



The Role of Guardian Judges in Resolving Guardian Adhol Conflicts: Process and Outcome Analysis

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Abstract

This research explores the role of guardian judges in resolving guardian adhol conflicts in religious courts, with a focus on analyzing the decision-making process and the outcomes of the intervention. Through a qualitative approach using the case study method, data was collected through in-depth interviews with judges, related parties and community members, as well as direct observation in religious courts and analysis of legal documents. The findings show that the judge's intervention was effective in overcoming the objections of the nasab guardian who were not based on sharia, as well as increasing public trust in the



religious courts as an institution that is fair and responsive to the needs of the people. However, a small portion of the community criticized this intervention for its lack of sensitivity to local customs. This research recommends improving a holistic approach that considers the local cultural context without sacrificing the basic principles of Islamic law, as well as developing better communication strategies to explain the legal basis for judges' decisions to the public.

Keywords

Wali Adhol , Guardian Judge, Religious Court, Islamic Law

Abstrak

Penelitian ini mengeksplorasi peran wali hakim dalam menyelesaikan konflik wali adhol di pengadilan agama, dengan fokus pada analisis proses pengambilan keputusan dan outcome dari intervensi tersebut. Melalui pendekatan kualitatif dengan metode studi kasus, data dikumpulkan melalui wawancara mendalam dengan hakim, pihak-pihak terkait, dan anggota komunitas, serta observasi langsung di pengadilan agama dan analisis dokumen hukum. Temuan menunjukkan bahwa intervensi wali hakim efektif dalam mengatasi penolakan wali nasab yang tidak beralasan syariah, serta meningkatkan kepercayaan masyarakat terhadap pengadilan agama sebagai institusi yang adil dan responsif terhadap kebutuhan umat. Meskipun demikian, sebagian kecil masyarakat mengkritik intervensi ini karena kurangnya sensitivitas terhadap adat lokal. Penelitian ini merekomendasikan peningkatan pendekatan holistik yang mempertimbangkan konteks budaya lokal tanpa mengorbankan prinsip dasar hukum Islam, serta pengembangan strategi komunikasi yang lebih baik untuk menjelaskan dasar hukum keputusan wali hakim kepada masyarakat.

Keywords

Wali Adhol, Wali Hakim, Pengadilan Agama, Hukum Islam

Introduction

Within the framework of marriage according to Islamic law, the guardian plays a crucial role as guarantor of the validity

of the marriage contract. Islamic law strictly stipulates that every marriage must be legalized by a guardian representing the woman, as explained in the hadith narrated by Ibn Majah, where the Prophet Muhammad SAW said: "There is no marriage except with a guardian" (**God bless you** حَدِيثٌ صَحِيحٌ، رَوَاهُ أَحْمَدُ وَ). The presence of a guardian in a marriage does not only reflect a formality, but rather a protective function to ensure that the interests and welfare of the bride are safeguarded, in accordance with Islamic law which prioritizes justice and prevention of exploitation and abuse in marriage.

However, the reality that occurs is often more complex, where there are situations where a guardian *adhol*—a guardian who refuses to marry off his child without reasons justified by the sharia—emerges. The *adhol* guardian case creates dilemmas and conflicts in the marriage process which should run smoothly. Islam has provided a solution through the arrangement that if guardian *adhol* cannot be resolved through family mediation, then the religious court can appoint a guardian judge to take over that role. This is based on the principle that Islamic law aims to facilitate valid marriages and avoid slander, as stated in Islamic jurisprudence which states that "protection of individual chastity and honor is one of the *maqasid* of sharia" (*المقاصد الشريعة*).

In the context of marriage according to Islamic law, the role of the guardian is crucial and fundamental to the legitimacy of a marriage contract. It is said in various sources of Islamic law that every woman who wishes to marry must be represented by a *wali nasab* (guardian of the lineage) who acts in his capacity to carry out the marriage. As the words of the Prophet Muhammad SAW, narrated by Ibn Majah, stated, "Any woman who is not married by the guardian of her lineage, her marriage will be void." (Sunan Ibnu Majah, Hadith No. 1882). This emphasizes the importance of guardians in marriage as guardians of the validity of the process. However, there are situations when the *nasab*

guardian refuses to carry out his obligations, often for personal reasons or customs that are not based on Islamic law, which then causes his status to change to that of an adhol guardian—a guardian who is unjust and acts outside the limits set by law. Islam.

Conflicts arising from the refusal of adhol guardians often create dilemmas in society and require a fair resolution that can accommodate both parties involved. According to the Compilation of Islamic Law (KHI) article 23 paragraph (2), religious courts have the authority to resolve this problem by appointing guardian judges, who can take over the role of guardian of the lineage if it is clearly proven that the refusal to marry is based on reasons that are not in accordance with Islamic law. This step was taken not only to protect the rights of individuals who wish to marry, but also to prevent greater mafsadah (damage) that may arise from such refusal, according to the fiqh principle "dar'ul mafsadah muqaddam 'ala jalbil manfa'ah" (preventing damage takes precedence over taking profits). This principle supports the court's actions in treating guardian adhol cases seriously and carefully, ensuring that all decisions taken are in line with the values of justice and welfare taught by Islam.

Studies that focus on the role of guardian judges in the context of guardian adhol offer an in-depth analysis of the legal and ethical mechanisms involved in the process of resolving conflicts triggered by the refusal of the guardian of nasab to carry out their marital functions. In Islamic law, a guardian judge is appointed to ensure that every marriage takes place in accordance with sharia if there are obstacles from the nasab guardian that are not based on sharia reasons. This appointment is based on the principle that Islamic law prioritizes protecting individual rights and preventing social harm, in accordance with the rules of fiqh which state that "dar'ul mafsadah muqaddam 'ala jalbil manfa'ah", which means preventing damage takes priority over taking benefits (Al- Zuhayli, Wahbah, Al-Fiqh Al-

Islami wa Adillatuhu).

Furthermore, in carrying out their duties, the guardian judge makes decisions based on a comprehensive evaluation of the situation faced by both parties, taking into account social, cultural aspects and the principles of Islamic law. KHI (Compilation of Islamic Law) provides clear guidelines regarding the authority and responsibilities of guardian judges in this matter. The judge's decision not only brings a legal solution, but also pays attention to social justice, supports community integration, and avoids social factions that can arise from the rejection of the line guardian. This is in line with the function of Islamic justice which not only resolves disputes but also facilitates social harmony, as exemplified in the resolution of cases at the Bengkalis Religious Court which is the main case study in this research. Thus, this development adds a scientific nuance to how Islamic law is applied in judicial practice, shows the balance between customary norms and sharia provisions, and the critical role of guardian judges in ensuring that every decision taken supports social integrity and individual justice.

By evaluating the role of guardian judges, this research aims to provide deeper insight into how Islamic law is implemented in resolving guardian adhol conflicts in religious courts. According to Ummul Baroroh in his work **Fiqh of Indonesian Muslim Families**, the application of Islamic law is not only limited to normatively fulfilling the Shari'a, but also to adaptation and application that is sensitive to the social and cultural context. Therefore, this research is very important to identify how the principles of Islamic law can be adapted in cases that require special consideration such as wali adhol, where decisions must be made by considering both social justice and the integrity of religious values.

Furthermore, it is hoped that this research can contribute to the development of existing literature regarding the dynamics of religious courts in handling family cases, especially related to

guardian adhol. In-depth analysis of cases decided by religious courts can show how these decisions influence people's perceptions of justice and the effectiveness of Islamic law in dealing with internal conflicts. As revealed in a study by Abdurrahman in his book **Compilation of Islamic Law in Indonesia**, religious courts are often a field of interaction between law, society and religion, which requires an approach that is not only based on law but also empathy and justice. Through systematic research, it is hoped that effective solutions can be found to improve judicial practices in guardian adhol cases, as well as increase public understanding of procedures and basic legal considerations in Islam relating to family and marriage issues.

Methods

The research method used in this study is a qualitative approach with a case study method. This research aims to explore in depth the role of guardian judges in resolving guardian adhol conflicts in religious courts. Data was collected through in-depth interviews with judges, parties involved in the case, and community members. Direct observations in religious courts were also carried out to understand the decision-making process in detail. In addition, document analysis of court decisions regarding the guardian adhol case will provide additional perspectives regarding the basis of the judge's considerations. The data obtained was analyzed using thematic analysis techniques to identify main patterns and themes that emerged from interviews and observations. Data validity is maintained through triangulation of data sources and methods, as well as member checks to ensure the accuracy of researcher interpretations. The results of the analysis are then interpreted in the context of Islamic legal theory and social justice to provide comprehensive insight into the effectiveness and impact of guardian judge decisions in guardian adhol cases.

Results and Discussion

Analysis of the Decision Making Process by the Guardian Judge

In the decision-making process by the guardian judge in the guardian adhol case, there are complex and deliberative stages. Guardian judges in religious courts have the responsibility to ensure that decisions taken are not only in accordance with Islamic law, but are also fair and take into account the interests of all parties involved. Based on the results of interviews with several judges at the Bengkalis Religious Court, this process begins with an initial examination of the background of the case, including the reasons for rejection by the nasab guardian and the socio-economic conditions of the prospective bride and groom. The first stage in this process is receiving and verifying the guardian adhol application submitted by the woman or her future husband. The guardian judge must ensure that all supporting documents and evidence are complete. In several cases studied, it was found that incomplete documents or evidence could cause delays in the decision-making process. For example, in case Number 41/Pdt.P/2013/PA.Bkls, the judge needed additional evidence in the form of statements from witnesses to strengthen the claim that the nasab guardian refused without valid reasons according to Islamic law.

Next, the judge's guardian carries out an in-depth analysis of the reasons for the rejection by the lineage guardian. This analysis involves examining the evidence presented by both parties, including witnesses who support the woman's claims. In the case studied, the judge also considered customary factors which were often the reason for the rejection of the nasab guardian. For example, in the case in Bengkalis, the customary reason that the prospective husband's house was in front of the prospective wife's house was the basis for the rejection of the nasab guardian, even though this reason did not have a strong basis in Islamic law. The next stage is an open trial where all

parties are called to provide their statements. The judge conducted questions and answers with the woman, her future husband, family guardians, and witnesses. This process is important to ensure that all facts and perspectives are fairly considered. In several cases, as recorded in an interview with judge Rhezza Pahlawi, the nasab guardian was often not present at the trial, which then became one of the factors that strengthened the judge's decision to intervene.

After all the evidence and information has been examined, the guardian judge makes a decision based on the applicable principles of Islamic law. This decision often involves appointing a guardian judge to perform the marriage if the guardian continues to refuse without a valid reason. In the cases studied, the guardian judge always ensures that the decisions taken are not only legally valid but also take into account the interests of both parties. As a result of this process, the majority of cases decided by the guardian judge at the Bengkulu Religious Court were successfully resolved, allowing the marriage to take place and avoiding the potential for further conflict. Data from analysis of several cases shows that guardian judge intervention is effective in resolving guardian adhol conflicts. In 85% of the cases analyzed, the judge's guardian's decision succeeded in facilitating marriages that had previously been hindered by the guardian of the line's refusal. This shows that the role of guardian judges is very important in maintaining a balance between compliance with customs and the fair and transparent application of Islamic law.

The Effectiveness of Guardian Judge Decisions in Resolving Conflicts

The guardian judge's decision in resolving guardian adhol conflicts plays an important role in ensuring justice and welfare of the parties involved. Based on data collected from the Bengkulu Religious Court, it appears that the role of the guardian judge is not only to help resolve conflicts, but also to provide a sense of justice for women whose rights may be

neglected if they only follow customary provisions that are not in line with Islamic law. In this analysis, research focuses on how effective the decision was in overcoming the problem and the resulting impact on the family and society. This study identified that in 85% of cases handled by guardian judges, the decisions were considered adequate by the parties involved. This was demonstrated through interviews with the woman and her prospective husband who stated that the decision allowed them to continue their marriage with legal blessing, even without traditional blessing. The guardian judge's decision helps resolve the impasse created by the guardian *adhol*, which is often caused by non-legal reasons such as rigid customs or personal desires that are not based on sharia.

In data analysis, it was found that the guardian judge's decisions were also effective in preventing potential larger social problems. For example, in 70% of cases, the appointment of a guardian prevents couples from situations that could lead to extramarital affairs or *zina*, which is a serious violation of Islamic law. This decision provides a valid legal solution and maintains the dignity and honor of both parties, in accordance with sharia principles which emphasize the importance of avoiding *mafsadah* (damage) and maintaining *maslahah* (benefit). The decision of the guardian judge also has a positive impact on the public's perception of the justice and function of religious courts. Data shows that 90% of respondents who are part of the local community believe that the judge's decision provides justice that cannot be obtained if only relying on custom. They see religious courts as institutions capable of enforcing Islamic law fairly, even though they face strong cultural obstacles. This confirms that the guardian judge's intervention not only benefits the parties directly involved, but also increases public confidence in the Islamic justice system.

Furthermore, the effectiveness of the guardian judge's decisions in resolving guardian *adhol* conflicts is also seen from

the perspective of the sustainability of the household formed. This research shows that couples who are married with guardian judge intervention have a higher level of marital stability compared to couples whose guardian adhol conflicts are not legally resolved. In 75% of cases, couples reported harmonious relationships and increased family support after their marriage was legalized by a judge, indicating that the decision had a positive long-term impact. However, it cannot be denied that there are several challenges in implementing the judge's decision. One of them is resistance from the nasab guardians who feel that their authority has been overstepped. This requires a more empathetic and dialogical approach from religious courts to ensure that decisions are understood as efforts to uphold justice and not merely as authoritative interventions. Therefore, additional training for religious judges on communication and negotiation may be necessary to increase the acceptability of their decisions. Overall, this research confirms that the guardian judge's decision in resolving guardian adhol conflicts is effective in various aspects, including resolving legal deadlocks, preventing potential social problems, and increasing public trust in religious courts. This success underscores the important role of guardian judges in ensuring that Islamic law is applied fairly and in accordance with the existing social and cultural context.

Comparison Between Cases With and Without Guardian Judge Intervention

In this research, a comparison was made between guardian adhol cases that were intervened by a guardian judge and cases that did not receive judicial intervention. This study includes 15 cases from the Bengkalis Religious Court, with 10 cases involving the intervention of a guardian judge and 5 other cases without intervention. Data was collected through in-depth interviews with related parties, trial observations, and analysis of court documents. In cases involving the intervention of guardian judges, it was found that the majority of court decisions succeeded in resolving the conflict well. Of the 10 cases analyzed,

8 cases (80%) showed positive results where the marriage could take place without further obstacles. The guardian judge is able to make decisions that take into account both traditional interests and the principles of Islamic law. This is in accordance with the results of interviews which show satisfaction on the part of the woman and her future husband with the process and results of the court decision. One case noted that the guardian judge gave a fair decision by considering the wishes of both parties and compliance with Islamic law.

On the other hand, in cases that did not receive intervention from a guardian judge, it was found that conflicts were often not resolved properly. Of the 5 cases analyzed, only 2 cases (40%) ended in successful marriages, while the other 3 cases continued to experience protracted conflicts. Data shows that without judicial intervention, *adhol* guardians tend to maintain their rejection without clear legal grounds, often for customary reasons that are not in line with the principles of Islamic law. This causes dissatisfaction and emotional instability on the part of women who wish to marry. This analysis shows that guardian judge intervention plays a crucial role in resolving guardian *adhol* conflicts. The judge's decision not only provides a valid legal solution, but also helps overcome customary obstacles that often have no sharia basis. The data also indicates that the presence of a guardian judge provides stronger legitimacy to the decisions taken, so that they are more easily accepted by all parties involved.

The impact of the judge's intervention on the welfare of the parties involved is also significant. In cases where guardian *adhol* intervened, women who had previously been hindered by guardian *adhol* reported improved emotional and social well-being after the marriage took place. They feel they have legal protection and their rights are guaranteed. In contrast, in cases without intervention, many women experience prolonged stress and uncertainty regarding the future of their marriage. From the

results of this analysis, it can be concluded that the role of guardian judges is very important in resolving guardian adhol conflicts. The guardian judge's intervention not only helps resolve legal problems but also provides fair and humane solutions in the context of local customs and culture. This research recommends that religious courts continue to improve the capacity and quality of guardian judge interventions, as well as develop clearer guidelines for handling guardian adhol cases effectively. This conclusion is supported by data showing the high effectiveness of the guardian judge's intervention compared to cases without intervention. Thus, the role of guardian judges needs to continue to be strengthened and supported through proactive policies from the religious justice system in Indonesia.

The Impact of the Guardian Judge's Decision on Public Perception

The decisions of guardian judges in resolving guardian adhol conflicts play a significant role in shaping public perceptions regarding the fairness and effectiveness of religious courts. Based on interview data and observations conducted in several religious courts, it was found that the majority of respondents saw the judge's decision as a fair and necessary effort to overcome the objections of religious guardians who were unreasonable according to sharia. Respondents stated that the decision helped prevent bigger potential problems, such as unregistered marriages or extramarital affairs that could occur if an official marriage was obstructed by the adhol guardian. The results of the analysis show that the parties involved, especially couples who want to get married, are satisfied with the guardian judge's intervention. Of the 20 cases studied, 85% of couples who were married through the intervention of a judge felt that the process gave them legal clarity and legitimacy. This satisfaction is also reflected in the community's support for the religious court's decision, where 78% of community respondents agreed that the intervention was in accordance with the principles of

justice in Islam and helped maintain the honor and rights of women in marriage.

The decision of the guardian judge in the guardian adhol case also has a positive impact on public trust in religious courts. Based on a survey conducted, it was found that 70% of respondents had a more positive view of religious courts after seeing how guardian adhol cases were resolved. They feel that religious courts function as guardians of justice who do not only adhere to written law, but also consider aspects of humanity and social justice. This is in line with the findings of Abdurrahman's research in "Compilation of Islamic Law in Indonesia" which states that religious courts have an important role in bridging law and social justice. However, there are several criticisms and challenges that have arisen from the public regarding the judge's decision. A small number of respondents, around 15%, felt that the guardian judge's intervention sometimes ignored local customs and norms that were still strongly held by the community. They argue that a more sensitive approach to local customs is needed to ensure that legal decisions do not cause social tensions. These criticisms demonstrate the need for religious courts to continue to improve their approaches by taking local cultural context into account without compromising the basic principles of sharia.

The judge's decision in the guardian adhol case also has a long-term impact on the social structure and family dynamics. Longitudinal analysis of several cases shows that the decision helped strengthen the institution of marriage and provide social stability. Couples who married with legal guardian intervention showed higher levels of marital satisfaction and less conflict in the family compared to couples who faced guardianship rejection without legal intervention. These data suggest that guardian intervention not only resolves conflicts immediately but also provides a stronger foundation for healthy and stable family relationships. Based on these findings, it is recommended

that religious courts continue to develop and strengthen the practice of guardian judge intervention in guardian adhol cases. More intensive training for judges on cultural sensitivity and a holistic approach in handling family cases could increase the effectiveness of their decisions. In addition, religious courts can also adopt better communication strategies with the public to explain the legal basis of their decisions, thereby reducing the potential for conflict and increasing public acceptance of those decisions. In this way, religious courts can continue to play a vital role in maintaining justice and social harmony in the context of Islamic family law.

Conclusion

The conclusion of this research shows that the role of guardian judges in resolving guardian adhol conflicts in religious courts is very crucial in ensuring the justice and validity of marriages in accordance with the principles of Islamic law. Through case analysis at the Bengkalis Religious Court, it was found that the judge's intervention was effective in overcoming the objections of the nasab guardian who had no sharia grounds, which ultimately helped prevent the potential for larger social and legal problems. The judge's decision not only provides legal certainty for couples who want to get married but also increases public confidence in religious courts as an institution that is fair and responsive to the needs of the people.

This research also reveals that although a small portion of society still maintains criticism of the judge's intervention regarding cultural sensitivity, in general the decision is accepted and considered a necessary step to maintain justice and social stability. Therefore, it is important for religious courts to continue to develop a more holistic approach and be sensitive to local cultural contexts, while adhering to the basic principles of Islamic law. It is hoped that the recommendations resulting from this research can help improve the practice of religious courts in handling guardian adhol cases and strengthen the role of

religious courts in maintaining social harmony and family justice in Indonesia.

Bibliography

- Abdurrahman. *Compilation of Islamic Law in Indonesia* . Jakarta: Akademika Pressindo, 1995.
- Ahmad, Imad-ad-Dean. "Islamic Finance and Its Role in Financial Inclusion." *Journal of Islamic Accounting and Business Research* 9, no. 4 (2018): 453-467. doi:10.1108/JIABR-05-2017-0063.
- Ali, Abdullah Yusuf. *The Holy Qur'an: Text, Translation and Commentary* . Maryland: Amana Publications, 1989.
- Al-Hamdani, Muhammad. *Islamic Marriage Law Marriage Minutes* . Jakarta: Amani Library, 2002.
- Al- Qarafi , Shihab ad-Din. *Al-Dhakhirah* . Beirut: Dar al-Gharb al-Islami, 1994.
- Baro.roh , Ummul. *Indonesian Muslim Family Fiqh* . Semarang: CV. Karya Abadi Jaya, 2015.
- Department of Religion of the Republic of Indonesia. *The Qur'an and its Translation* . Jakarta: Syamil Qur'an, 2007.
- Esposito, John L. *Women in Muslim Family Law* . Syracuse: Syracuse University Press, 1982.
- Hassan, Riaz. "Family and Marriage Among Muslims: The Role of the Islamic Law." *International Sociology* 14, no. 3 (1999): 327-346. doi:10.1177/0268580999014003002.
- Ibn Majjah . *Sunan Ibn Majjah* . Beirut: Dar al-Fikr, 1985.
- Kahf , Monzer . "Islamic Economics: Notes on Definition and Methodology." *Review of Islamic Economics* 13, no. 2 (2003): 23-47. doi:10.12816/0002927.
- Majid, Anis. "Islamic Customs and Law: A Study of Wali Adhol Practices in Religious Courts." *Journal of Islamic Law* 11, no. 2 (2014): 201-220. doi:10.15642/JHI.2014.11.2.201-220.
- Munawwir , Ahmad Warson. *Al- Munawwir Arabic-Indonesian Dictionary* . Yogyakarta: Al- Munawwir Islamic Boarding

The Role of Guardian Judges in Resolving Guardian Adhol Conflicts: Process and Outcome Analysis
School, 1984.

Heroine, Rhezza. "Legal Considerations in the Guardian Adhol Case." Interview by Researcher, Bengkalis, 07 March 2022.

Rahman, Fazlur. *Islam and Modernity: Transformation of an Intellectual Tradition*. Chicago: University of Chicago Press, 1984.

Sadeq, AbulHasan M. "Economic Development in Islam." *Islamic Economic Studies* 2, no. 1 (1994): 1-21. doi:10.4197/islec.2-1.1.

Schacht, Joseph. *An Introduction to Islamic Law*. Oxford: Clarendon Press, 1964.

Siraj, Mohamed. "Resolving Family Disputes in Islamic Law." *Journal of Islamic Law and Culture* 15, no. 2 (2013): 126-144. doi:10.1080/1528817X.2013.809367.

Vashti, Tahir. *The Application of Islamic Criminal Law in Pakistan: Sharia in Practice*. Leiden: Brill, 2009.

Zaman, Muhammad Qasim. *The Ulama in Contemporary Islam: Custodians of Change*. Princeton: Princeton University Press, 2002.