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Normative Criteria for the Use of Wali Muhakkam in Itsbat Nikah Proceedings

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ABSTRACT

This study aims to formulate the limitations and criteria for the use of wali muhakkam as a requirement for marriage validity in itsbat nikah proceedings (judicial confirmation of marriage) and to analyze the legal certainty of their application. The research addresses the interpretive scope of Article 2(1) of Law No. 1 of 1974 on Marriage, particularly its reference to religious law, and its relationship with the Compilation of Islamic Law, which regulates wali nasab and wali hakim but does not explicitly regulate wali muhakkam. This regulatory gap has contributed to divergent judicial interpretations. Employing normative legal research with statutory, conceptual, and case approaches, this study analyzes six Religious Court determinations: three rejecting and three granting applications for judicial confirmation of marriage involving wali muhakkam. Legal materials were collected through library research and analyzed prescriptively using Jasser Auda's Systems Approach and Bagir Manan's theory of legal certainty. The findings establish that wali muhakkam should be treated as an exceptional, last-resort mechanism rather than an alternative equivalent to wali nasab or wali hakim. Its use must satisfy six cumulative criteria: the absence of a wali nasab capable of exercising guardianship; the actual unavailability of the wali hakim mechanism; exceptional circumstances; consistency with the objectives of Islamic law (maqāṣid al-syarī'ah); compatibility with the national marriage law system; and the guardian's personal qualifications under relevant Islamic jurisprudential doctrines. The originality of this study lies in formulating these cumulative, case-specific criteria as normative parameters for judicial assessment to strengthen legal certainty through decisions grounded in relevant facts, evidence, and reasoned legal analysis.

Keywords: *Itsbat Nikah; Judicial Confirmation of Marriage; Legal Certainty; Normative Criteria; Wali Muhakkam.*

1. INTRODUCTION

Marriage is a legal event that gives rise to legal consequences for the husband, wife, and children born of the marriage. Accordingly, the validity of marriage is a fundamental aspect of providing legal protection and ensuring certainty regarding the legal status of the parties. In Indonesia, Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage stipulates that a marriage is valid if it is conducted in accordance with the laws of the respective religions and beliefs of the parties. However, this provision does not elaborate on the specific parameters of religious law to be used in determining the validity of a marriage, particularly where differing interpretations exist regarding the fulfillment of the essential elements and requirements of marriage. This issue relates to the interpretation of legal norms governing marital validity, as discussed in Sanjaya's study on differences in judicial interpretations of marriage provisions and their implications for disparities in court decisions (Sanjaya, 2023). The present study specifically

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examines the determination of marital validity in itsbat nikah proceedings involving marriages solemnized using a wali muhakkam.

In Islamic marriage law, a marriage guardian (wali nikah) plays an essential role in determining the validity of a marriage. Articles 19–23 of the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI) regulate the status of lineage guardians (wali nasab) and judicial guardians (wali hakim) within Indonesia's national marriage law framework. Under Article 21 of the KHI, a lineage guardian is a male relative entitled to act as a marriage guardian according to a prescribed order of kinship, namely: (1) male relatives in the direct ascending line, including the father and paternal grandfather; (2) full or paternal half-brothers and their male descendants; (3) full or paternal half-brothers of the father and their male descendants; and (4) full or paternal half-brothers of the grandfather and their male descendants. Within each category, priority is determined by the degree of kinship, with closer relatives taking precedence, subject to the applicable principles of Islamic law.

Unlike a lineage guardian, a judicial guardian is a marriage guardian whose authority is conferred by the state. This role is performed by an official legally authorized to act as a marriage guardian when the conditions prescribed by applicable laws and regulations are met. Under Indonesian marriage regulations, this authority is exercised by designated officials, including the Head of the Office of Religious Affairs (Kantor Urusan Agama or KUA) or other officials duly authorized under the applicable provisions. Articles 22 and 23 of the KHI regulate certain circumstances concerning the status of lineage guardians and the transfer of guardianship authority, including situations in which a lineage guardian does not satisfy the applicable requirements or refuses to act as a guardian, subject to the relevant legal conditions.

Beyond these two categories, several classical Islamic jurisprudential perspectives, particularly those of the Shafi'i school of Islamic law, recognize the concept of a delegated guardian (wali muhakkam). This refers to a person appointed to act as a marriage guardian under exceptional circumstances when no qualified lineage guardian is able to exercise guardianship and the judicial guardianship mechanism cannot be implemented. Nevertheless, wali muhakkam is not explicitly regulated in the KHI or in the ministerial regulations governing marriage registration. Accordingly, its legal status cannot automatically be equated with that of a lineage guardian or a judicial guardian under Indonesian positive law.

A review of previous studies is necessary to identify developments in research on marriage registration, itsbat nikah (judicial confirmation of marriage), and the legal position of marriage guardians within the Indonesian marriage law system. Comparing the research objectives, methods, and findings provides a basis for demonstrating the novelty of the present study. This review is

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important because the use of wali muhakkam in itsbat nikah proceedings concerns not only marriage registration but also the validity of the marriage guardian, the interpretation of religious law, and the limits of judicial authority.

Naitboho Yannti Rosalina (2020), in a study entitled "Marriage Registration in Indonesian Family Law and Its Relevance to Al-Shatibi's Theory of Maslahah," published in Sangaji, Volume 4, Issue 1, examines marriage registration within the Indonesian family law system from the perspective of maslahah theory. The study focuses on the relevance of marriage registration to the need for legal protection in family life. It provides a conceptual foundation for understanding the importance of marriage registration in safeguarding the interests of the parties involved. However, based on the bibliographic information and discussion cited in the thesis, Rosalina's study does not specifically examine the legal position of wali muhakkam in itsbat nikah proceedings, let alone formulate the normative requirements that must be satisfied for the use of such a guardian to be legally justified. Accordingly, the distinction between the two studies lies in their respective objects of analysis: Rosalina focuses on marriage registration and maslahah, whereas the present study examines the limitations and criteria governing the use of wali muhakkam in determining marital validity through itsbat nikah proceedings.

Furthermore, Nailur Rahmi et al. (2025), in a study entitled "Building Legal Compliance: A Study on Nikah Sirri Practices in Tanjung Raya Subdistrict, Agam District, West Sumatra, Indonesia," published in Jurnal Hukum Keluarga dan Hukum Islam, examine legal compliance in the practice of unregistered marriages in Tanjung Raya District, Agam Regency, West Sumatra. The study identifies unregistered marriages and community compliance with marriage law provisions as its principal concerns. As discussed in the thesis, low levels of legal awareness, community interpretations, and insufficient compliance with marriage registration requirements are among the factors associated with unregistered marriages (Rahmi et al., 2025). These findings are relevant to explaining why judicial confirmation of marriage is necessary as a mechanism for providing legal protection. Nevertheless, Rahmi et al.'s research differs from the present study because it does not specifically address the validity of wali muhakkam or differences in judicial reasoning in itsbat nikah cases involving such guardians. The present study goes further by examining whether the circumstances underlying the use of wali muhakkam can be justified under national marriage law and the relevant doctrines of Islamic jurisprudence (fiqh).

Muhammad Radhi Aulia et al. (2025), in a study entitled "The Legal Consequences of Itsbat Nikah Decisions for Unregistered Marriages: A Study in Aceh Singkil Regency," published in Jurnal Hukum Lex Generalis, Volume 6, Issue 6, examine the legal consequences of judicial confirmation of unregistered marriages. The relevance of this study lies in its discussion of the role

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of court decisions in granting legal recognition to marriages that have already taken place. However, based on the information available in the thesis, the specific research methods and findings of Aulia et al. should be verified against the original article before being discussed in greater detail. Accordingly, the study can be compared proportionately on the basis of the research focus stated in its title, without attributing findings that have not been verified. The distinction between the two studies is that Aulia et al. focus on the legal consequences of itsbat nikah decisions for unregistered marriages, whereas the present study treats the validity of the use of wali muhakkam as a legal issue that must be assessed before judicial confirmation of a marriage can be granted.

Based on this comparison, previous studies on marriage registration, legal compliance, and the legal consequences of itsbat nikah, including those conducted by Rosalina (2020), Rahmi et al. (2025), and Aulia et al. (2025), provide a foundation for understanding the importance of marriage registration and judicial confirmation. However, these studies do not adequately explain the legal parameters governing the validity of wali muhakkam in itsbat nikah proceedings.

These issues are reflected in the differing rulings issued by Religious Courts on applications for itsbat nikah (judicial confirmation of marriage) involving the use of a wali muhakkam. Differences in the legal reasoning concerning the use of a wali muhakkam are evident in six Religious Court rulings. Ruling Number 19/Pdt.P/2018/PA.Nbr of the Nabire Religious Court, Ruling Number 102/Pdt.P/2020/PA.Sgta of the Sanggau Religious Court, and Ruling Number 14/Pdt.P/2015/PA.Wgp of the Waingapu Religious Court rejected the applications for itsbat nikah on the grounds that the use of a wali muhakkam was considered inconsistent with the guardianship system under Indonesian positive law, which recognizes wali nasab (lineal guardians) and wali hakim (judicial guardians), as stipulated in Article 20 paragraph (2) of the Compilation of Islamic Law. In contrast, Ruling Number 1/Pdt.P/2021/PA.Kmn of the Kaimana Religious Court granted the application, taking into consideration the female applicant's status as a convert to Islam and the absence of Muslim family members who could act as her marriage guardian, together with the prevailing local social conditions. Ruling Number 33/Pdt.P/2023/PA.Rtg of the Ruteng Religious Court also granted the application by referring to Nihāyah al-Muḥtāj, Volume VI, page 224, which recognizes the use of a wali muhakkam under certain circumstances, including situations involving urgent necessity. Meanwhile, Ruling Number 38/Pdt.P/2018/PA.Lrt of the Larantuka Religious Court granted the application by focusing its assessment on whether the requirements of Islamic law, as referred to in Article 2 paragraph (1) of the Marriage Law, had been fulfilled, without first examining whether the use of a wali muhakkam was consistent with the Compilation of Islamic Law. This comparison demonstrates the differing approaches adopted by

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judges in reconciling national marriage law with fiqh doctrine concerning the use of a wali muhakkam.

Based on the literature identified and compared in this study, no previous study has been found that specifically integrates the differences in legal reasoning across six Religious Court rulings with the formulation of normative criteria for the use of a wali muhakkam as a basis for examining applications for itsbat nikah (judicial confirmation of marriage). This issue warrants examination because the differences in these rulings indicate the need for more clearly defined standards of legal reasoning without disregarding the specific characteristics of each case.

This study offers an original contribution in the form of a normative framework comprising six criteria for the use of a wali muhakkam: the absence of an eligible wali nasab (paternal-lineage guardian) capable of exercising guardianship; the impossibility of appointing a wali hakim (court-appointed or authorized official guardian); the existence of extraordinary circumstances; conformity with maqāṣid al-syarī‘ah (the objectives of Islamic law); consistency with national marriage law; and fulfillment of the personal qualifications of a wali muhakkam under the relevant principles of Islamic jurisprudence (fiqh). These six criteria constitute a normative framework proposed by the author rather than cumulative requirements explicitly established under positive law. They are conceived as an integrated set of criteria that must be assessed on a case-by-case basis, positioning the wali muhakkam as an exceptional mechanism of last resort rather than an alternative equivalent to the wali nasab and wali hakim. Each criterion complements the others in assessing necessity, factual circumstances, religious legitimacy, and compatibility with national law.

The analysis employs Jasser Auda's systems approach to examine the issue holistically, contextually, and multidimensionally, with an emphasis on legal objectives and the attainment of public benefit (maslahah). Meanwhile, Bagir Manan's theory of legal certainty is applied to assess the clarity of the legal basis, the consistency of judicial reasoning, and the relationship between the facts of each case and the application of legal norms. Theoretically, this study enriches scholarship on marriage law by clarifying the boundaries governing the use of a wali muhakkam. Practically, its findings are expected to serve as a reference for Religious Court judges in developing more consistent legal reasoning while remaining attentive to the facts and evidence presented in each case.

Accordingly, this study not only proposes a normative framework for limiting the use of a wali muhakkam but also emphasizes that legal certainty does not necessarily require uniform outcomes across judicial rulings. Rather, it requires consistency in the assessment criteria and the legal reasoning underlying those outcomes. The findings are expected to provide an academic

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foundation for the formulation or refinement of Supreme Court guidelines for Religious Court judges in examining itsbat nikah applications involving a wali muhakkam.

2. RESEARCH METHODS

This study employs normative legal research using the statutory, conceptual, and case approaches. The research objects comprise the regulation of wali muhakkam in applications for the judicial confirmation of marriages (itsbat nikah) and the legal reasoning of judges in six rulings issued by Religious Courts, namely Decision Nos. 19/Pdt.P/2018/PA.Nbr, 102/Pdt.P/2020/PA.Sgta, 14/Pdt.P/2015/PA.Wgp, 1/Pdt.P/2021/PA.Kmn, 33/Pdt.P/2023/PA.Rtg, and 38/Pdt.P/2018/PA.Lrt. Primary legal materials include legislation, particularly Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019; Government Regulation Number 9 of 1975; Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law; and relevant regulations governing marriage registration. Secondary legal materials comprise books, scholarly journal articles, research findings, legal dictionaries, and Islamic jurisprudence literature. Legal materials were collected through document analysis and library research. The court rulings were retrieved from the Decision Directory of the Supreme Court of the Republic of Indonesia and other verifiable judicial repositories. The six rulings were selected purposively based on their relevance to the use of wali muhakkam and the presence of legal reasoning suitable for comparative analysis.

The legal materials were analyzed using a qualitative-prescriptive legal analysis method involving the inventory and classification of legal materials, interpretation of legal provisions, comparison of judicial reasoning, and formulation of normative criteria. The analysis of the rulings was based not merely on whether the applications were granted or dismissed, but also on the underlying legal facts, legal grounds, doctrines of Islamic jurisprudence (fiqh), methods of interpretation, and judicial arguments supporting each ruling. Grammatical interpretation was employed to examine the meaning of legal provisions, particularly Article 2 paragraph (1) of the Marriage Law. Systematic interpretation was used to connect this provision with the Compilation of Islamic Law and regulations governing marriage registration, while teleological interpretation was applied to assess legal objectives, the protection of the parties concerned, and the maqāṣid al-sharī‘ah (objectives of Islamic law). Historical interpretation was employed where supported by relevant historical materials. The analysis was further informed by Jasser Auda's Systems Approach and Bagir Manan's theory of legal certainty to formulate six criteria for the use of wali muhakkam: the absence of a wali nasab (a guardian from the bride's paternal lineage) capable of performing the guardianship function; the unavailability of the wali hakim mechanism (a marriage

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guardian appointed by the competent authority); the existence of extraordinary circumstances; consistency with the maqāṣid al-sharī'ah; compatibility with the national marriage law system; and fulfillment of the qualifications for a wali muhakkam under the relevant doctrines of Islamic jurisprudence. These criteria were formulated as normative parameters, taking into account the specific circumstances of each case.

3. RESULTS AND DISCUSSION

Limitations and Criteria for the Use of a Wali Muhakkam as a Requirement for Marriage Validity in Marriage Ratification Cases

Marriage among Muslims is a legal event whose validity is determined by the fulfillment of the essential pillars and requirements of marriage under Islamic law. This study adopts the Shafi'i school of Islamic jurisprudence as its primary analytical framework because it regards the marriage guardian (wali) as an essential pillar of marriage and provides a relevant basis for analyzing the concept of wali muhakkam. The views of the Hanafi, Maliki, and Hanbali schools are used for comparison to demonstrate differences in the doctrinal understanding of guardianship in marriage. The Hanafi school, for instance, allows an adult woman of sound mind to conclude her own marriage contract subject to certain conditions, indicating that the legal position of the marriage guardian is not interpreted uniformly across all schools of Islamic jurisprudence. Under Indonesian positive law, Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage stipulates that the validity of a marriage is determined in accordance with the laws of the religion and beliefs of the parties concerned. Meanwhile, Articles 19–23 of the Compilation of Islamic Law regulate the marriage guardian as an essential pillar of marriage, the requirements and order of priority of wali nasab (guardians determined by blood relationship), the transfer of guardianship authority, and the authority of the wali hakim (official marriage guardian). However, these provisions do not explicitly regulate wali muhakkam. Although recognized in certain Islamic jurisprudential doctrines, particularly within the Shafi'i school, wali muhakkam cannot be placed on an equal footing with wali nasab and wali hakim, but should instead be regarded as an exceptional mechanism whose use must be subject to limitations. Therefore, the central issue in applications for itsbat nikah (judicial confirmation of marriage) is not merely whether wali muhakkam is recognized in Islamic jurisprudence, but rather the absence of specific normative parameters defining the limits and criteria for its use within the Indonesian marriage law system, potentially resulting in divergent judicial interpretations (Misbachul Fitri & Miftahuddin, 2023).

The regulation of marriage guardians under Indonesian marriage law needs to be analyzed in light of the applicable legal framework, particularly Articles 19–23 of the Compilation of

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Islamic Law and Minister of Religious Affairs Regulation Number 30 of 2024 concerning Marriage Registration. Historically, Minister of Religious Affairs Regulation Number 20 of 2019 was revoked by Minister of Religious Affairs Regulation Number 22 of 2024, which was subsequently revoked and replaced by Minister of Religious Affairs Regulation Number 30 of 2024. Article 12 paragraph (1) of Minister of Religious Affairs Regulation Number 30 of 2024 expressly stipulates that marriage guardians consist of wali nasab (guardians related to the bride by blood) and wali hakim (guardians appointed by the state), while Article 13 regulates the authority of wali hakim and the circumstances under which such authority may be exercised. However, the regulation does not explicitly address wali muhakkam, thereby indicating a normative incompleteness concerning the limits and criteria governing its use. Therefore, in itsbat nikah proceedings (applications for judicial validation of marriages), the use of wali muhakkam must be assessed on a case-by-case basis by considering the availability of wali nasab and wali hakim, the extraordinary circumstances underlying the marriage, applicable positive law, and relevant principles of Islamic law, without treating wali muhakkam as a category equivalent to wali nasab and wali hakim

This issue is reflected in the differing legal considerations presented in six Religious Court decisions, which demonstrate disparities in the application of the law in itsbat nikah proceedings involving wali muhakkam. Determination Number 19/Pdt.P/2018/PA.Nbr, Number 102/Pdt.P/2020/PA.Sgta, and Number 14/Pdt.P/2015/PA.Wgp rejected the applications, emphasizing that Indonesian positive law recognizes wali nasab and wali hakim as the legally established mechanisms of guardianship in marriage. In contrast, Determination Number 1/Pdt.P/2021/PA.Kmn and Number 33/Pdt.P/2023/PA.Rtg granted the applications by referring to Islamic jurisprudential doctrines that recognize wali muhakkam under certain circumstances, with the latter determination specifically citing Nihāyat al-Muḥtāj, Volume VI, page 224. Meanwhile, Determination Number 38/Pdt.P/2018/PA.Lrt granted the application by emphasizing the validity of the marriage under Islamic law. These differences demonstrate that judges have adopted divergent interpretative approaches in applying Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage and relating it to the provisions on marriage guardianship under the Compilation of Islamic Law.

Based on the foregoing analysis, the principal limitation on the use of wali muhakkam is that it must function as an exceptional mechanism of last resort, rather than as a mechanism equivalent to wali nasab (a guardian determined by lineage) and wali hakim (an authorized official acting as a marriage guardian). Its use cannot be justified solely by the parties' wishes, the convenience of conducting the marriage contract, or the inability of the wali nasab to perform the

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guardianship function. The judge must first examine the existence and eligibility of the wali nasab in accordance with Articles 21 and 22 of the Compilation of Islamic Law. If no eligible wali nasab exists or the guardian is unable to perform the guardianship function, the examination must proceed to assess the possibility of appointing a wali hakim pursuant to Article 23 of the Compilation of Islamic Law and the applicable official provisions governing marriage registration. Where the wali nasab refuses to solemnize the marriage (adhal), the appointment of a wali hakim must also comply with the procedure for obtaining a determination from the Religious Court or the Syar'iyah Court, as stipulated by the applicable regulations.

The criterion that the wali hakim mechanism must genuinely be incapable of implementation does not mean that the wali hakim is merely unavailable at the time of the marriage contract, that the authorized official refuses to perform the assigned duties, that geographical obstacles exist, or that the parties face an emergency. Such circumstances do not automatically justify the use of a wali muhakkam. It must first be assessed whether the obstacles can be overcome through the guardianship mechanisms provided by law, including the replacement or reassignment of an authorized official, where such procedures are available under the applicable regulations. For example, an official's refusal to perform the assigned duties must be distinguished from a legal impossibility of exercising the authority of a wali hakim. Similarly, geographical obstacles or emergency circumstances are relevant only when the specific facts establish that they genuinely prevent the wali hakim mechanism from being implemented and that no available official procedure can overcome those obstacles. Accordingly, the judge must assess such circumstances on a case-by-case basis, taking into account the facts and evidence presented during the proceedings, particularly the circumstances prevailing at the time the marriage contract was concluded. Therefore, the criterion of the impossibility of using the wali hakim mechanism constitutes an analytical parameter formulated in this study, rather than a new exception explicitly established under the applicable laws and regulations. This criterion serves to delimit the assessment of the use of wali muhakkam in itsbat nikah proceedings (applications for judicial confirmation of a marriage), without overriding the official legal provisions governing wali nasab and wali hakim. Where the wali hakim mechanism remains legally available through valid procedures, the use of a wali muhakkam cannot be justified solely on the grounds of convenience or the parties' personal preferences.

The first criteria for the use of wali muhakkam are the absence of a wali nasab capable of performing the guardianship function and the genuine impossibility of implementing the wali hakim mechanism. Under Articles 20–23 of the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI), the examination must distinguish between five circumstances: the absence of a wali

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nasab, a wali adhal (a guardian who refuses to solemnize the marriage), an unknown whereabouts of the wali nasab, the failure of the wali nasab to meet the legal requirements, and the inability of the wali nasab to attend the marriage ceremony. Each circumstance entails different legal consequences. Where a wali adhal is involved, the wali hakim mechanism must be pursued through a determination issued by the Religious Court, in accordance with Article 23 paragraph (2) of the KHI. Where the wali nasab fails to meet the legal requirements, Article 22 of the KHI provides for the transfer of guardianship authority to the next eligible guardian. Meanwhile, the absence, uncertain whereabouts, or inability of the wali nasab to attend must be examined in light of the specific circumstances and the possibility of exercising guardianship through a wali hakim.

The second criterion requires the judge to assess whether the wali hakim mechanism is genuinely unavailable, including by examining the efforts made to obtain the services of a wali hakim and the factual or legal obstacles encountered. In itsbat nikah proceedings, the assessment of these two criteria must be based on facts and evidence concerning the circumstances at the time the marriage contract was concluded, rather than solely on the circumstances of the parties when they filed the application. Accordingly, none of the five circumstances involving a wali nasab automatically justifies the use of a wali muhakkam. A wali muhakkam may only be considered an exceptional guardianship mechanism when the available wali nasab and wali hakim mechanisms genuinely cannot be implemented, provided that the extraordinary circumstances can be substantiated and the requirements of national marriage law are respected.

The third criterion requires the existence of extraordinary circumstances that can be substantiated by evidence, rather than relying solely on the statements of the parties. This examination is essential to ensure that a wali muhakkam is not used as a shortcut when the available guardianship mechanisms can still be implemented. In itsbat nikah proceedings, the facts concerning the circumstances of the wali nasab and the availability of a wali hakim must be assessed in relation to the conditions prevailing at the time the marriage was solemnized, rather than merely the circumstances of the parties when they filed the application. Accordingly, evidentiary examination serves as an instrument for determining whether the use of a wali muhakkam is genuinely necessary and supported by an adequate legal basis.

The fourth criterion requires that the use of wali muhakkam contribute to the achievement of maqāṣid al-syarī‘ah, particularly the protection of the parties’ rights, lineage, the best interests of the child, and the continuity of family life. Through Jasser Auda’s systems approach, the assessment is conducted comprehensively by considering wholeness, multidimensionality, openness to specific circumstances, and purposefulness, while taking into account the interrelationship between fiqh provisions, the circumstances of the wali nasab, the availability of a

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wali hakim, and the legal consequences of the marriage. The differing outcomes in Religious Court Decisions Number 1/Pdt.P/2021/PA.Kmn and Number 33/Pdt.P/2023/PA.Rtg, which granted the applications, compared with Decision Number 19/Pdt.P/2018/PA.Nbr, which rejected the application, demonstrate the importance of assessing the facts and legal considerations of each case in an integrated manner. Although the interests of the child and the specific circumstances of the parties warrant consideration, the pursuit of public benefit (maṣlaḥah) cannot serve as the sole justification for validating a marriage that fails to satisfy the applicable legal requirements (Gumanti, 2018).

The fifth criterion requires the use of wali muhakkam to remain consistent with the national marriage law system. Based on the principle of interrelated hierarchy in Jasser Auda's systems approach, the determination of guardianship must take into account the legal positions of the wali nasab and wali hakim under positive law, thereby positioning the wali muhakkam as an exceptional mechanism or a last resort rather than an equivalent alternative. Accordingly, its use must be supported by specific circumstances demonstrating that the legally recognized guardianship mechanisms genuinely cannot be implemented. The parties' preferences or the convenience of conducting the marriage are insufficient grounds on their own. Thus, the maqāṣid al-syarī'ah approach serves to balance the protection of rights and the pursuit of public benefit with legal certainty and order, without displacing the applicable marriage requirements.

The sixth criterion concerns the personal qualifications of an individual acting as a wali muhakkam under the doctrine of the Shafi'i school of Islamic jurisprudence. Al-Dimyathi explains that a wali muhakkam may be a just mujtahid or, according to the preferred opinion, a just person who is not a mujtahid, owing to pressing necessity (li syiddati al-ḥājah). This provision indicates that the qualifications of a wali muhakkam must be assessed based on moral integrity ('adālah), scholarly competence, and other personal requirements supported by authoritative fiqh sources, without generalizing this opinion as a universally applicable rule. Under Indonesian law, Articles 19–23 of the Compilation of Islamic Law regulate wali nasab and wali hakim but do not explicitly regulate wali muhakkam. Accordingly, this fiqh doctrine should be treated as a consideration rather than as a requirement of positive law that automatically applies. Judges must assess the qualifications of the appointed individual based on the applicable legal sources and the evidence presented in the case, while ensuring that a person's status as a religious figure does not, in itself, justify the use of a wali muhakkam. The requirement of free status should only be included if it can be directly verified in the cited primary source. Accordingly, all six criteria must be assessed cumulatively and on a case-by-case basis, since fulfillment of the personal qualifications of a wali

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muhakkam does not replace the requirement to establish that the wali nasab and wali hakim mechanisms cannot be used (al-Dimyathi, 1997).

Based on the overall analysis, the use of wali muhakkam in applications for the judicial validation of marriages (itsbat nikah) should be positioned as an exceptional mechanism of marital guardianship and a last resort, subject to six criteria that must be assessed cumulatively and on a case-by-case basis. First, no wali nasab (a marriage guardian from the bride's paternal lineage) is available to perform the guardianship function, which must be established through evidence concerning the existence of such a guardian, the genealogical relationship, and the guardian's capacity in accordance with the provisions of the Compilation of Islamic Law. Second, the wali hakim (an officially authorized marriage guardian) mechanism must genuinely be unavailable, requiring evidence of the reasons and circumstances preventing the use of this mechanism within the national marriage law system. Third, extraordinary circumstances must justify the use of a wali muhakkam, assessed in light of the parties' actual circumstances and the impossibility of implementing the available guardianship mechanisms. Fourth, its use must support the achievement of maqāṣid al-syarī‘ah (the objectives of Islamic law), particularly the protection of lineage, women's rights, children's interests, and family welfare. Accordingly, judges must assess the purpose and legal consequences of validating the marriage. Fifth, its use must remain consistent with the national marriage law system, particularly Article 2 paragraph (1) of the Marriage Law and the provisions on marriage guardianship under Articles 19–23 of the Compilation of Islamic Law. Judges must therefore examine its compatibility with the applicable legal provisions and must not treat fiqh doctrine as an independent legal basis detached from the national legal system. Sixth, the person acting as a wali muhakkam must satisfy the personal qualifications established by the relevant fiqh doctrine, particularly that of the Shafi‘i school of Islamic jurisprudence. Compliance with these qualifications must be established through evidence concerning the person's identity, moral integrity (‘adālah), and other requirements relevant under that doctrine. These six criteria provide normative parameters for judges in interpreting Article 2 paragraph (1) of the Marriage Law and assessing the admissibility of a wali muhakkam based on the facts and evidence presented during judicial proceedings. Accordingly, the original contribution of this study lies in formulating a structured framework for judicial examination without eliminating judges' discretion to assess individual cases on their specific merits. Differences in judicial determinations should therefore be justified by differences in the relevant facts, evidence, and legal reasoning, rather than merely by divergent interpretive parameters. This framework is expected to reduce disparities in judicial reasoning and serve as a reference for the Supreme Court of Indonesia in developing or refining

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guidelines for Religious Court judges concerning the use of wali muhakkam in applications for the judicial validation of marriages (itsbat nikah).

Legal Certainty Regarding the Limitations and Criteria for the Use of a Wali Muhakkam as a Requirement for Marriage Validity in Itsbat Nikah Proceedings

Legal certainty regarding the limitations and criteria for the use of wali muhakkam as a requirement for a valid marriage in itsbat nikah proceedings is closely related to the absence of specific normative parameters governing its legal status and the circumstances under which it may be used within the Indonesian marriage law system. Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage stipulates that a marriage is valid if conducted in accordance with the laws of the respective religions and beliefs of the parties, while Article 2 paragraph (2) requires every marriage to be registered in accordance with the applicable laws and regulations. Within the framework of Islamic marriage law, Article 19 of the Compilation of Islamic Law (Kompilasi Hukum Islam or KHI) establishes the marriage guardian (wali nikah) as an essential element of marriage. Article 20 paragraph (1) sets out the requirements for a marriage guardian, while Article 20 paragraph (2) distinguishes between a wali nasab (a guardian related to the bride by lineage) and a wali hakim (a guardian appointed by the competent religious authority). Furthermore, Article 21 of the KHI regulates the categories and order of priority of lineage guardians, while Article 22 governs the transfer of guardianship when the guardian entitled to act fails to meet the applicable requirements, faces certain limitations, or is otherwise unable to perform the role. Article 23 paragraphs (1) and (2) of the KHI regulate the use of a wali hakim under certain circumstances, including when no lineage guardian is available, the guardian cannot be brought before the relevant authority, the guardian's whereabouts are unknown, or the guardian refuses to act (adhal), subject to the prescribed resolution procedures.

Accordingly, the regulatory framework governing marriage guardians is not limited to Articles 20–23 of the KHI, as these provisions must also be read in conjunction with Article 19 of the KHI and implementing regulations concerning marriage registration, including Minister of Religious Affairs Regulation Number 30 of 2024 concerning Marriage Registration. Nevertheless, the KHI does not explicitly regulate the legal status of wali muhakkam or establish specific criteria for its use. This issue must be distinguished from marriage registration and itsbat nikah. The validity of a marriage is assessed under Article 2 paragraph (1) of the Marriage Law and the relevant provisions of religious law; registration constitutes an administrative obligation under Article 2 paragraph (2) of that Law; whereas itsbat nikah is a judicial mechanism for examining applications to validate marriages that have already taken place but remain unregistered, as provided for in Article 7 paragraphs (2) and (3) of the KHI. Therefore, in itsbat nikah proceedings

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involving the use of a wali muhakkam, judges cannot merely consider the fact that the marriage has not been registered. They must also assess whether the substantive requirements for a valid marriage have been fulfilled, including whether there was a legally sufficient basis for appointing the marriage guardian, by examining the facts and evidence presented at trial. The absence of specific normative parameters governing wali muhakkam creates room for interpretation in the application of Article 2 paragraph (1) of the Marriage Law and may result in divergent judicial reasoning in cases involving similar circumstances.

Bagir Manan's views on the principle of legality in marriage law can be used to analyze legal certainty in itsbat nikah proceedings (applications for judicial confirmation of marriage). Bagir Manan explains that the Marriage Law encompasses two distinct aspects: the legal basis for the validity of marriage and the requirements for marriage. According to this view, a legal relationship that satisfies the requirements prescribed by law gives rise to a valid legal relationship and its associated legal consequences, while marriage registration serves to ensure legal order (Bagir Manan, 2009). This perspective is relevant to examining the use of wali muhakkam in itsbat nikah proceedings, particularly because the Compilation of Islamic Law regulates wali nasab (a marriage guardian from the bride's paternal lineage) and wali hakim (a marriage guardian appointed by the competent authority), but does not explicitly recognize wali muhakkam as a distinct category. Accordingly, legal certainty in such proceedings must be analyzed by examining the applicable legal framework, compliance with the essential elements and requirements of marriage under Islamic law, and the legal considerations applied by judges in assessing the specific circumstances of each case. The application of clear and consistent assessment criteria is necessary to ensure that judicial determinations concerning marriages solemnized under the guardianship of a wali muhakkam are supported by legally accountable reasoning.

The differences in legal certainty regarding the use of wali muhakkam in itsbat nikah proceedings can be analyzed by comparing the ratio decidendi of six decisions issued by Religious Courts. This comparison should not be based solely on the outcomes, namely whether the applications were granted or rejected, but should instead focus on the legal grounds applied by the judges, their interpretation of Article 2 paragraph (1) of Law Number 1 of 1974 concerning Marriage, and the relationship between Islamic jurisprudential doctrines and the guardianship system under Indonesian positive law. Based on an analysis of Decision Number 19/Pdt.P/2018/PA.Nbr, Decision Number 102/Pdt.P/2020/PA.Sgta, Decision Number 14/Pdt.P/2015/PA.Wgp, Decision Number 1/Pdt.P/2021/PA.Kmn, Decision Number 33/Pdt.P/2023/PA.Rtg, and Decision Number 38/Pdt.P/2018/PA.Lrt, differences in legal

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approaches can be identified that influence the assessment of the validity of marriages solemnized using a wali muhakkam.

Among the decisions rejecting the applications, namely Decision Number 19/Pdt.P/2018/PA.Nbr, Decision Number 102/Pdt.P/2020/PA.Sgta, and Decision Number 14/Pdt.P/2015/PA.Wgp, the judges' legal reasoning primarily emphasized the guardianship system established under Indonesian positive law. Article 20 paragraph (2) of the Compilation of Islamic Law stipulates that marriage guardians consist of wali nasab (lineal guardians) and wali hakim (judicial or state-appointed guardians). Within this framework, the use of a wali muhakkam is not explicitly regulated as a recognized form of guardianship under the national marriage law system. Consequently, the inability of a wali nasab to perform the guardianship function does not automatically justify transferring that function to a wali muhakkam, since positive law provides a mechanism for appointing a wali hakim. Accordingly, the basis for rejecting the applications in this group lies in the incompatibility between the guardianship mechanism used in the marriage contract and the guardianship system relied upon by the judges in assessing the validity of the marriages. This approach places the provisions of positive law at the forefront of determining whether the use of a wali muhakkam can be justified for the purpose of itsbat nikah.

In contrast, Decision Number 1/Pdt.P/2021/PA.Kmn demonstrates an approach that allows Islamic jurisprudential doctrines to inform the interpretation of the validity of a wali muhakkam. The reasoning discussed in the thesis refers to the views of Shafi'i scholars regarding the possibility of appointing a wali muhakkam when the more authoritative guardianship mechanisms cannot be implemented. This legal construction can be found, among other sources, in Fatḥ al-Muʿīn and al-Rauḍah al-Ṭālibīn, which discuss the appointment of a person to act as a marriage guardian under certain circumstances. Therefore, the assessment of marital validity does not stop merely at the absence of an express reference to wali muhakkam in the Compilation of Islamic Law, but also considers the jurisprudential grounds underlying its use. The fundamental difference between this approach and that adopted in the decisions rejecting the applications lies in the legal sources used as the starting point for the assessment: the former emphasizes the forms of guardianship regulated under positive law, whereas the latter allows room for interpretation based on relevant Islamic jurisprudential doctrines.

A similar approach is evident in Decision Number 33/Pdt.P/2023/PA.Rtg. According to the discussion in the thesis, the judge referred to Nihāyat al-Muḥtāj, Volume VI, page 224, as a doctrinal basis supporting the possibility of using a wali muhakkam under certain circumstances. This reasoning demonstrates that Islamic jurisprudential doctrine may be used to explain the potential validity of a wali muhakkam when the circumstances prevent the proper implementation

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of the established guardianship mechanisms. Furthermore, considerations of maṣlaḥah (public benefit and welfare) are relevant when assessing the legal consequences of the marriage for the parties and the interests of the family. Nevertheless, the existence of jurisprudential opinions permitting the use of a wali muhakkam does not automatically justify its use in every circumstance. The relevance of such doctrines must still be assessed in light of the facts of the case, the availability of the wali hakim mechanism, and compatibility with the national marriage law system. Accordingly, the reasoning in this decision demonstrates the importance of connecting doctrinal foundations with the specific circumstances underlying the use of a wali muhakkam.

Decision Number 38/Pdt.P/2018/PA.Lrt, meanwhile, demonstrates an approach that differs from those adopted in the two preceding decisions that granted the applications. According to the discussion in the thesis, the judge considered that, provided a marriage fulfilled the requirements of Islamic law as referred to in Article 2 paragraph (1) of the Marriage Law, it could be declared valid without first examining whether the use of a wali muhakkam complied with the provisions of the Compilation of Islamic Law. This reasoning emphasizes compliance with the requirements for marital validity under religious law rather than a specific examination of the legal position of a wali muhakkam within the national guardianship system. This distinction is important because recognizing the validity of a marriage under religious law and assessing the compatibility of the guardianship mechanism with positive law are related but not entirely identical issues. Without clear parameters governing the relationship between these two considerations, the application of Article 2 paragraph (1) may result in differing assessments of similar legal issues.

Meanwhile, Decision Number 102/Pdt.P/2020/PA.Sgta and Decision Number 14/Pdt.P/2015/PA.Wgp belong to the group of decisions rejecting the applications, together with Decision Number 19/Pdt.P/2018/PA.Nbr. These decisions demonstrate a tendency to base the assessment on the guardianship system recognized under Indonesian positive law, namely wali nasab and wali hakim. However, a comparative analysis of each decision must distinguish the considerations actually adopted by the judicial panel in the respective case. Similar outcomes do not, in themselves, establish that the legal grounds, factual assessments, and evidentiary considerations underlying the decisions are identical. Therefore, these three decisions cannot be regarded as having entirely identical rationes decidendi merely because they all rejected applications for itsbat nikah.

Based on this comparison, the differences in the rationes decidendi of the six decisions primarily concern three legal issues. First, should the validity of a marriage be assessed by prioritizing the guardianship system established under the Compilation of Islamic Law, or may it also be determined on the basis of Islamic jurisprudential doctrines that recognize the use of a wali

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muhakkam under certain circumstances? Second, how should the inability of a wali nasab to perform the guardianship function be assessed in relation to the availability of the wali hakim mechanism? Third, to what extent may compliance with the requirements of marriage under religious law serve as a basis for validating a marriage without a specific examination of whether the use of a wali muhakkam is compatible with the national marriage law system? These three issues demonstrate that differences among judicial decisions cannot be adequately explained through the binary distinction between granted and rejected applications. Instead, they must be examined through the relationship between the applicable legal norms, the facts assessed, and the legal reasoning adopted by the judges.

Accordingly, the disparity among these six decisions demonstrates the absence of uniform normative parameters for assessing the use of a wali muhakkam in itsbat nikah proceedings. The existence of Islamic jurisprudential doctrines recognizing the wali muhakkam does not automatically place this form of guardianship on an equal footing with wali nasab and wali hakim within the Indonesian marriage law system. Conversely, the absence of explicit regulation concerning wali muhakkam in the Compilation of Islamic Law does not fully resolve how judges should assess marriages solemnized under particular circumstances. Therefore, parameters are needed to establish a coherent relationship between Article 2 paragraph (1) of the Marriage Law, the guardianship provisions of the Compilation of Islamic Law, relevant Islamic jurisprudential doctrines, and the facts and evidence presented during court proceedings. Such parameters are necessary to ensure that differences in judicial outcomes are justified by distinguishable facts and legally accountable reasoning, rather than arising solely from differences in judicial interpretation.

The use of wali muhakkam in itsbat nikah proceedings is proposed as an exceptional mechanism and a last resort, rather than as a mechanism equivalent to wali nasab and wali hakim. This positioning constitutes a normative construction proposed by the author (de lege ferenda), rather than a provision of positive law that explicitly recognizes wali muhakkam as an official guardianship mechanism within the Indonesian marriage law system. Articles 19–23 of the Compilation of Islamic Law regulate wali nasab and wali hakim, whereas wali muhakkam has not been specifically regulated under marriage legislation. Although certain Islamic jurisprudential doctrines recognize the use of wali muhakkam under particular circumstances in which the available guardianship mechanisms cannot be implemented, this position does not automatically confer formal recognition upon it within Indonesian positive law. Accordingly, the term last resort in this study represents a normative formulation proposed by the author based on a synthesis of national marriage law and relevant Islamic jurisprudential doctrines, rather than a universal principle applicable to all schools of Islamic jurisprudence. The author proposes that its use be

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considered only after examining whether guardianship through wali nasab and wali hakim is genuinely impossible, taking into account the specific circumstances of the case, the guardian's qualifications under relevant Islamic jurisprudential doctrines, the protection of the parties' rights, family welfare, and consistency with national marriage law. These criteria constitute proposed interpretive parameters intended to assist judges in assessing itsbat nikah cases, rather than cumulative requirements explicitly established by legislation. Thus, wali muhakkam is neither positioned as an unrestricted alternative that may be freely chosen nor treated as a mechanism that must automatically be accepted or rejected. Instead, it constitutes a legal issue that must be assessed in light of the applicable legal provisions, Islamic jurisprudential doctrines, the facts of the case, and the evidence presented at trial. Further development of these parameters requires consideration by policymakers or the Supreme Court of Indonesia through guidelines consistent with the national marriage law system.

Clarifying the legal position of wali muhakkam requires the application of six criteria assessed cumulatively and on a case-by-case basis: the absence of a wali nasab capable of exercising guardianship; the unavailability of the wali hakim mechanism; the existence of extraordinary circumstances that can be legally substantiated; fulfillment of the objectives of maqāṣid al-syarī‘ah, encompassing the protection of lineage, women's rights, children's interests, and family welfare; consistency with the national marriage law system; and fulfillment of the personal qualifications for a wali muhakkam under the relevant fiqh doctrines. The objectives of maqāṣid al-syarī‘ah are assessed qualitatively using concrete indicators, including clarity of lineage, protection of women's rights in marriage, certainty regarding children's legal status and protection, and fulfillment of family rights and obligations. Meanwhile, consistency with national law must be assessed independently by reference to Article 2 paragraph (1) of the Marriage Law, Articles 19–23 of the Compilation of Islamic Law, verification of the availability of a wali nasab and a wali hakim, fulfillment of the essential elements and requirements of marriage, and an assessment of whether the use of a wali muhakkam is intended to circumvent the applicable legal procedures. The personal qualifications of a wali muhakkam must also be examined in accordance with the relevant fiqh doctrines, including requirements concerning moral integrity (‘adālah), free status, and the distinction between the qualifications of a mujtahid and a non-mujtahid. Accordingly, wali muhakkam should be positioned as an exceptional guardianship mechanism and a last resort, rather than as an alternative equivalent to a wali nasab or a wali hakim. Its acceptance must not be based solely on unilateral assertions or an individual's status as a religious figure, but must be supported by relevant legal facts and evidence. Conversely, its rejection must not be absolute without consideration of the specific circumstances and applicable fiqh doctrines. A

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structured assessment of all these criteria, accompanied by clear legal reasoning, can prevent circular reasoning, safeguard lineage, women's rights, children's interests, and family welfare, and provide legal certainty in itsbat nikah proceedings without creating a new category of marriage guardian.

In itsbat nikah proceedings involving a wali muhakkam, the evidentiary standard must comply with the civil procedural law applicable to Religious Courts, particularly Articles 163 and 164 of the Herzien Inlandsch Reglement (HIR) and Articles 1865 and 1866 of the Indonesian Civil Code, which govern the burden of proof and admissible evidence. The petitioners are required to prove not only that the marriage contract was performed, but also the factual circumstances at the time of the marriage that prevented the wali nasab from exercising his authority and rendered the wali hakim mechanism genuinely unavailable. Such proof must establish the grounds for appointing a wali muhakkam, the extraordinary circumstances underlying its use, compliance with the objectives of maqāṣid al-syarī‘ah, and the qualifications of the wali muhakkam, through lawful and relevant evidence, such as documentary evidence and witness testimony. Judges must assess the relevance, probative value, and connection of each item of evidence to the alleged facts to distinguish genuine impossibility from the parties' mere preference for using a wali muhakkam (Febri Yanti et al., 2025; Mentari et al., 2026). Nevertheless, satisfaction of these criteria does not automatically require the petition to be granted, as judges must still examine all the essential elements and requirements of marriage and determine whether they comply with the applicable legal provisions.

Formulating clear boundaries and criteria for the use of a wali muhakkam provides a framework for the exercise of judicial discretion without undermining judicial independence in examining and deciding cases. This approach is consistent with Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Authority, which requires judges to explore, follow, and understand the legal values and sense of justice prevailing in society. This provision underscores the importance of judicial freedom in legal reasoning; however, it does not mean that judicial assessment may be detached from the legal framework and reasoned justifications that can be held accountable. Accordingly, the six criteria for the use of a wali muhakkam formulated in this study serve as normative parameters to guide judicial examination rather than restrictions on judicial independence. Judges retain the authority to independently and on a case-by-case basis assess the probative value of evidence, the relevance of facts, and the specific circumstances established during court proceedings. Differences in judicial determinations remain justifiable insofar as they are based on differences in relevant facts, legal circumstances, or evidence and are supported by adequate legal reasoning. Conversely, divergent determinations arising solely from the application

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of different legal standards to cases with similar characteristics may give rise to legal uncertainty. Therefore, judicial independence must operate alongside consistency in the assessment criteria. Legal certainty should not be understood as requiring uniform judicial decisions, but rather as requiring the application of a consistent assessment framework while respecting judges' authority to evaluate the facts and evidence in each case. These parameters also help prevent the use of a wali muhakkam to circumvent the available guardianship mechanisms and support the protection of marital status and its legal consequences (Fadhel Koto Bida Mulyon et al., 2026; Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Authority).

Based on the foregoing discussion, legal certainty in the use of wali muhakkam in itsbat nikah proceedings depends on the clarity of its legal status, limits of application, substantive requirements, evidentiary standards, and judicial assessment parameters. The findings indicate that Indonesian positive law does not explicitly regulate the criteria for the use of wali muhakkam, leaving room for differing interpretations in the application of Article 2 paragraph (1) of the Marriage Law. To address this issue, this study formulates six criteria that must be assessed cumulatively and on a case-by-case basis: the absence of a wali nasab capable of performing the guardianship function; the unavailability of the wali hakim mechanism; the existence of extraordinary circumstances; fulfillment of the objectives of maqāṣid al-syarī‘ah; consistency with the national marriage law system; and fulfillment of the personal qualifications required of a wali muhakkam under relevant Islamic jurisprudential doctrines. These six criteria can improve the consistency of judicial reasoning by providing a common assessment framework for identifying legally relevant facts, evaluating the sufficiency of evidence, determining whether each requirement has been satisfied, and formulating legally reasoned and accountable decisions. Accordingly, differences in judicial outcomes may remain permissible insofar as they are based on differences in the facts, evidence, and relevant legal grounds, rather than merely on differences in interpretive parameters. It must be emphasized that these six criteria constitute a normative framework developed through this study and are not explicit provisions currently in force under Indonesian positive law. Therefore, as a recommendation for ius constituendum, the Supreme Court of the Republic of Indonesia should consider formulating or refining guidelines for Religious Court judges governing the assessment parameters applicable to the use of wali muhakkam in itsbat nikah proceedings. Such guidelines are expected to clarify the application of Article 2 paragraph (1) of the Marriage Law, reduce disparities in judicial determinations that do not arise from relevant differences in the legal facts, and strengthen legal protection for husbands, wives, children, and families without disregarding the national marriage law framework or relevant Islamic jurisprudential doctrines.

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4. CONCLUSION

The findings of this study indicate that wali muhakkam should be positioned as an exceptional mechanism of guardianship and a last resort, rather than as a mechanism equivalent to wali nasab and wali hakim. Based on an analysis of six Religious Court orders, this study formulates six criteria to be assessed cumulatively and on a case-by-case basis: the absence of any wali nasab capable of exercising guardianship; the genuine unavailability of the wali hakim mechanism; the existence of extraordinary circumstances that can be legally substantiated; the extent to which the use of wali muhakkam supports the attainment of maqāṣid al-syarī'ah; its consistency with the national marriage law system; and the fulfillment of the relevant personal qualifications for serving as a wali muhakkam under the applicable jurisprudential doctrines. These six criteria constitute a normative framework developed by this study to assist judges in assessing the facts, evidence, and legal grounds in itsbat nikah proceedings, rather than provisions that explicitly recognize wali muhakkam under Indonesian positive law. The contribution of this study lies in formulating structured assessment parameters to limit interpretative disparities without undermining judicial discretion to examine each case in light of its specific circumstances.

Legal certainty in itsbat nikah proceedings involving wali muhakkam requires clear, consistent, and legally accountable assessment parameters because Indonesian positive law does not explicitly regulate the limits and criteria governing its use. The differences in judicial reasoning across the six orders examined demonstrate that legal certainty does not require uniform outcomes but rather requires that differences in judicial determinations be based on relevant facts, evidence, and legal reasoning. This study has certain limitations because its analysis is confined to six Religious Court orders and employs a normative legal research approach focusing on legislation, Islamic jurisprudential doctrines, legal concepts, and judicial reasoning. Consequently, it does not fully reflect broader judicial practices or judges' empirical experiences in adjudicating similar cases. Future research could expand the number and geographical coverage of the court orders examined, compare judicial reasoning across different jurisdictions, and employ an empirical approach through interviews with Religious Court judges to assess the practical application of the six criteria. Based on these findings, the Supreme Court of Indonesia could consider developing or refining guidelines for Religious Court judges concerning the examination of itsbat nikah applications involving wali muhakkam. This proposal constitutes a policy recommendation rather than a mandatory legal consequence, with the aim of promoting consistency in legal reasoning, protecting the rights of the parties, and ensuring legal certainty while remaining consistent with the national marriage law system.

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