's focus. Interviews were conducted in Bahasa Indonesia, recorded with participant consent, and later translated into English for analysis. Each interview lasted between 45 to 60 minutes, providing rich, detailed accounts of the participants' experiences.

In addition to interviews, a document analysis was carried out to complement the primary data. This analysis focused on Indonesia's Compilation of Islamic Law (Kompilasi Hukum Islam), which provides the official legal framework governing the appointment of a *Wali Hakim* in cases

of *wali adhal*. The study also reviewed relevant court rulings, official guidelines from the Ministry of Religious Affairs (Kementerian Agama), and religious texts. This document analysis was crucial in understanding how *wali adhal* cases are adjudicated in practice and the legal criteria that determine when a *Wali Hakim* is required. Furthermore, the analysis of classical Islamic texts and contemporary fatwas offered a broader theological and jurisprudential context for the *Wali Hakim's* role in Islamic marriages.

Participant observation was another essential method of data collection, conducted during marriage ceremonies and consultations at the KUA office in Kelurahan Istiqlal. Observing how disputes involving *wali adhal* were resolved in practice provided valuable contextual data and insights that may not have been captured through interviews or documents alone. This observation allowed the researcher to witness the interactions between religious officials, families, and the community, thus enriching the understanding of how Islamic legal principles are applied in real-life marriage cases.

The collected data were analyzed using thematic analysis, a widely recognized method in qualitative research. The analysis began with the familiarization of the data, where the researcher carefully reviewed all interview transcripts, observation notes, and documents. The initial review helped identify emerging patterns and potential themes. A detailed coding process followed, applying both inductive and deductive coding techniques. Deductive codes were derived from existing literature on Islamic law and guardianship, while inductive codes emerged directly from the data. The themes that emerged from this coding process were then grouped, refined, and reviewed to ensure they accurately represented the data. Themes such as "Legal complexities in the appointment of *Wali Hakim*," "Social and cultural challenges in *wali adhal* cases," and "Religious interpretations of guardianship disputes" became central to the analysis. Once finalized, these themes were integrated into a coherent narrative, contributing to the study's broader understanding of the *Wali Hakim's* function in *wali adhal* cases.

3. RESULTS AND DISCUSSION

Legal Framework and Application of *Wali Hakim*

The role of *Wali Hakim* within Islamic jurisprudence is multifaceted and significant, serving as a judicial guardian in the absence or incapacity of the traditional guardian, known as *wali nasab*. This concept is deeply rooted in Islamic law, where *Wali Hakim* steps in to facilitate the marriage process when the *wali nasab* is unavailable due to various reasons such as absence, incapacity, or refusal (Bemmelen & Grijns, 2018). To understand the theoretical foundation of *Wali Hakim*, it is crucial to explore its definition and application across different Islamic legal traditions. For instance, while the Hanafi, Maliki, Shafi'i, and Hanbali schools of thought all acknowledge the role of *Wali Hakim*, they do so with varying interpretations and stipulations (Asman, 2024; Rosmita et al., 2022). This section will provide a comparative analysis of these interpretations, highlighting the core principles that underpin the role of *Wali Hakim* and how they are applied differently across these schools. This comparative examination not only enriches the understanding of *Wali Hakim* but also situates its role within the broader context of Islamic marital jurisprudence.

Table 1. Comparative Practices of *Wali Hakim* Across Islamic Countries

Aspect	Indonesia	Malaysia	Arab Saudi
Appointing Authority	Religious Court	Syariah Court	Qadhi
Appointment Criteria	<i>Wali nasab adhal</i> , ar unknown	Similar to Indonesia	Wali nasab refuses without valid Sharia justification

Procedure	Application of Religious Court	Petition to Syariah Court	Determined directly by Qadhi
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Source: document analyzing (2023)

Table 1 provides a comparative overview of the practices related to the appointment and role of *Wali Hakim* across three Islamic countries: Indonesia, Malaysia, and Saudi Arabia. In Indonesia, the Religious Court (Pengadilan Agama) is responsible for appointing the *Wali Hakim* when the wali nasab is absent, unwilling, or *adhal* (recalcitrant). The process involves filing an application, judicial verification, and adherence to procedural guidelines outlined in national regulations, such as the Compilation of Islamic Law (Kompilasi Hukum Islam). Malaysia adopts a similar approach, where the Syariah Court oversees the appointment, ensuring compliance with Islamic legal standards. In contrast, Saudi Arabia assigns the authority to a Qadhi, who directly intervenes in cases where the wali nasab refuses to fulfill their duty without valid Sharia justification. This centralized system in Saudi Arabia emphasizes swift resolution through judicial authority. The comparison highlights differences in procedural formalities and the degree of judicial involvement, offering insights into how cultural and administrative contexts shape the implementation of Islamic family law.

In examining the legal criteria and requirements for appointing a *Wali Hakim*, it is essential to focus on the Indonesian legal framework, particularly the Compilation of Islamic Law (Kompilasi Hukum Islam) and the Ministerial Regulation of the Republic of Indonesia No. 30/2005. These legal documents outline the qualifications and procedural requirements necessary for someone to serve as *Wali Hakim*. Specifically, the regulations stipulate the conditions under which a *Wali Hakim* can be appointed, including their eligibility, qualifications, and the procedural steps required for their appointment (Fajriyah, 2024). This section will dissect these criteria in detail, assessing how well they align with traditional Islamic criteria and exploring any divergences that may exist. By doing so, it will provide a thorough understanding of how the role of *Wali Hakim* is formalized within the Indonesian legal system and how these formalities impact the practical application of the role.

To offer practical insights into the implementation of *Wali Hakim*, we will present case studies from Kelurahan Istiqlal (Kampung Arab) in Manado. These case studies will illustrate specific instances where *Wali Hakim* appointments were necessary, detailing the circumstances leading to their appointment and the processes followed. By analyzing these cases, we aim to evaluate the effectiveness of the legal criteria and procedures in real-world scenarios. This analysis will highlight both the successes and challenges associated with appointing *Wali Hakim* in practice, providing a nuanced understanding of how theoretical legal provisions are applied and experienced by individuals and communities.

A comparative analysis of legal documents and regulations across different jurisdictions will further contextualize the Indonesian framework. By comparing Indonesian regulations with those of other Islamic countries such as Saudi Arabia, Malaysia, and Egypt, this section will highlight similarities and differences in the criteria and procedures for appointing a *Wali Hakim* (Bowen, 2003; Esmaeili, 2009; Fauzi, 2024). This comparative approach will help identify best practices and areas for potential improvement within the Indonesian legal system. Understanding how other countries handle *Wali Hakim* can offer valuable insights into enhancing the effectiveness and fairness of its implementation in Indonesia.

Finally, the implications of these legal frameworks on the practice of *Wali Hakim* will be discussed. This includes examining how effectively the legal criteria and procedures are implemented in practice and their impact on individuals involved in the marriage process. The discussion will extend to exploring the broader implications for the administration of Islamic marriage law in Indonesia, considering whether legal reforms or adjustments might be necessary.

based on the findings. This section will provide a comprehensive overview of how the legal framework influences practical outcomes and suggest potential directions for improving the implementation of *Wali Hakim* in Indonesian marital law.

Societal Perceptions and Challenges

Community Understanding of Wali Hakim

The understanding of *Wali Hakim* within the community of Kelurahan Istiqlal (Kampung Arab) reveals significant insights into how this legal concept is perceived and integrated into local practices. Our research indicates that while there is some awareness of *Wali Hakim*, there remains a notable variability in comprehension among different segments of the community. Religious leaders, such as Ustad Abdurahman Mahrus, provide a foundational understanding of *Wali Hakim*, describing it as a substitute for the traditional *wali nasab* in situations of absence or refusal.

“The concept of Wali Hakim is understood quite well by religious leaders and some individuals with strong ties to Islamic teachings. We see it as a substitute for the wali nasab, especially in cases where the wali nasab is absent, unknown, or refuses without valid Sharia justification. However, among the general community, awareness is less consistent.” (Interview, Ustad Abdurahman Mahrus, Religious Leader, Manado, 2023)

However, general awareness among the broader community is less uniform. Interviews and surveys conducted with local residents illustrate that while some understand *Wali Hakim* as a legal necessity under certain circumstances, others possess limited knowledge or misconceptions about its role and application. This disparity in understanding highlights the need for more comprehensive educational initiatives to bridge gaps in knowledge and ensure that the community's understanding aligns with the legal and theoretical framework of *Wali Hakim*.

Impact of Wali Hakim on Marital Practices

The implementation of *Wali Hakim* has tangible effects on marital practices within the community. When the traditional *wali nasab* is unavailable or unwilling, *Wali Hakim* plays a crucial role in facilitating marriage proceedings. The presence of *Wali Hakim* influences various aspects of marital arrangements, including negotiations and decision-making processes. Our findings suggest that the involvement of *Wali Hakim* can sometimes streamline the marriage process, providing a legally recognized solution when traditional guardians are absent (Interview, AR, Manado, 2023). However, this involvement also brings to light several practical and social implications. For instance, some community members view the appointment of *Wali Hakim* as a necessary legal step, while others may experience resistance or discomfort, particularly when the *Wali Hakim*'s decisions diverge from traditional expectations. The impact of *Wali Hakim* extends to the broader acceptance of marriages within the community, affecting not only the individuals directly involved but also the social dynamics and perceptions surrounding marriage.

Cultural and Religious Considerations

Cultural and religious values play a significant role in shaping the acceptance and practice of *Wali Hakim*. In Kelurahan Istiqlal, traditional cultural norms and religious beliefs intersect with legal practices, influencing how *Wali Hakim* is perceived and implemented. Cultural practices related to marriage often emphasize the role of traditional guardians, making the adoption of *Wali Hakim* a complex issue. Interviews with cultural and religious leaders reveal that while *Wali Hakim* is legally sanctioned, its acceptance can be challenging in the face of entrenched cultural norms. The adaptation of *Wali Hakim* to fit local cultural practices impacts its effectiveness and acceptance, with some community members viewing it as a necessary legal adaptation and others as a deviation from traditional practices. Understanding these cultural and religious considerations is essential for fostering a more inclusive and effective implementation of *Wali Hakim*, ensuring that it is both legally sound and culturally sensitive.

Challenges Faced in Implementing Wali Hakim

Implementing *Wali Hakim* presents a range of practical challenges, particularly in the context of Kelurahan Istiqlal. One significant challenge is the resistance from traditional guardians who may view the role of *Wali Hakim* as an intrusion into customary practices. Additionally, bureaucratic inefficiencies can complicate the process, creating delays and obstacles in the appointment and functioning of *Wali Hakim*. Social challenges also arise, as some community members may resist the legal framework of *Wali Hakim* due to cultural or personal objections. These challenges underscore the need for a more streamlined and adaptable approach to the implementation of *Wali Hakim*, addressing both administrative and social barriers. By identifying and addressing these challenges, we can work towards improving the practical application of *Wali Hakim* and ensuring that it effectively meets the needs of the community.

Based on the insights gathered from the previous sections, several recommendations can be made to enhance the practice and understanding of *Wali Hakim*. First, there is a need for targeted educational initiatives to improve community awareness and understanding of *Wali Hakim*, ensuring that both legal and cultural perspectives are addressed. These initiatives should involve collaboration with religious and cultural leaders to foster a more comprehensive understanding of *Wali Hakim*. Second, streamlining administrative processes related to the appointment of *Wali Hakim* can help address bureaucratic challenges, reducing delays and improving efficiency. Finally, addressing cultural and religious concerns through dialogue and adaptation of practices can help improve acceptance and integration of *Wali Hakim* within the community. By implementing these recommendations, we can enhance the effectiveness of *Wali Hakim* and ensure that it aligns with both legal standards and community values.

Analysis of Legal and Social Implications

The legal framework surrounding *Wali Hakim*, particularly in cases of *wali adhal*, presents a complex interaction between Islamic law and modern legal practices (Maliki et al., 2023). The role of *Wali Hakim* is defined within the context of Indonesian Islamic law, specifically under the Compilation of Islamic Law (KHI) and the Ministerial Regulation of the Republic of Indonesia No. 30/2005. This framework designates *Wali Hakim* as a substitute for *wali nasab* when the latter is absent, unwilling, or unable to perform their duties (Anne et al., 2022). Our analysis reveals that the legal provisions provide a structured approach to handling situations where *wali nasab* is not available or has refused, ensuring that marriages can proceed in a legally recognized manner. However, the practical application of these provisions often encounters challenges (Fikri et al., 2024). For instance, the bureaucratic process of appointing a *Wali Hakim* and obtaining judicial approval can introduce delays and complications (Setiawan, 2018). This section examines how well the existing legal framework addresses these challenges and assesses the effectiveness of the regulatory measures in facilitating fair and timely marriages.

The social dynamics surrounding the use of *Wali Hakim* highlight significant variations in perceptions and acceptance within the community. Our research indicates that while some segments of the population view *Wali Hakim* as a necessary legal solution in the absence of *wali nasab*, others may harbor skepticism or resistance due to cultural and traditional beliefs (Nisa, 2018). The integration of *Wali Hakim* into social practices involves navigating a complex landscape of cultural norms and religious expectations. Interviews with community members reveal that acceptance of *Wali Hakim* can be influenced by factors such as the perceived legitimacy of the appointment, the relationship between the *Wali Hakim* and the parties involved, and the overall alignment with traditional values (Monaya et al., 2024). This section explores how these social dynamics impact the implementation of *Wali Hakim*, considering both the support and resistance encountered in practice. The analysis also addresses how the community's perceptions align with or diverge from the legal framework and what implications this has for the overall efficacy of *Wali Hakim*.

To provide a deeper understanding of the practical challenges associated with *Wali Hakim*, this section presents several case studies from Kelurahan Istiqlal (Kampung Arab). These case studies illustrate real-world scenarios where *Wali Hakim* has been utilized, highlighting both successful implementations and difficulties encountered. For example, cases where *Wali Hakim* was appointed due to the *adhal* status of the *wali nasab* demonstrate the procedural hurdles and social resistance faced by the parties involved. Other cases reveal how the involvement of *Wali Hakim* can streamline the marriage process when traditional guardians are absent, yet also underscore the complexities introduced by cultural and administrative factors. By analyzing these case studies, this section aims to provide practical insights into the challenges and successes of applying *Wali Hakim* in different contexts, offering a nuanced view of its effectiveness and areas for improvement.

A comparative analysis with other jurisdictions that employ similar legal mechanisms for substitute guardians in marriage provides valuable insights into the effectiveness and adaptability of *Wali Hakim*. This section examines how other countries with Islamic legal frameworks handle situations where traditional guardians are absent or unwilling, comparing their approaches with the Indonesian system. By evaluating how *Wali Hakim* is implemented in different legal contexts, we can identify best practices and potential areas for reform within the Indonesian framework. This comparative perspective not only highlights the strengths and weaknesses of the current system but also offers opportunities for learning from international experiences to enhance the application and acceptance of *Wali Hakim* in Indonesia.

Comparison with Other Jurisdictions

implementations of the *Wali Hakim* concept. For instance, in some jurisdictions, the position of *Wali Hakim* is closely tied to the judiciary, which provides a more formalized and structured approach to its appointment and role (Ali, 2003; Esposito, 2001). In contrast, other countries might have more informal or community-based approaches, reflecting varying levels of integration between legal and religious practices (Nisa, 2018). Analyzing these international perspectives allows for a broader understanding of how *Wali Hakim* functions across different contexts and how these practices impact the validity and acceptance of marriages in various Islamic societies.

A comparative analysis of *Wali Hakim* practices in other Islamic countries reveals notable differences and similarities. For example, in countries like Saudi Arabia and Pakistan, the appointment of *Wali Hakim* often involves a more centralized approach, with judicial authorities or appointed clerics assuming the role in the absence of a *wali nasab* (Esmaeili, 2009; Hassan et al., 2021). This centralized approach contrasts with the more localized and community-based practices observed in Indonesia (Candra et al., 2023). Additionally, some countries have specific legal provisions and detailed procedural guidelines for appointing *Wali Hakim*, which may offer a more streamlined process compared to Indonesia's current system (Moors, 2018; Purkon et al., 2022). Understanding these practices provides valuable insights into how different jurisdictions address similar issues and highlights potential areas for improvement in Indonesian practices.

International legal frameworks on guardianship and marriage offer critical insights into the principles and practices surrounding *Wali Hakim*. Many Islamic countries have developed legal standards that aim to balance traditional Islamic principles with modern legal requirements (Banoo & Ahmed, 2024). For instance, some jurisdictions have incorporated aspects of international human rights conventions into their family law systems, influencing the way guardianship and marriage are regulated (Esposito, 2001; Moors, 2018). These frameworks often emphasize the importance of protecting individual rights while ensuring adherence to religious norms. By examining these international standards, we can identify best practices and areas where Indonesian law might benefit from integration or alignment with global legal trends.

The comparison with international practices and legal frameworks provides several implications for Indonesian law. The current system of *Wali Hakim* in Indonesia, while rooted in Islamic principles, may benefit from adopting certain practices observed in other jurisdictions. For

example, streamlining the appointment process, enhancing transparency, and aligning procedural requirements with international standards could improve the efficiency and effectiveness of *Wali Hakim* (Shobur & Soni Irawan, 2023). Additionally, integrating insights from international human rights conventions could help address any gaps or inconsistencies in the current legal framework, ensuring that it meets both religious and modern legal expectations (Hassan et al., 2021).

To better align Indonesian practices with international standards, several recommendations can be made. *First*, revising the procedural guidelines for appointing *Wali Hakim* to include more detailed and transparent criteria could enhance the legitimacy and acceptance of the role (Candra et al., 2023). *Second*, incorporating international best practices in guardianship and marriage into Indonesian law could address existing challenges and ensure that the legal system remains relevant and effective (Ali, 2003). *Third*, fostering greater dialogue and cooperation with international legal bodies and experts can provide valuable insights and support for ongoing reforms (Nisa, 2018). Implementing these recommendations would help Indonesian law reflect both traditional Islamic values and contemporary global standards, improving the overall practice of *Wali Hakim*.

Several potential reforms for the Indonesian system of *Wali Hakim* can be proposed. These include developing more detailed legal provisions that address the nuances of *Wali Hakim* appointment and its role in marriage, enhancing the training and qualification requirements for *Wali Hakim* to ensure their competence and fairness, and improving the integration of international human rights principles into the national legal framework (Banoo & Ahmed, 2024). Additionally, establishing clearer guidelines for addressing disputes and grievances related to *Wali Hakim* could further strengthen the system. By implementing these reforms, Indonesian law can better align with international practices, improve the effectiveness of *Wali Hakim*, and ensure that the legal system adequately serves the needs of its diverse population.

4. CONCLUSION

The study concludes that the role of *Wali Hakim* in addressing cases of wali adhal is crucial for ensuring the legal and religious rights of brides within Islamic marriages, particularly in the Indonesian context. While Indonesia's legal framework, including the Compilation of Islamic Law and Ministerial Regulations, provides structured mechanisms for appointing *Wali Hakim*, challenges remain in its practical implementation due to gaps in community awareness, bureaucratic inefficiencies, and cultural resistance. This research offers a novel contribution by highlighting the interplay between traditional guardianship roles and modern legal practices, emphasizing the need for educational initiatives and legal reforms to enhance the community's understanding and acceptance of *Wali Hakim*. By comparing practices in Indonesia with other Islamic countries, the study underscores the importance of balancing Islamic jurisprudence with contemporary societal needs, providing valuable insights for policymakers, legal practitioners, and religious authorities to strengthen the integration of Islamic law in diverse cultural settings. This study provides valuable insights into the function and impact of *Wali Hakim* in addressing situations of *wali adhal*, highlighting both the strengths and limitations of the current system. While *Wali Hakim* plays a critical role in facilitating marriages when traditional guardians are unavailable, the practical challenges and social perceptions surrounding its application underscore the need for ongoing evaluation and improvement. The reflections offered in this study emphasize the importance of balancing legal requirements with cultural sensitivities and the need for continued dialogue between legal authorities, religious leaders, and community members. By addressing these issues, the legal system can enhance its effectiveness and ensure that *Wali Hakim* serves its intended purpose in a manner that is both fair and respectful of Islamic values and social norms.

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6. REFERENCES

- Afrizal, D. (2023). *Pertimbangan Hakim Dalam Penetapan Wali Adhal Dalam Pernikahan Di Kota Lhokseumawe*. Universitas Islam Negeri Ar-Raniry.
- Ali, K. (2003). Islamic Family Law in a Changing World: a Global Resource Book. *The Middle East Women's Studies Review*, 18(3–4), 22–24.
- Anne, C., Maulana, F., & Aulia, R. (2022). The Role of Guardian Judges in Resolving Guardian Adhol Conflicts: Process and Outcome Analysis. *Indonesian Journal of Islamic Law*, 5(2), 98–113. <https://doi.org/10.35719/ijil.v5i2.2074>
- Annisa, A. D., Sutisna, S., & Hambari, H. (2024). Analysis of the Decision on the Case of Wali Adhal in the Marriage of a Girl in the Bogor Religious Court. *Mizan: Journal of Islamic Law*, 8(1), 64. <https://doi.org/10.32507/mizan.v8i1.2837>
- Asman, A. (2024). Comparative Analysis of the Istimbath Methods of the Shafi'i and Hanafi Schools Regarding the Role of the Wali Mujbir in Marriage Law. *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum*, 9(1), 29–46. <https://doi.org/10.22515/alahkam.v9i1.9447>
- Banoo, S., & Ahmed, T. (2024). *Rules of marriage in Islam: A comprehensive analysis*.
- Bemmelen, S. T. van, & Grijns, M. (2018). Relevansi Kajian Hukum Adat : Kasus Perkawinan Anak dari Masa ke Masa. *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 30(3), 516. <https://doi.org/10.22146/jmh.38093>
- Bowen, J. R. (2003). *Islam, law, and equality in Indonesia: An anthropology of public reasoning*. Cambridge University Press.
- Bush, T. (2012). Authenticity in research: Reliability, validity and triangulation. *Research Methods in Educational Leadership and Management*, 6(19), 75–89.
- Candra, M., Sinaulan, R., Al Hasan, F., & Ramadhan, J. (2023). The Religious Court Trial Of Wali Adhal Cases In The Indonesian Legal System: A Legal Analysis. *Jurnal Hukum Dan Peradilan*, 12(1), 77. <https://doi.org/10.25216/jhp.12.1.2023.77-96>
- Esmaili, H. (2009). On a slow boat towards the rule of law: The nature of law in the Saudi Arabia legal system. *Ariz. J. Int'l & Comp. L.*, 26, 1.
- Esposito, J. L. (2001). *Women in Muslim family law*. Syracuse University Press.
- Faizah, N. (2023). The Concept of Marriage Guardian in the Perspective of Islamic Law. *YUDHISTIRA: Jurnal Yurisprudensi, Hukum Dan Peradilan*, 1(2), 1–8. <https://doi.org/10.59966/yudhistira.v1i2.1217>
- Fajriyah, N. (2024). *Penetapan Hakim dalam Perkara Dispensasi Nikah Perspektif Undang-Undang Perlindungan Anak dan Maqā'id Syari'ah (Studi Penetapan Nomor 32/Pdt. P/2020/P.A. Tty dan Nomor 236/Pdt. P/2021/P.A. Llk)*. Universitas Islam Indonesia.
- Fauzi, F. (2024). 'Urf and Its Role in The Development of Fiqh: Comparative Study of Family Law Between Egypt and Indonesia. *El-Usrah: Jurnal Hukum Keluarga*, 7(1), 346. <https://doi.org/10.22373/ujhk.v7i1.23968>
- Fikri, M., Abbas, Muchtar, M. I., Darlius, & Al-Amin, D. (2024). Emergence of Digital Matrimony: Exploring Islamic Legal Responses to Metaverse Marriages. *Journal of Islamic Thought and Civilization*, 14(2), 246–262. <https://doi.org/10.32350/jitc.142.15>
- Haq, Z. (2023). *Tinjauan Hukum Keluarga Islam Terhadap Peran Kua Dalam Menyelesaikan Permasalahan Wali Adhal Kecamatan Sakti Kabupaten Pidie*. UIN Ar-Raniry Fakultas Syariah dan Hukum.
- Hassan, A., Qadri, M. A., & Saleem, M. (2021). The Muslim Family Law Ordinance 1961: Pioneer of Women Empowerment in Pakistan. *Journal of the Research Society of Pakistan*, 58(1), 210.
- Hussain, B., Abbas, H. G., & Hussain, K. (2022). Legal Competency for Marriage: In an Islamic and Pakistan Law Perspective. *Al-Ajiaz Research Journal of Islamic Studies & Humanities*, 6(1),

- 12–24. [https://doi.org/10.53575/e2.v6.01.\(22\)12-24](https://doi.org/10.53575/e2.v6.01.(22)12-24)
- Maliki, I. A., Zaelani, A. Q., Ardi, M. Z., & Ghummiah, S. M. (2023). A Gender-Based Maqashid Sharia Study of Penghulu in Indonesia (A Study of Jasser Auda's Views). *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 23(1), 51–68. <https://doi.org/10.19109/nurani.v23i1.16447>
- Megannon, V. (2020). *The Lived Experience of Inheritance for Muslim Widows in Contemporary South Africa*.
- Monaya, N., Rumatiga, H., & Hanifa, Z. (2024). PERTIMBANGAN HUKUM DALAM PENETAPAN WALI ADHAL DI PENGADILAN AGAMA BOGOR KELAS 1A. *Causa: Jurnal Hukum Dan Kewarganegaraan*, 6(3), 31–40.
- Moors, A. (2018). Debating Islamic Family Law: Legal Texts and Social Practices. In *Social History of Women and Gender in the Modern Middle East* (pp. 141–175). Routledge. <https://doi.org/10.4324/9780429502606-5>
- Morris, S. (2016). “*When Brothers Dwell in Unity*”: Byzantine Christianity and Homosexuality. McFarland.
- Nisa, E. F. (2018). The bureaucratization of Muslim marriage in Indonesia. *Journal of Law and Religion*, 33(2), 291–309. <https://doi.org/10.1017/jlr.2018.28>
- Purkon, A., Ahmad Hidayat Buang, & Mohd. Hafiz Jamaludin. (2022). The Role of Supreme Court Jurisprudence in Development of Islamic Family Law in Indonesia. *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan*, 9(2), 362–376. <https://doi.org/10.32505/qadha.v9i2.4111>
- Rosmita, Afifah, A. N., & Nasaruddin. (2022). The Position of the Guardian in Marriage Perspective of the Hanafi and the al-Shafi'i Madhhab. *Mazhabuna*, 152–172. <https://doi.org/10.24252/mh.vi.30969>
- Sebyar, M. H., & A. Fakhruddin. (2020). PENGAMBILALIHAN WEWENANG WALI NASAB DALAM PERKARA WALI ADHAL PERSPEKTIF PLURALISME HUKUM (Studi Kasus Pandangan Hakim dan Tokoh Masyarakat Kabupaten Pasuruan). *ADHUKI: Journal of Islamic Family Law*, 1(2), 73–91. <https://doi.org/10.37876/adhki.v1i2.19>
- Setiawan, M. R. A. (2018). *The opinions of the heads of Kantor Urusan Agama Kota Malang on marriage registration outside the authorized location in the perspective of Maslahah*. Universitas Islam Negeri Maulana Malik Ibrahim.
- Shahnaz. (2021). Transition of Marriage from Sacrament to Contract: Comparative and Critical Reflections on Women's Rights in Hindu and Muslim Laws. *J. Int'l L. Islamic L.*, 17, 228.
- Shobur, M., & Soni Irawan, A. (2023). Studi komparasi Undang-undang perkawinan No. 1 Tahun 1974 dan imam madzhab tentang wali adhol. *As-Sakinah Journal of Islamic Family Law*, 1(1), 23–37. <https://doi.org/10.55210/jhki.v1i1.280>
- Smith, R., & Smith, L. (2018). Qualitative methods. In *Research Methods in Human Rights* (pp. 70–93). Routledge. <https://doi.org/10.4324/9781315672632-5>
- Yilmaz, I. (2024). *Sharia as Informal Law: Lived Experiences of Young Muslims in Western Societies*. Taylor & Francis.