

JURISPRUDENCE ANALYSIS OF RELIGIOUS COURT DECISIONS ON THE DETERMINATION OF GUARDIANS DUE TO WALI 'ADHAL IN INDONESIA (PERIOD 2006 – 2010)

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Abstract. This study aims to analyze the pattern of judges' legal considerations, the factors that cause wali 'adhal, the tendency to form jurisprudence, and the quality of legal reasoning in the decisions of the Religious Courts in Indonesia for the period 2006–2010. The method used is a normative juridical approach with empirical analysis of 124 court decisions. The results of the study showed that most of the requests for the appointment of guardians were granted, which indicates a tendency for consistency of decisions (quasi-jurisprudence). The main factors that cause wali 'adhal are dominated by non-shari'i reasons such as economy, social status, and family conflicts. In terms of legal reasoning, judges use various approaches, namely deductive, teleological, and substantive, although deductive reasoning still dominates. The study also found that although rulings tend to protect women's rights, the quality of legal arguments still needs to be improved to be more comprehensive, contextual, and substantive justice-oriented.

Keywords: Wali 'Adhal, Guardian Judge, Religious Courts, Jurisprudence, Legal Reasoning, Protection of Women's Rights

I. INTRODUCTION

The phenomenon of wali 'adhal in the practice of marriage in Indonesia is a complex legal issue because it is at the intersection of religious norms, positive laws, and the social reality of society. In Islamic law, the existence of a guardian is one of the important pillars in the marriage contract which functions as a protector and guarantor of women's interests. However, in practice, it is not uncommon for guardians to use their authority disproportionately by refusing to marry women without a shari'i-justified reason. This condition not only raises legal problems, but also touches on aspects of social justice and human rights protection, especially women's right to marry (Candra et al., 2023; Stuart & Scott, 2026; Triantono, 2023). In the perspective of munakahat fiqh, the authority of the guardian is not absolute, so rejection without a valid reason is categorized as wali 'adhal and can be transferred to the guardian judge in order to protect the interests (Al-Zuhaili, 2011; Mansur, Mochamad, S.H., 2020; Mazidah & Izzuddin, 2023).

In the context of positive law in Indonesia, the regulation regarding wali 'adhal has been accommodated in the Compilation of Islamic Law (KHI), especially Articles 23 and 24, which give the authority to the Religious Court to appoint a guardian judge if the guardian refuses without valid reasons. This provision affirms the role of the state in intervening in the practice of Islamic family law in order to prevent abuse of authority by guardians and ensure the protection of women's rights. Empirically, cases of the determination of guardians due

to guardians 'adhal show a significant trend, where most of the requests are granted by judges. This indicates that the rejection of guardians is often based on non-shari'i reasons such as economic factors, differences in social status, and family conflicts, as well as showing a tendency for relatively consistent decision patterns even though they do not necessarily reflect the adequate quality of legal arguments (Gunawan, Khairul, 2024; Zuhdi & Nasir, 2024).

A number of previous studies have examined the issue of wali 'adhal from various perspectives. Fitri (2013) points out that judges' considerations generally rest on normative provisions in the Compilation of Islamic Law, while Darmawan, Maulana, and Hasanah (2021) emphasized that the main reason for the transfer of guardians is rejection without a basis for sharia. On the other hand, Rosyadi (2020) examines this issue through the perspective of maqasid al-shari'ah by emphasizing the protection of women's welfare. In addition, other studies also show that the practice of wali 'adhal can reflect the unbalanced power relationship between wali and women, thus opening up space for analysis through feminist legal theory (Djati, 2020; Muwahid, 2017; Triantono, 2023).

However, these studies still leave a number of limitations that are research gaps. Most studies are still partial and based on limited case studies, so they have not been able to comprehensively describe the pattern of decisions on a broader scale. In addition, previous research has tended to focus on normative aspects without examining in depth the legal

reasoning structure of judges in shaping decisions. The integration between normative, empirical, and theoretical approaches, especially through *maqasid al-shari'ah* and feminist legal theory, has also not been carried out systematically, even though this aspect is important to assess the quality of legal reasoning and the dimension of substantive justice in judicial practice.

Based on this gap, this study aims to fill the study gap by systematically analyzing 124 decisions of Religious Courts in Indonesia for the period 2006–2010 in order to identify the pattern of judges' legal considerations, the factors that cause *wali 'adhal*, and the tendency to form jurisprudence. In addition, this study also aims to evaluate the quality of judges' legal reasoning in the perspective of *maqasid al-shari'ah* and feminist legal theory. With an integrative approach that combines normative juridical analysis, decision-based empirical analysis, and theoretical frameworks, this research is expected to be able to contribute to the development of Islamic family law while strengthening the protection of women's rights in the practice of marital guardianship.

II. RESEARCH METHODS

This research method uses a normative juridical approach with descriptive-analytical specifications combined with empirical analysis of 124 decisions of Religious Courts for the period 2006–2010 obtained from the Directory of Supreme Court Decisions through *purposive sampling*. With the criteria of the case of *wali 'adhal*, the decision was granted, and contained complete legal considerations. The unit of analysis is the judge's legal consideration (*ratio decidendi*), especially related to the reasons for the rejection of the guardian, legal basis, and form *legal reasoning*. To maintain consistency, the variables that cause *wali 'adhal* are classified into economic, social, family conflict, education, and others, while *legal reasoning*. Judges are divided into deductive, teleological, and substantive. Data analysis was carried out through *content analysis* and *legal reasoning analysis* with the stages of reading the verdict, doing *Coding* (EKO, SOS, KON, PEN, etc.), grouping frequencies, and calculating percentages to identify dominant patterns. Interpretation is carried out with a legal hermeneutic approach that relates legal norms to substantive justice values through the perspective of *maqasid al-shari'ah* and feminist legal theory.

The validity of the data is maintained through theoretical triangulation and consistency of analysis with the application of indicators *Coding* and *re-checking* against the entire verdict. However, this study has several limitations, namely limited to the period 2006–2010, only analyzing the verdicts granted, and relying on written verdict documents so that it does not capture the dynamics of the trial directly. In addition, the process *Coding* carried out by a single researcher so that the potential for subjectivity still exists. Therefore, further research is recommended to expand the period and type of verdict, use a comparative approach, and involve more than one researcher to increase the validity and depth of the analysis.

III. RESULTS AND DISCUSSION

Consistency of Decisions and Jurisprudence Trends

Based on the results of an analysis of 124 decisions of the Religious Court for the period 2006–2010, it was found that the majority of applications for the determination of guardians due to guardians were granted by judges. Of the total 144 applications submitted, 124 cases or around 86.1% were declared granted. The increase in the number of guardian cases during the period 2006–2010 shows that there is a significant dynamic in the practice of guardianship in Indonesia. Of the 124 judgments granted, the trend of cases per year can be seen in the following Table 1:

Table 1. Number of Guardian Cases in 2006–2010

Year	Number of Applications	Granted	Rejected	Percentage of Kabul (%)
2006	4	3	1	75,0
2007	4	3	1	75,0
2008	21	18	3	85,7
2009	62	56	6	90,3
2010	53	44	9	83,0
Total	144	124	20	86,1

Source: Directory of Supreme Court Decisions of the Republic of Indonesia (putusan3.mahkamahagung.go.id), processed by researchers

Based on Table 1, the number of cases has experienced a significant spike since 2008 until it reached its peak in 2009 (56 decisions were granted out of 62 applications, or 90.3%), before decreasing slightly in 2010. Overall, of the 144 applications for the appointment of guardians submitted during the 2006–2010 period, 124 (86.1%) were granted by judges. The high level of attribution not only indicates a factual tendency in judicial practice, but also shows a relatively consistent pattern of judgments in assessing unjustified rejection of guardians as non-shari'i reasons.

This high percentage indicates that in religious judicial practice there is a strong tendency to accommodate the request of a guardian judge, especially when the guardian's refusal is not based on valid reasons according to Islamic law. The high level of attribution not only reflects quantitative trends, but also shows the relatively uniform pattern of judges' attitudes in assessing the case of *wali 'adhal*. In many rulings, judges have consistently considered that the rejection of guardians without sharia grounds is a form of abuse of guardianship authority. Therefore, the transfer of authority to the guardian of the judge is seen as the appropriate legal solution to protect women's rights in the practice of marriage. [1] [2]. [3]

When viewed from the temporal aspect, the data shows an increase in the number of cases granted since 2008 and reached its peak in 2009. This trend can be interpreted as an indication of increasing legal awareness of the community to resolve the issue of *wali 'adhal* through the judicial channels. In addition, the increase also reflects the growing legitimacy of

the Religious Court as an institution that is able to provide solutions to family conflicts based on Islamic law. [4]

This phenomenon shows that the Religious Court functions not only as a formal institution that applies legal norms, but also as a social institution that plays an active role in resolving family conflicts. In this context, judges not only act as "mouthpieces of the law", but also as actors who have a role in maintaining a balance between legal norms and the needs of society.

Theoretically, the consistency of the decisions found in this study can be attributed to the concept of jurisprudence. In the Indonesian legal system that adheres to tradition *civil law*, jurisprudence does not have the binding force as in the system *common law*. Nevertheless, decisions that are repeated and show uniformity in legal considerations can form a pattern that judges follow in deciding similar cases. [5], [6]

In the context of wali 'adhal cases, a high and consistent pattern of attribution can be understood as a form of "non-binding jurisprudence" or *quasi-yurisprudensi*. This means that even though they do not have formal binding legal force, these decisions have formed a habit of legal practice that indirectly serves as a guideline for judges. This is in line with the view that jurisprudence in the system *civil law* It still has an important function as a secondary source of law. [7], [8], [9]

Nevertheless, it is important to note that the existence of *quasi-yurisprudensi* This does not necessarily indicate a high quality of the law. Further analysis of the content of the verdict shows that some of the judges' considerations are still normative and tend to repeat the legal formulations contained in the Compilation of Islamic Law without the development of in-depth arguments. In some cases, the judge does not explicitly relate the legal norms to the concrete conditions of the parties, so that the considerations given seem formalistic.

Empirically, many judgments show a similar pattern of consideration, especially in the use of repeated reasoning formulas. This can be seen from the editorial such as: "Considering that the guardian refuses to marry the Applicant on the grounds that the prospective husband does not have a permanent job, then the reason does not include the reason of sharia...", "Considering that the guardian's refusal is based on differences in social status, so it should be declared as a guardian 'adhal...", and "Considering that for the benefit of the Applicant and to avoid harm, the request for the appointment of a guardian judge is granted...". This pattern shows that judges consistently use a normative framework by making the standard of "sharia reasons" in the Compilation of Islamic Law as the main benchmark in assessing the validity or not of the rejection of guardians. However, if analyzed more deeply, these arguments tend to be repetitive and minimally elaborated, thus showing a tendency towards legal formalism, namely an orientation to the application of norms textually without exploring the social and psychological context of the parties. In many rulings, judges did not elaborate in detail on why economic factors or social status could not be substantively justified, but simply stated that the reason was "not sharia" without further argument.

This condition has important implications for the quality of jurisprudence. On the one hand, the results of the verdict tend to be progressive because they accommodate the

interests of women through the appointment of guardian judges. But on the other hand, the limitations in the argument cause the decision to not fully build a substantively strong jurisprudence foundation. Ideal jurisprudence requires not only consistency of results, but also a depth of reasoning capable of explaining the relationship between norms, facts, and the value of justice. Without this, the verdict has the potential to be just a reproduction of norms, not legal development.

This condition suggests that there is a difference between quantitative consistency and substantive quality. Quantitative consistency is reflected in the high level of adjudication of cases, while substantive quality is related to the depth of legal arguments used by judges. Ideally, the two aspects are balanced, so that the jurisprudence formed is not only consistent, but also has a strong quality of argumentation. [6]

From the perspective of legal discovery theory, judges should not only apply legal norms mechanically, but also interpret and construct laws in accordance with the social context. In the case of wali 'adhal, this means that the judge needs to elaborate in more depth on the reasons why the wali's refusal is considered invalid, as well as how the decision can provide justice for the parties. Furthermore, from a progressive legal point of view, judges' decisions should not only be oriented towards legal certainty, but also on fairness and utility. Therefore, in building strong jurisprudence, judges need to integrate normative approaches with social and benefit considerations. Thus, the resulting verdict is not only legally valid, but also relevant to the needs of the community.

If a comparison is made between decisions in the research data, it can be seen that there is a significant variation in approaches. On the one hand, there are decisions that only refer directly to the provisions of the Compilation of Islamic Law without further analysis, thus reflecting formalistic deductive reasoning. On the other hand, there are decisions that begin to consider the applicant's concrete conditions, such as psychological distress, family relationships, or broader potential harm, thus showing a tendency to substantive reasoning. This difference shows that although the results of the verdict are relatively uniform (the majority granted), the judge's way of thinking has not been standardized, both in the structure of the argument and in the depth of the analysis.

Critically, the findings of this study show that religious justice practice has succeeded in building consistency in handling wali 'adhal cases, but still faces challenges in improving the quality of legal argumentation. This shows the need to strengthen the capacity of judges in drafting more comprehensive and contextual legal considerations. Thus, it can be concluded that although jurisprudence has been formed in the case of wali 'adhal, strengthening its quality is still an important work. Ideal jurisprudence is characterized not only by the consistency of decisions, but also by the depth of analysis, clarity of argumentation, and its ability to realize substantive justice in the practice of Islamic family law in Indonesia.

Causal Factors of Wali 'Adhal in a Normative and Social Perspective

Based on the results of the analysis of 124 decisions of the Religious Court, it was found that the factors that caused

the occurrence of wali 'adhal were dominated by reasons that did not have a strong basis in Islamic law. The distribution of the causative factors of wali 'adhal is presented in Table 2 below:

Table 2. Distribution of Causative Factors (n=124)

Causal Factors	Number of Cases	Percentage (%)	Judgment Granted (%)
Economic/Financial Factors	51	41,1	100,0
Differences in Social Status	31	25,0	100,0
Internal Family Conflict	24	19,4	100,0
Differences in Educational Background	12	9,7	100,0
Miscellaneous Factors	6	4,8	100,0
Total	124	100,0	100,0

Source: Content analysis of 124 PA decisions granted, 2006–2010

Based on Table 2, it shows that non-shari'i reasons are the main causes of wali 'adhal, economic factors occupy the highest position with a percentage of 41.1%, followed by differences in social status by 25.0%, family conflicts by 19.4%, differences in educational background by 9.7%, and other factors by 4.8%. This composition shows that the majority of guardian rejections of girls' marriage are influenced more by social considerations than by religious normative considerations. Based on the results of data processing on 124 decisions, the distribution of causative factors for wali 'adhal shows that economic factors occupy the dominant position with a percentage of 41.1%, followed by social status factors (25.0%), family conflicts (19.4%), education (9.7%), and other factors (4.8%). This composition indicates that the majority of the reasons for the rejection of guardians are not based on religious normative considerations, but rather are influenced by social and cultural factors that develop in society. [1], [2], [3]

The dominance of economic factors as the main cause of wali 'adhal shows that the material aspect is still an important consideration in the practice of guardianship in society. In many cases, the guardian assesses the future husband by his financial abilities, such as employment, income, and economic stability. Although this consideration can be socially understood as a form of prudence, in the perspective of Islamic law, economic factors are not included in the legal conditions of marriage nor are justified reasons for refusing marriage. The dominance of economic factors shows a tendency to commercialize the value of marriage, where the suitability of the prospective husband is measured based on financial stability alone. In this context, the guardian no longer functions as a normative protector of women's interests, but rather as an actor who reproduces certain economic standards that often have no basis in Islamic law. This economic-based rejection reflects a shift in values from the principles of simplicity and equality in marriage to a

materialistic logic that has the potential to limit women's right to marry. [10], [11]

In addition to economic factors, differences in social status are also quite dominant reasons. Guardians often reject husbands-to-be because they are considered socially unworthwhile, such as differences in family background, occupation, or prestige level. This shows that the concept of equality in society is still influenced by strong social stratification, so that marriage is not only seen as a personal relationship, but also as a representation of the social status of the family. Meanwhile, the social status factor which reached 25.0% shows the strong persistence of social stratification in the practice of guardianship. Rejection due to differences in family background, occupation, or social prestige indicates that social norms still play a dominant role in determining the legitimacy of marriage. This shows that the practice of wali 'adhal cannot be separated from the hierarchical social structure, where marriage is often positioned as a means of maintaining or improving the social status of the family, rather than merely as a personal bond between two individuals. [10], [12]

Family conflicts are also a significant factor in the occurrence of wali 'adhal. In some cases, the rejection of the guardian is not simply because the future husband does not meet certain criteria, but rather because of the disharmonious relationship between the guardian and the child or between the two families. This shows that internal family dynamics have a great influence on decision-making related to marriage. Family conflicts, which reached 19.4%, revealed another dimension that often escapes legal attention, namely emotional and relational aspects in the family. In many cases, guardian rejection is not based on rational or normative considerations, but rather is influenced by interpersonal conflicts, power relations, or tensions between family members. This suggests that the practice of wali 'adhal is not always concerned with legal norms, but also with complex psychological and social dynamics, which are often not adequately accommodated in formal legal considerations. [13]

Meanwhile, the difference in education shows that the level of education can also be a consideration in determining the equivalence of the couple. Guardians tend to judge that differences in education levels can affect household harmony in the future. However, in Islamic law, education is not the main criterion in determining kafa'ah, so this reason does not have a strong normative basis.

From the perspective of fiqh munakahat, the concept of kafa'ah is indeed known as one of the considerations in marriage, but its scope emphasizes more on religious and moral aspects. Kafa'ah is not meant to restrict marriage based on social factors such as economy, status, or education. Therefore, the rejection of the wali based on such factors is not justified under Islamic law. [10], [14]

These findings show that there is a gap between Islamic legal norms and social practices in society. Normatively, Islamic law has provided clear limits on the authority of guardians, but in practice, social and cultural values still have a dominant influence. This shows that the internalization of Islamic legal values in society has not been fully effective. From a sociological perspective, the dominance

of economic factors and social status reflects the existence of a cultural construct that places marriage as a social institution that is closely related to family honor and reputation. In this context, the guardian acts not only as an individual, but also as a representation of the interests of the extended family. Therefore, decisions taken often consider the collective aspect more than the individual interests of women.

Furthermore, this condition can be analyzed using the perspective of feminist legal theory. In this framework, the practice of wali 'adhal can be understood as a form of unbalanced power relations between men (wali) and women. Women are in a subordinate position, where their right to make life choices, including in the case of marriage, can be limited by guardianship authority. Rejection based on non-shari'i reasons indicates the existence of social control over women which is a characteristic of the patriarchal system. From this point of view, wali 'adhal is not only a legal issue, but also a structural issue related to gender relations in society. Therefore, it is not enough to solve this problem only through a normative approach, but also requires broader social changes, including increasing public awareness of women's rights in Islam. [15]

In this context, the role of the Religious Court is very important as a corrective mechanism against social practices that are not in line with the principles of justice in Islamic law. By giving the judge the authority to appoint a guardian, the law provides protection for women from discriminatory guardian actions. This shows that law can serve as a tool to correct social inequality. Nevertheless, it is important to note that although judges show adaptive tendencies in responding to such social factors, the quality of the arguments used does not necessarily reflect an adequate depth of analysis. In many rulings, considerations of economic, social, and family conflict factors have not been comprehensively elaborated, so the relationship between social facts and legal norms is not always explicitly explained. This shows the need to strengthen the analytical capacity of judges in order to be able to integrate empirical data with more systematic and reflective legal arguments.

Thus, the analysis of the causative factors of wali 'adhal not only reveals the characteristics of the wali's reasons for rejection, but also shows how the law interacts with social reality. These findings confirm that the issue of wali 'adhal is not just a normative legal problem, but a complex social phenomenon, so it requires a legal approach that is not only textual, but also contextual and oriented towards substantive justice.

Structure and Pattern of Legal Reasoning of Judges

An analysis of legal considerations in 124 decisions of the Religious Court for the period 2006–2010 shows that judges do not use a single reasoning pattern in deciding the case of wali 'adhal. On the other hand, there are structural variations *legal reasoning* which reflects the judge's efforts in balancing the application of positive legal norms and the need for substantive justice in society. This variation suggests that the practice of religious justice is dynamic and contextual, not merely mechanical. In general, the legal basis used by judges in the case of wali 'adhal is Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI), especially the provisions that regulate the authority of the guardian and the possibility of transfer to the guardian judge. This norm is

the main basis in determining whether the rejection of the wali can be categorized as 'adhal. Thus, the basic structure of judges' reasoning always begins with the identification of relevant legal norms. [5], [7], [8]

In the next stage, the judge constructed legal facts based on the evidence and testimony of the parties. The facts that are of main concern usually include the reasons for the guardian's refusal, the relationship between the parties, and the social conditions behind the case. This stage is important because it is the basis for judges to connect legal norms with the concrete reality at hand.

Some examples of representative decisions from research data documents are presented in the following Table 3:

Table 3. Example of a Representative Decision on the Determination of a Guardian

Decision Number	Year	Guardian Rejection Factors	Amar Verdict
PA Surabaya No. 37/Pdt.P/2006/PA. Sby.	2006	Economic factors/differences in social status	Granted
PA Nganjuk No. 25/Pdt.P/2007/PA. NGJ	2007	Internal family conflicts	Granted
PA Tulungagung No. 142/Pdt.P/2008/PA.TA	2008	Economic/financial factors	Granted
PA Pamekasan No. 214/Pdt.P/2009/PA. PMK	2009	Differences in educational background	Granted
PA Tulungagung No. 3/Pdt.P/2010/PA.TA	2010	Differences in social status	Granted

Source: Directory of Supreme Court Decisions of the Republic of Indonesia (putusan3.mahkamahagung.go.id)

Pamekasan PA Decision No. 214/Pdt.P/2009/PA. PMK, for example, shows that the judge explicitly considers that differences in educational background are not included in the sharia reason for refusing marriage, so that the judge's guardian's request is granted. Similarly, PA Tulungagung No. 142/Pdt.P/2008/PA.TA which granted the application on the basis of the rejection of the guardian due to economic factors alone. This approach reflects the integration between positive law and Islamic substantive values.

Based on the results of the analysis of the results studied, the pattern *legal reasoning* Judges can be classified into three main forms, namely deductive, teleological, and substantive reasoning. Deductive reasoning is characterized by the use of legal norms as the main basis for consideration without further elaboration on the context of the case, for example through direct reference to articles in the Compilation of Islamic Law. Teleological reasoning begins to show an expansion of the argument by emphasizing the purpose of the law, such as the benefit or prevention of harm. Meanwhile, substantive reasoning is the most developed form, because it not only considers legal norms and goals, but also social impacts and concrete justice for the parties, especially women as vulnerable parties.

Based on further analysis, the pattern *legal reasoning* Judges can also be understood through several main forms. The first is deductive reasoning, which is reasoning that relies on the application of legal norms directly to the facts of the case. In this pattern, the judge uses legal syllogism: the norm in the KHI as the major premise, the fact of the guardian's rejection as the minor premise, and the conclusion in the form of the determination of the judge's guardian. This pattern reflects a legalistic approach that emphasizes legal certainty and consistency in the application of norms. Deductive reasoning has the advantage of maintaining legal certainty because it provides a clear and systematic structure of argumentation. However, this approach tends to be formalistic if it is not balanced with contextual considerations. In some rulings, judges only stop at the application of norms without elaborating in depth on the social or psychological reasons behind the guardian's refusal. Examples of formulations in the decision show this, such as the use of the phrase "based on Article 23 of the KHI" which reflects a deductive pattern [7]

The second is teleological reasoning, which is reasoning that takes into account the purpose of law. In this pattern, judges focus not only on the text of the norm, but also on the goals that the law seeks to achieve, namely protecting women's rights and preventing losses due to guardian rejection. This approach shows that judges seek to understand the law as an instrument to achieve benefits. This reasoning is reflected in formulations such as "for the benefit of the Applicant". Teleological reasoning allows judges to render judgments that are more responsive to social conditions. In the case of wali 'adhal, this approach is seen when the judge considers the impact of the wali's rejection on women's lives, such as the potential for the marriage to be hindered or the emergence of prolonged family conflicts. [16], [17]

The third is reasoning based on *maqasid al-shari'ah*. Although not always explicitly stated in the ruling, the substance of the judge's consideration often reflects an effort to preserve the benefits. The judge considered the protection of women's right to marry as part of the purpose of the sharia, especially in safeguarding offspring (*Hifz Al-Nasl*) and take care of the soul (*hifz al-nafs*). This *maqasid* approach shows the integration of positive law and substantive Islamic legal values. By using this approach, judges not only act as the applicators of norms, but also as interpreters of the values of justice in Islam. This strengthens the legitimacy of the verdict, both legally and morally. [16], [17], [18]

The fourth is substantive reasoning, which is reasoning that places justice as the main goal. In this pattern, the judge not only considers formal legal aspects, but also social, psychological, and relational conditions between the parties. This approach reflects the development of laws that are more progressive and responsive to the needs of the community. This reasoning is reflected in formulations such as "to protect women's rights from injustice". Substantive reasoning is very important in wali 'adhal cases because these cases often involve complex family conflicts. By considering the non-juridical aspect, judges can produce a fairer and more humane verdict. However, this approach also requires caution so as not to ignore the limits of the applicable legal norms. [7], [13]

Despite these various reasoning patterns, the quality of *legal reasoning* in the verdict is still uneven. Some of the decisions show comprehensive and well-structured arguments, while others are still short and less systematic. This shows that there is no standard in the preparation of legal considerations in the religious justice environment.

The absence of these standards has the potential to affect the quality of jurisprudence that is formed. Strong jurisprudence requires not only consistency in the results of decisions, but also consistency in the quality of legal argumentation. Therefore, efforts are needed to increase the capacity of judges in compiling more comprehensive, systematic, and contextual legal considerations.

Critically, the main findings in this study suggest that deductive reasoning still dominates most of the decisions. This dominance suggests that judges tend to stick to established normative structures, without developing arguments that are more contextual and reflective of the social conditions of the parties. The dominance of deductive reasoning cannot be separated from several structural factors, namely the legal culture of judges who are still normatively oriented, limitations in contextual analysis training, and the character of the legal system that emphasizes legal certainty.

The implications of this condition are quite significant for the quality of the decision. On the one hand, the deductive approach provides certainty and consistency in the application of the law, thus facilitating the formation of a stable pattern of jurisprudence. But on the other hand, this approach also has the potential to produce a verdict that is less sensitive to social reality, because it does not fully explore the concrete context behind the case. As a result, the jurisprudence that was formed became strong quantitatively, but relatively weak substantively due to the lack of depth of argumentation. [5], [9]

Thus, it can be concluded that the structure and pattern *legal reasoning* The judge in the case of wali 'adhal showed that there was a development towards a more substantive approach. However, to build quality jurisprudence, it is necessary to strengthen the methodological aspect of legal reasoning so that each decision is not only normatively correct, but also strong argumentatively and socially relevant. In addition, efforts are needed to encourage pattern transformation *legal reasoning* judges from the purely deductive to a more integrative approach, combining normative, teleological, and substantive dimensions. This kind of approach will not only enrich the quality of legal argumentation, but also improve the ability of the verdict to realize justice that is more contextual and responsive to social dynamics in wali 'adhal cases.

The Role of the Court in the Protection of Women's Rights

The results of the study show that the Religious Court has a very important role in protecting women's rights, especially in the case of wali 'adhal. When the guardian refuses to grant permission to marry without a valid reason according to the shari'i, the woman is in a vulnerable position because her right to marry is hampered. In this situation, the court is present as an institution that provides a solution through the appointment of a guardian. The decision granting the judge's guardian's request is basically a form of state intervention to prevent abuse of power by the guardian. In Islamic law, the guardian does have an important role in marriage, but this

authority is not absolute. When the guardian uses his authority improperly, the state through the courts has the legitimacy to take over that role in order to maintain justice. In a legal perspective, this court intervention shows that the state not only functions as an enforcer of the law, but also as a protector of citizens' human rights. Women's right to marry is part of the basic rights that must be guaranteed by the state. Therefore, when such rights are threatened by the actions of an unlawful guardian, the court has an obligation to provide legal protection. [1]

Furthermore, the existence of a guardian mechanism shows that the law has provided an instrument to overcome power imbalances in family relations. In the context of wali 'adhal, the court serves as a counterweight that ensures that the authority of the wali is not abused. Thus, the role of the courts is not only reactive, but also corrective to unjust social practices. From the point of view of Islamic law, court intervention in the form of the appointment of guardian judges is in line with the principles of justice and benefit. Islam places marriage as a right that must be protected, and should not be prevented without a valid reason. Therefore, the transfer of authority from guardians to judges is a step in accordance with the purpose of sharia (maqasid al-shari'ah), especially in safeguarding individual rights. [16], [17]

However, the results of the analysis show that the protections provided by the courts are not yet entirely based on gender awareness. In many rulings, judges have placed more emphasis on normative aspects, such as the provisions in the Compilation of Islamic Law, without explicitly linking them to the issue of gender justice. This shows that the approach used still tends to be formalistic. The absence of explicit gender perspectives in the judge's decisions shows that the integration of feminist legal theory in religious justice practice is still limited. In fact, feminist legal theory provides an important analytical framework for understanding how law can reproduce or correct gender inequality. In the context of wali 'adhal, this approach can help judges to be more sensitive to the position of vulnerable women. [15], [19]

Sociologically, women in the case of wali 'adhal are often in a weak position because they have to deal with the authority of the wali who has social and cultural legitimacy. Therefore, the role of the court is very important as an institution that can provide protection for vulnerable groups. Without court intervention, women have the potential to experience prolonged injustice.

Critically, this condition shows that the legal protection provided by the courts still needs to be improved, especially in the aspect of the substance of legal considerations. Not only do the judge need to declare that the guardian's refusal is invalid, but it also needs to outline the social and psychological impact experienced by the woman as a result of the act. Thus, the resulting verdict will better reflect substantive justice. The substantive justice approach requires judges to not only adhere to the legal text, but also to consider the social realities that underlie the case. In this context, judges need to understand that wali 'adhal is not just a violation of norms, but also a form of injustice that can harm women significantly. Therefore, legal considerations must be able to reflect sensitivity to these issues. In addition, strengthening the role of

the court in protecting women's rights also requires increasing the capacity of judges to understand gender perspectives. Education and training that integrates feminist legal theory and substantive justice approaches can be an important step towards improving the quality of judgments. Thus, judges are not only law enforcers, but also agents of social change. [7], [15]

Thus, it can be concluded that the Religious Court has played an important role in protecting women's rights in wali 'adhal cases, but there is still room for strengthening, especially in the aspects of integrating gender perspectives and substantive justice. This strengthening is important so that the resulting verdicts are not only legally valid, but also able to provide more comprehensive and fair protection for women.

IV. CONCLUSION

This study shows that the practice of religious justice in handling wali 'adhal cases has formed a relatively consistent pattern of decisions, where the majority of guardian judges' requests are granted. This indicates the existence of a quasi-jurisprudence tendency that functions as an unwritten guideline for judges. However, this consistency is more quantitative, because there are still weaknesses in the quality of legal argumentation that tend to be normative and lack depth.

In addition, the factors that cause wali 'adhal are dominated by social reasons such as economy, social status, and family conflicts that do not have a solid basis in Islamic law. In terms of legal reasoning, judges have used a variety of approaches, but they are still dominated by formalistic deductive patterns. Therefore, it is necessary to strengthen the quality of legal reasoning of judges so that they are more contextual, integrative, and oriented towards substantive justice, and are able to provide more optimal protection for women's rights in the practice of marriage guardianship.

REFERENCES

- [1] M. Candra, R. Sinaulan, F. Al Hasan, and J. Ramadhan, 'The Religious Court Trial Of Wali Adhal Cases In The Indonesian Legal System: A Legal Analysis', *Jurnal Hukum dan Peradilan*, vol. 12, no. 1, p. 77, 2023, doi: 10.25216/jhp.12.1.2023.77-96.
- [2] M. Mansur, Mochamad, SH., 'Analisis Tentang Dikabulkannya Permohonan Wali Adhal Atas Penetapan Pengadilan Agama', *Justitiabale-Jurnal Hukum*, vol. 4, no. 3, pp. 248–253, 2020.
- [3] D. A. Mazidah and A. Izzuddin, 'Penetapan Wali Adhal Dengan Alasan Tidak Sekufu Pengadilan Agama Kabupaten Gresik tahun 2020-2021 Prespektif Maqasid Syariah', *Sakina: Journal of Family Studies*, vol. 7, no. 1, pp. 82–95, 2023, doi: 10.18860/jfs.v7i1.2904.
- [4] et al Gunawan, Khairul, "Tranformasi Peradilan Islam: Menganalisis Penegakan Hukum dalam Masyarakat Modern.", *JIMMI: Jurnal Ilmiah Mahasiswa Multidisiplin 1.1*, pp. 38–52, 2024.
- [5] C. Ramadhan, 'Konvergensi Civil Law dan Common Law di Indonesia dalam Penemuan dan Pembentukan Hukum', *Mimbar Hukum - Fakultas Hukum*

- Universitas Gadjah Mada*, vol. 30, no. 2, p. 213, 2018, doi: 10.22146/jmh.31169.
- [6] A. Y. S. dan A. F. P. Atmaja, 'Legal Reasoning Hakim dalam Pengambilan Putusan Perkara di Pengadilan untuk Menghindari "Onvoldoende Gemotiveerd"', *Islamadina*, vol. 18, no. 2, p. 41, 2017.
- [7] W. N. Djati, 'Wali Adhal dalam Perspektif Hukum Islam dan Hukum Positif', *Al-Ahwal: Jurnal Hukum Keluarga Islam*, vol. 13, no. 1, pp. 45–60, 2020.
- [8] Muwahid, 'Oleh, Rechtsvinding Dalam, Hakim Hukum, Upaya Mewujudkan Responsif, Yang Muwahidizzagmailcom, Email', vol. 07, 2017.
- [9] and M. Sh. Susanti, Diah Imaningrum, *Penafsiran Hukum: Teori dan Metode*. Sinar Grafika (Bumi Aksara), 2021.
- [10] D. Ameliana and S. Fakhria, 'Legitima', vol. 4, pp. 136–153, 2022.
- [11] I. Subchi, 'Kafa'ah among the Hadrami Arabs in the Malay World (Anthropology of Law Approach)', *Jurnal Cita Hukum*, vol. 8, no. 2, pp. 415–434, 2020, doi: 10.15408/jch.v8i2.16574.
- [12] S. Gustiawati and N. Lestari, 'Aktualisasi Konsep Kafa'ah Dalam Membangun Keharmonisan Rumah Tangga', *Mizan: Journal of Islamic Law*, vol. 4, no. 1, pp. 33–86, 2018, doi: 10.32507/mizan.v4i1.174.
- [13] S. S. Ningsih and N. Dela Oktora, 'Al-Mizan', vol. 22, no. 1, pp. 65–84, 2026.
- [14] A. Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakahat dan Undang-Undang Perkawinan*. Kencana, 2006.
- [15] Triantono. Triantono, "'Feminis Legal Theory dalam Kerangka Hukum Indonesia.'", *Progressive Law and Society*, vol. 1, no. 1, 2023.
- [16] I. Tohari, 'Ilham Tohari', pp. 314–328, 2020.
- [17] M. H. Zuhdi and M. A. Nasir, 'Al-Mashlahah and Reinterpretation of Islamic Law in Contemporary Context', *Samarah*, vol. 8, no. 3, pp. 1818–1839, 2024, doi: 10.22373/sjhc.v8i3.24918.
- [18] W. Al-Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*. Damaskus: Dar al-Fikr, 2011.
- [19] A. M. AGUSTINA, 'Hak-Hak Perempuan Dalam Pengarusutamaan Ratifikasi Cedaw Dan Maqāsid Asy-Syarī'Ah', *Al-Ahwal: Jurnal Hukum Keluarga Islam*, vol. 9, no. 2, pp. 201–210, 2017, doi: 10.14421/ahwal.2016.09205.