Wali Muhakkam for *Muallaf* in Muslim Minority Areas: A Juridical Analysis of the Determination of Itsbat Nikah by Religious Courts

Mirwan[1], Firdaus[2], Muchlis Bahar[3]
nasutionmirwan@gmail.com,
firdaus@uinib.ac.id, muchlisbahar@uinib.ac.id

[1,2,3]Universitas Islam Negeri Imam Bonjol Padang, Indonesia

Article Info
Received: 2025-01-10
Revised: 2025-03-10
Accepted: 2025-05-16

Keywords:
Wali Muhakkam, Converts, Muslim Minority, Marriage Validation

Abstract
An analysis of marriage validation (itsbat nikah) decisions by religious courts concerning the appointment of wali muhakkam for female converts (muallaf) in Muslim minority regions reveals that the process involves complex legal, social, and cultural considerations. These rulings not only focus on the formal legality of the marriage but also take into account the long-term implications for children born of the union and the alignment with the prevailing national legal system. This study aims to describe and analyze judges' considerations regarding legal facts in the marriage of female converts using wali muhakkam, to explore the legal construction applied by judges in legitimizing the use of wali muhakkam, and to examine the arguments formulated by judges in validating such marriages. This research is categorized as a library study employing a normative juridical method with a statutory approach. Data sources are derived from established legal theories and documented judicial practices. The findings indicate that judges formulate legal arguments based on both Islamic legal principles and national law to validate the marriage of female converts conducted with a wali muhakkam. These rulings reflect the harmonization of religious values and state law, thereby ensuring justice, welfare, and legal certainty for all involved parties.

I. Introduction

By nature, humans possess basic instincts (gharizah), including sexual drive (gharizah jinsiyah), which motivates them to marry. Marriage is seen as a lawful, healthy, and ideal means to fulfill these biological needs and to ensure the continuation of the human race. In Islam, marriage not only satisfies biological urges but also brings spiritual tranquility and serves as a preventive measure against prohibited acts (Sabiq, 2008:10). Allah SWT ordained marriage as a way to fulfill human nature. For this reason, Allah created humans in pairs—men as husbands and women as wives. The Qur'an contains many verses emphasizing the importance of marriage, such as Surah al-Nisa (4:1), al-Ra'd (13:38), al-Nahl (16:72), al-Rum (30:21), al-Nur (24:32), al-Zariyat (51:49), Yasin (36:36), and al-Hujurat (49:13) (Al-Shan'ani, 1412 H:109-110). The Prophet Muhammad's hadiths also explicitly encourage his followers to marry as an act of worship and moral preservation.

From an Islamic perspective, marriage has legal, social, and spiritual dimensions. Legally, it is considered a *mithaqan ghalizha* (a solemn covenant); socially, it elevates an individual's status within the community; and spiritually, it binds a husband and wife in a sacred relationship in the name of Allah SWT (Asmin, 1986:28). Therefore, the implementation of marriage must meet the conditions set by Islamic law in order to achieve its goals optimally.

One of the main purposes of marriage is procreation. Through offspring, the smallest unit of society—the family—is formed. In community life, unifying roles are not only carried out by administrative officials such as village heads and neighborhood leaders, but also by religious figures like *kiai*, *ustadz*, and *buya* who serve as moral and spiritual leaders (Khanif, 2007:16–17). This is especially evident in rural areas of Indonesia, where the majority of the population is Muslim and religious culture is deeply rooted

However, not all regions in Indonesia are predominantly Muslim. Areas such as Bali, Nias Island, Papua, parts of Sulawesi, and Flores are examples of regions with a non-Muslim majority. In some Muslim minority areas, there are marriage practices that do not comply with statutory regulations, such as the use of a *wali muhakkam*—a religious figure appointed to officiate a marriage without following formal procedures.

In Islamic law, the validity of a marriage heavily depends on the presence of a *wali* (guardian). A *wali* is a person who has the right to marry off a woman under his guardianship (*maula*). If the *wali nasab* (guardian by blood relation) is unable to fulfill his duty, the right of guardianship may be transferred to

another guardian (Rofiq, 1997:258). A hadith of Prophet Muhammad SAW states, "There is no valid marriage without a wali" (HR. Ahmad, No. 18911), emphasizing the critical role of the guardian in marriage.

One form of guardian in Islamic law is the *wali muhakkam*, who is a person appointed by both prospective spouses to act as their marriage guardian. This type of guardian is usually chosen due to his religious knowledge, just character, and respected status within the community (Ramulyo, 199:xx). However, under Indonesia's positive legal system, only the *wali hakim* (guardian judge) appointed by the state is legally recognized as a substitute when the *wali nasab* is absent or unable to act.

The phenomenon of using a *wali muhakkam* still occurs frequently in several regions of Indonesia. This is often influenced by geographical and socioeconomic conditions, such as the absence of a guardian due to working abroad, employment as migratory fishermen, or the lack of complete administrative documents. These circumstances result in marriages being unregistered at the Office of Religious Affairs (*Kantor Urusan Agama*, or KUA), leading to applications for marriage validation (*itsbat nikah*) in the Religious Court, as seen in cases number 229/Pdt.P/2020/PA.Pdn through 91/Pdt.P/2021/PA.Pdn

According to the Compilation of Islamic Law (*Kompilasi Hukum Islam*, or KHI), a marriage is considered valid if it is conducted in accordance with Islamic law, and its registration is mandatory to ensure legal certainty (Presidential Instruction No. 1 of 1991). Therefore, the practice of using a *wali muhakkam* without a strong legal basis presents significant issues, particularly for women who may not receive the legal protection they deserve.

In addition to legal challenges, converts to Islam (*muallaf*) in Muslim minority regions also face issues related to social and cultural integration. They often feel isolated in predominantly non-Muslim communities, which can hinder their ability to fully practice Islamic teachings. Research by Faiz (2024) reveals that discrimination and pressure to conform to secular values frequently affect how converts observe their religious duties. In this context, the role of the *wali muhakkam* becomes crucial as a bridge to help converts navigate these social and cultural challenges. However, support from the broader Muslim community remains essential to ensure that their rights are fully recognized and respected.

In the context of marriage, converts also encounter administrative and financial obstacles, such as expensive *mahar* (dowry) or other conditions that

can hinder the formalization of their marriage. Supraptiningsih and Bariyyah (2019) noted that high dowry costs sometimes discourage couples from marrying through official channels, resulting in unclear legal status. Therefore, a more inclusive legal approach that is sensitive to the conditions of *muallaf* is urgently needed, particularly regarding the recognition of the *wali muhakkam* and marriage registration.

To address these issues, collaboration between the government, religious institutions, and civil society is necessary to create an environment that supports the presence of *muallaf*. This can be achieved through the development of inclusive policies that advocate for minority Muslim communities and improved access to religious education and legal information. In doing so, *muallaf* can live their religious lives with dignity and gain equal recognition within society.

The problem of the *wali muhakkam* for *muallaf* in minority regions reflects broader issues related to legal recognition, religious education, and social integration. Understanding the complexity of these issues is essential for formulating effective and sustainable solutions, so that *muallaf* can lead fulfilling lives within the framework of law and Islamic values.

2. Research Method

This research is classified as a library research type, with a normative legal approach that focuses on the study of applicable laws and regulations. This approach is used to analyze the legal norms governing wali muhakkam, particularly in the context of converts (muallaf) living in areas with a majority non-Muslim population. According to Peter Mahmud Marzuki, normative legal research is a process of finding legal rules, principles, and doctrines to address legal issues encountered (Marzuki, 2011: 35). Therefore, this study aims to gain a deep understanding of the concept and implementation of wali muhakkam in the practice of Islamic courts, by examining court rulings regarding the validation of marriage (itsbat nikah) for converts in Muslim minority regions.

3. Results and Discussion

The Legal Construction of *Wali Muhakkam* in the Compilation of Islamic Law

For Muslims, the recognition of the validity of marriage is documented in the Appendix of Presidential Instruction Number 1 of 1991 on the Dissemination of the Compilation of Islamic Law (KHI), which states that marriage is considered valid if it is carried out according to Islamic law as stipulated in Article 2,

paragraph (1) of the Marriage Law. To ensure the regularity of marriages for the Muslim community, the registration of every marriage is considered important. The registration process is carried out by Marriage Registrar Officers at the Office of Religious Affairs (KUA), particularly for Muslim marriages.

The use of religious or community leaders in the marriage contract process is permitted in Islamic law, provided that there is a handover from the *wali nasab* to solemnize the marriage of his daughter. However, if there is no handover from the guardian or without the guardian's permission, the marriage is considered invalid according to the law. Imam Shafi'i stated that the marriage guardian is a *ashobah*, which refers to the closest male relatives from the father's side, so an uncle from the mother's side does not have the right to act as a guardian in marriage. Therefore, the marriage guardian is a required condition for the validity of the marriage, and for the contract to be valid, the rightful guardian must be the one who solemnizes it. The legal basis, according to Imam Shafi'i's view, is that the guardian in marriage is a fundamental requirement to be fulfilled for the bride-to-be. The Compilation of Islamic Law Article 20, paragraph 1 explains that the one acting as a marriage guardian must be a man who fulfills the Islamic legal conditions, namely Muslim, sane, and of age. Furthermore, paragraph 2 explains that marriage guardians include both *wali nasab* and *wali hakim* (Bagir, 2008: 58).

Marriage can only be validated through a marriage certificate issued by the Marriage Registrar Officer. However, if the marriage certificate is unavailable, one can apply for *itsbat nikah* (legal validation of marriage) at the Religious Court (Dewi, 2005: 107). *Itsbat nikah* is a legal process carried out in the Religious Court to declare the marriage valid, even though it cannot be proven with a marriage certificate. This is in accordance with Article 7 of the Compilation of Islamic Law, which regulates *itsbat nikah*.

From the perspective of positive law, the Compilation of Islamic Law (KHI) in Indonesia also regulates the role of judges as substitute guardians. Article 14 of the KHI states that in certain circumstances, the religious court has the authority to appoint a *wali hakim* if the *wali nasab* is unable to carry out his role (Suryadi, 2016: 78). This provision provides a clear basis for judges to make decisions, although in practice, the appointment of a *wali muhakkam* still requires careful consideration to avoid conflict with Islamic principles and the principle of justice.

The method of filling legal gaps with principles and legal foundations is called Legal Construction. This construction consists of three forms: Analogy (Abstraction), Determination (Refinement of Law), and Argumentum A Contrario (Juanda, 2017: 160). Argumentum A Contrario, as explained by Juanda (2017: 160),

is the expression of a denial of the opposite. For example, in marriage law, if there is a provision stating that a woman who has been divorced cannot remarry before a period of 100 days, this rule does not apply to men. Legal Interpretation, as explained by Juanda (2017: 162-163), is the method of finding the meaning and significance of a regulation.

The process of law formation by judges is known as legal construction. This concept is closely related to the discovery of law. J.A. Pontier explains the discovery of law as a response to problematic situations faced by individuals in legal terms. This relates to legal questions, legal conflicts, or juridical disputes. The purpose of the discovery of law is to provide answers to legal questions and find solutions to concrete problems. In this context, questions arise regarding the explanation, interpretation, and application of legal regulations, as well as questions about the meaning of facts that require the application of the law.

In legal construction, there are various schools of thought that use specific paradigms. First, the juridical-dogmatic approach, which is a method of approaching legal regulations with pure logical reasoning, and subsequently applying these legal understandings using only logical reasoning without considering facts and justice. Second, the causal-empirical/sociological approach involves studying the cause-and-effect relationship between legal regulations and social realities in society. Third, the philosophical/idealistic/ideological approach focuses on the relationship between legal regulations and concepts, aspirations, or human intellectual outcomes.

Several schools of thought have emerged as a result of differing paradigms that illustrate the relationship between law and judges. The first school is called the *legis* school, which states that judges are only allowed to apply the law strictly. The second school is the school of judicial law discovery, which has several variants. The first variant, called the *Begriffsjurisprudenz* school, teaches that although the law may be incomplete, it can still cover its own deficiencies because the law has an expansive nature. Judges should fill in the gaps in the law by using the main legal foundation of logic and expand the law based on reason, in line with the development of legal theory, where the understanding of law is considered the goal, not the means. This allows judges to create legal certainty.

The *interessenjurisprudenz* school is the second variant, which asserts that judges have very broad freedom in discovering the law. Not only are they to apply the law, but they are also involved in expanding, narrowing, and shaping rules in their rulings, with the aim of achieving the greatest possible justice. In certain situations, judges are allowed to deviate from the law for the benefit of the public.

The third variant, the *soziologische rechtsschule* school, teaches that judges should guide their decisions according to and consider legal awareness and legal sentiment, as well as take into account the social realities that exist when the ruling is made. The fourth variant, the *Paul Scholten* school, states that the legal system is not static but rather an open system. The legal system requires decisions and rulings from judges based on their assessments, and the results of these assessments create something new, constantly expanding the scope of the legal system.

In the context of efforts to resolve a case brought before them, judges must go through three stages. First, the judge must *ascertain* the legal event, meaning evaluating whether a concrete event presented in court is true or not. This requires proof, where the facts to be proven are concrete. Second, the judge *qualifies*, meaning the judge evaluates what legal relationship or category the facts fall under. Third, the judge *constitutes*, meaning the judge determines the legal consequences.

In reality, judges often face two obstacles: unclear wording, words, or sentences in the law, or the absence of comprehensive laws, meaning the law does not clearly regulate a concrete case brought before the court. If the rule is unclear, the judge interprets or interprets the contents of the law using various interpretive methods, such as authentic, systematic, historical, sociological interpretation, and others. If the law is incomplete, the judge will reason using various reasoning methods, such as *argumentum a contrario*, *argumentum per analogian*, or legal narrowing. The judge's efforts to discover the law are called legal construction.

Thus, legal construction is a process or method of building and interpreting legal norms to generate an understanding or solution to legal problems that arise in society. Legal construction involves analyzing regulations, legal principles, and existing facts to reach a legal decision that aligns with applicable legal principles. Simply put, legal construction can also refer to the effort to organize and formulate legal norms within a structured legal system to provide certainty and justice in the resolution of legal issues

Analysis of the Determination of Religious Courts in the Case of Itsbat Nikah for Converts Using *Wali Muhakkam*

Based on the research findings, it was found that judges build an argument to declare the validity of the marriage of a convert woman using a *wali muhakkam* (court-appointed guardian) based on two main foundations: the Shari'ah basis and national law. The Shari'ah basis includes the Qur'an, hadith, and the views of

scholars who emphasize the importance of the guardian (wali) as an essential element of marriage. In certain situations, such as the absence of a valid *wali nasab* (lineage guardian), the religious court has the authority to appoint a substitute guardian according to Shari'ah principles. The national legal basis, such as the Compilation of Islamic Law and the Marriage Law, provides legitimacy for the religious court to appoint a judicial guardian within the context of positive law in Indonesia.

The structure of the judge's argument begins with the identification of the legal issue, which is the absence of a valid *wali nasab*, whether due to religious differences, rejection, or inability to be present. The judge then formulates a legal premise stating that the presence of a guardian is a required condition for marriage, along with facts supporting the legitimacy of the appointment of a *wali muhakkam*. This process continues with a legally valid conclusion, ensuring that the decision aligns with Shari'ah principles and national legal provisions.

The consistency of the judge's argument is evaluated based on its conformity to Islamic legal principles and its validity within the framework of national law. The argument constructed is consistent with Shari'ah principles, such as the *maqashid syariah* (objectives of Shari'ah), which guarantee justice and public welfare. Additionally, the legal logic used by the judge is valid within the national legal framework, providing legal certainty that harmonizes religious values and state regulations. Through this process, the judge produces a strong, fair, and relevant decision, ensuring the legitimacy of the marriage of the convert woman using a *wali muhakkam* and providing legal protection for all parties involved.

In the context of the marriage of a convert woman using a *wali muhakkam*, there are several arguments that can be constructed based on various Islamic legal references and regulations in Indonesia. The role of the *wali muhakkam* and judicial guardian is crucial in situations where a *wali nasab* cannot be present or does not meet the conditions for marriage. This is particularly relevant for a convert woman who may not have a *wali nasab* who conforms to religious or legal requirements.

First, the Minister of Religious Affairs Regulation Number 30 of 2005 regulates judicial guardians, which includes situations where the bride is abroad or in a remote area. Article 2, Paragraph (1) states that a judicial guardian can act as the marriage guardian under certain conditions, including for women who do not have a *wali nasab* who can be present (Erfiana, 2021). This shows that the marriage of a convert woman using a *wali muhakkam* is legally valid as long as it meets the conditions specified in the regulation.

Second, in studies on the position of the guardian in marriage, there are

views from various schools of thought that recognize the judicial guardian as a valid guardian in certain situations. According to Muzakka, various schools of thought agree that a judicial guardian can replace a *wali nasab* who is absent or does not meet the conditions, so a marriage performed with a judicial guardian remains valid (Muzakka, 2023). This provides additional legitimacy to the use of a *wali muhakkam* in the marriage of a convert woman.

Furthermore, in the context of interfaith marriage, there are also relevant legal considerations. Research by Dharmawan et al. shows that marriage between individuals with different religious backgrounds often faces legal and social challenges. However, in the case of a convert woman, where the individual has embraced Islam, the use of a *wali muhakkam* can be considered a legitimate step that aligns with the principles of Islamic law (Dharmawan et al., 2022). This indicates that the marriage of a convert woman with a *wali muhakkam* is not only legally valid but also consistent with religious values.

Additionally, research by Nurdiansari and Kusuma emphasizes the importance of legal considerations in the acceptance of a request for a *wali adhal* (guardian refusal) in the religious court. In cases where the *wali nasab* (lineage guardian) refuses to marry off the woman, the judge may decide to use a judicial guardian, demonstrating that the marriage can still proceed despite the refusal from the *wali nasab* (Nurdiansari & Kusuma, 2022). This reaffirms that the decision to use a *wali muhakkam* in the marriage of a convert woman is a legitimate and accepted step within the existing legal system.

In the context of Islamic law, marriages performed with a judicial guardian have also been legally analyzed. Research by Bakari and Darwis shows that a judge's decision in cases involving the marriage of a convert woman with a religious leader as the marriage guardian sets an important precedent for similar cases in the future (Bakari & Darwis, 2019). This indicates that the use of a *wali muhakkam* in the marriage of a convert woman is not only legally valid but also supported by existing legal practices.

On the other hand, it is important to consider the social and psychological implications of such a marriage. Research by Itryah and Ananda highlights the importance of psychological readiness when entering into marriage, which can affect the success of the marriage (Itryah & Ananda, 2023). In this context, a convert woman using a *wali muhakkam* needs psychological and social support to ensure they can navigate the marriage successfully. Additionally, research by Salsabillah shows that a judge's decision to appoint a *wali adhal* for a daughter whose father is of a different religion illustrates how the legal system can adapt to the needs of the

individual (Salsabillah, 2023). This suggests that, in the case of a convert woman, the legal system can provide solutions that are suited to their conditions and needs.

In this regard, it is also important to consider views from various schools of thought regarding marriage without a guardian. Research by Mahfudhi shows that some views support marriage without a guardian in specific conditions, which can provide additional perspectives in favor of using a *wali muhakkam* (Mahfudhi, 2022). This indicates that there is room for legal interpretation that can support the marriage of a convert woman. Research by Solahudin emphasizes that a judicial guardian can act as the marriage guardian in situations where the *wali nasab* is absent or cannot be present (Solahudin, 2023). This provides a strong legal basis to support the marriage of a convert woman using a *wali muhakkam*, as the regulation legitimizes this practice.

Therefore, arguments supporting the validity of the marriage of a convert woman using a *wali muhakkam* can be constructed from various legal perspectives, both from Islamic law and the positive law that applies in Indonesia. By considering the existing regulations, views from various schools of thought, and established legal practices, it can be concluded that the marriage is valid and acceptable within the current social and legal context.

a. Legal Basis of Argumentation

The legal basis for the arguments in deciding a case is a crucial aspect in the judicial system, especially in the context of law in Indonesia. Legal argumentation not only serves as a tool to reach a fair decision, but also as a means to explain and justify that decision to the public. In this context, judges have the freedom to decide cases based on clear legal considerations or *ratio decidendi*, which is a fundamental principle in law (Dharma, 2024). This shows that judicial decisions should be based on applicable legal norms and must be logically accountable.

In deciding a case, judges often use a normative juridical approach, which examines law as a norm in society. This approach allows judges to consider various relevant legal aspects, including laws, regulations, and previous court decisions (Nabila, 2023). For instance, in the case of the annulment of a polygamous marriage, judges must consider the legal basis used to decide the case, as well as its impact on the parties involved. This highlights the importance of strong legal argumentation based on existing norms.

Furthermore, judges must also consider the best interests of the child in every decision they make, especially in cases involving children. The principle of "the best interests of the child" is an important legal basis for decision-making in court, especially in the context of guardianship and marriage dispensation

(Kamijan, 2021). In this case, judges are expected to consider not only legal aspects but also social and psychological factors that can affect the child's well-being.

The judicial process can also be viewed as a scientific process, where science can contribute by providing the evidence and facts necessary to support legal arguments (Aminudin, 2020). In this regard, scientific evidence can be used to strengthen the judge's decision and provide a clearer picture of the situation at hand. Therefore, it is important for judges to understand and utilize scientific evidence in the decision-making process.

The legal argumentation used by judges in deciding cases may also include various types of arguments, such as linguistic, systemic, and teleological-evaluative arguments (Suharsono, 2023). The use of different types of arguments shows that judges do not rely solely on one approach in making decisions but combine various perspectives to reach a more comprehensive conclusion. This also reflects the complexity of the law and the need for a multidimensional approach to decision-making.

In the context of Islamic law, there are specific challenges in accommodating local norms and human rights, especially in cases involving child marriage (Nawawi et al., 2022). Judges are expected to balance legal interests with the prevailing social norms and consider the impact of their decisions on society. This demonstrates that legal arguments must take into account the social and cultural context in which the law is applied.

Furthermore, in the process of legal argumentation, it is important to understand how legal interpretation can influence the decisions made by judges. Good legal interpretation must consider various aspects, including principles of justice and adherence to applicable norms (Tecław, 2018). In this case, judges need to have a deep understanding of the law and how it is applied in practice.

In some cases, judges must also consider the urgency of decision-making, particularly in cases involving children's rights and protection of vulnerable groups (Iswantoro & Tobroni, 2022). This shows that legal argumentation is not only focused on legality but also on the moral and ethical aspects underlying the decision. Therefore, it is important for judges to be sensitive to social issues that may influence their decisions.

In the context of the judicial system in Indonesia, there are also challenges in applying international legal principles, especially in cases involving human rights (Horii, 2020). Judges must navigate between national and international law and consider how their decisions may affect the image of Indonesian law on the global stage. This shows that legal argumentation must simultaneously consider

both global and local dimensions.

In this regard, it is important to develop decision-support systems that can assist judges in the decision-making process (Mikštienė & Keršulienė, 2016). These systems may include the use of information technology and data analysis to provide relevant and accurate information to judges. Thus, judges can make better and more informed decisions.

In conclusion, the legal basis for the arguments in deciding a case encompasses various aspects, ranging from applicable legal norms, the consideration of the best interests of the child, to the use of scientific evidence and technology in the decision-making process. Judges are expected to have a deep understanding of the law and the social context in which it is applied, and to be able to combine various types of arguments to reach fair and just decisions. Therefore, strong legal argumentation based on existing norms will be key to achieving justice within the judicial system

b. Judge's Argumentation Structure

In deciding a case, judges bear a great responsibility, both morally and legally. The structure of a judge's argumentation in making decisions reflects the integrity and justice expected from the judicial institution. According to Isnantiana, judges must possess high intellectual abilities and strong morals to create decisions that are fair and beneficial to society (Isnantiana, 2017). This indicates that judicial decisions are not solely based on positive law but also on broader ethical values and justice principles.

The decision-making process by judges involves various complex considerations. Pratama emphasizes that judges must be impartial and guarantee human rights in every decision they make (Pratama, 2024). This means that in every case, judges must consider all relevant aspects, including the facts of the case, the applicable law, and principles of justice. Dissenting opinions also play an important role in this process, where judges can express their views that may differ from the majority, providing room for further discussion and reflection (Pratama, 2024).

One important aspect of judicial decisions is the application of the principle of justice. Setiawan et al. note that in imposing criminal penalties, judges must consider the principle of proportionality, which means that the punishment must be commensurate with the severity of the crime committed (Setiawan et al., 2021). In this context, judges must balance legal interests with social justice, ensuring that the decision not only fulfills legal provisions but also reflects broader values of justice.

Furthermore, Dewanto highlights the importance of discovering fair and dignified law in the decision-making process (Dewanto, 2020). This shows that judges not only function as enforcers of the law but also as seekers of justice. In this regard, judges are expected to reconstruct and interpret the law in ways that reflect justice values, so that the decisions made are acceptable to all parties involved.

Khamdiyati adds that in some cases, judges must also consider the existing social and cultural context, such as in requests for polygamy permits (Khamdiyati, 2022). In this instance, judges must balance positive law with societal values, which may vary. This indicates that judicial decisions often involve broader considerations than merely the rigid application of law. In certain cases, as pointed out by Makarimi, judges may need to engage in *ijtihad* to reach a more just decision, even if the arguments presented are not entirely in line with positive law (Makarimi, 2023). This shows that judges have flexibility in applying the law, as long as the decisions remain grounded in the principles of justice and public welfare.

However, the challenges faced by judges in the decision-making process are far from insignificant. According to Zulfikar and Rahman, the use of appropriate and relevant evidence is crucial in the decision-making process (Zulfikar & Rahman, 2021). Judges must be able to evaluate the testimony and evidence presented, as well as assess their relevance to the case at hand. This highlights that a judge's decision heavily depends on the quality and reliability of the available evidence. On the other hand, psychological factors may also influence judicial decisions. Sumawan emphasizes that the integrity of the judiciary can be affected by certain situations that may diminish public trust in the decisions rendered (Sumawan, 2023). Therefore, it is essential for judges to maintain integrity and objectivity in every decision they make, so as not to be influenced by external factors that could compromise justice.

In the context of criminal law, as discussed by Harianti, judges must consider various factors when imposing a sentence, including the defendant's background and the nature of the crime committed (Harianti, 2019). This indicates that judicial decisions should reflect a deep understanding of the existing social and legal context, as well as the impact of those decisions on society.

Moreover, in cases involving children, as explained by Sinambela, judges must exercise greater caution in sentencing, given that children have special rights that must be protected (Sinambela, 2023). This underscores that decisions in juvenile cases should consider aspects of rehabilitation and education, not merely

punishment.

In this regard, it is also important to consider the issue of sentencing disparity, as pointed out by Jaya et al. (Jaya et al., 2022). Judges must strive to avoid injustice in sentencing so that every decision taken reflects the true principle of justice. This becomes increasingly important within the context of a complex and often inconsistent legal system.

Therefore, the structure of judicial argumentation in deciding cases encompasses various interrelated aspects, ranging from the application of positive law, moral and ethical considerations, to social and cultural contexts. Judges are expected to render decisions that not only comply with legal provisions but also reflect values of justice and humanity. In this way, judicial decisions can be accepted and respected by all parties involved and contribute to the realization of justice within society

c. Consistency of Judge's Arguments

The consistency of judicial reasoning in decision-making is a crucial aspect of the judicial system, serving to ensure justice, legal certainty, and public benefit. As the personification of the judiciary, judges are expected to possess high intellectual capability, moral integrity, and strong ethical standards in making decisions (Isnantiana, 2017). In this context, legal reasoning forms the foundation upon which judges formulate fair and acceptable verdicts. Legal reasoning involves identifying the underlying rationale behind a judge's decision, which must align with the prevailing legal norms (Isnantiana, 2017).

One of the challenges faced by judges is inconsistency in rulings, which may arise due to various factors, including differing interpretations of legal norms and varied social contexts (Rufaidah, 2023). Research shows that such inconsistencies frequently occur in cases involving juvenile offenders in narcotics crimes, where judges must balance child protection with the public interest (Rufaidah, 2023). In such cases, it is crucial for judges to adopt a consistent approach rooted in the principles of justice, ensuring that decisions meet both legal and moral standards (Wantu, 2012).

In the decision-making process, judges are also expected to remain impartial and uphold human rights (Pratama, 2024). This includes fair and transparent consideration in every case they handle. Dissenting opinions, or differing views expressed in a ruling, offer judges the opportunity to voice perspectives that diverge from the majority. This practice provides space for further discourse and reflection on justice within the verdict (Pratama, 2024). As such, dissenting opinions contribute to the development of law and strengthen consistency in

judicial decisions.

Consistency in rulings is also influenced by the moral accountability of judges. Studies show that judges with high moral accountability tend to issue fair and high-quality decisions (Sutatiek, 2013). This accountability encompasses the judge's responsibility to justify their decisions to the public and ensure that rulings are not only grounded in positive law but also reflect justice and benefit society (Rasyid, 2019). Therefore, it is vital for the judiciary to provide guidance and oversight to judges, ensuring that decisions rendered are consistently high in quality.

In the context of Islamic economic law, for instance, judges' decisions must align with the principles of justice and honesty, while taking into account the values inherent in Sharia law (Slihah, 2019). This highlights that consistency in decisions also depends on the judge's understanding of the norms applicable within specific legal frameworks. Furthermore, judges must be able to reconstruct the law and interpret existing norms to achieve justice in each ruling (Dewanto, 2020). Thus, the consistency of judicial reasoning in decision-making is not solely dependent on positive law, but also on the judge’s capacity to comprehend and apply broader justice values.

Psychological factors also play an important role in the consistency of judicial decisions. Research shows that psychological influences can affect judges’ assessments, particularly in corruption cases (Sumawan, 2023). Hence, it is important for judges to be aware of these influences and strive to minimize their impact to maintain objectivity and fairness. In this regard, judicial independence is key to preserving the integrity of the judiciary and public trust in the legal system (Siahaan, 2023).

In certain cases, such as breach of contract or adultery, judges must also consider various influencing factors (Ramadhan, 2024; Harianti, 2019). For example, in breach of contract cases, judges must analyze aspects such as project completion delays and building quality that fails to meet the agreement (Ramadhan, 2024). Meanwhile, in adultery cases, judges must take into account the defendant's background and confession, which may affect sentencing decisions (Harianti, 2019). Therefore, consistency in judicial decisions also depends on the judge’s ability to analyze and consider all relevant aspects of each case.

Judicial consistency may also be influenced by the use of jurisprudence as a reference in decision-making. Research indicates that judges who refer to previous decisions tend to deliver more consistent and predictable rulings (Desiroto, 2024).

However, it is essential to remember that each case has its unique context, and judges must still consider specific factors present in each situation (Desiroto, 2024). Thus, jurisprudence should be used wisely so as not to undermine justice in any given verdict.

In conclusion, the consistency of judicial reasoning in decision-making is a fundamental element of the justice system. It involves the judge's ability to apply sound legal reasoning, consider the values of justice, and uphold moral accountability in every decision. Additionally, psychological factors, the use of jurisprudence, and the judge's understanding of applicable legal norms also contribute to consistency in rulings. Therefore, it is essential for judicial institutions to continuously foster and monitor judges to ensure that their decisions remain consistent, of high quality, and reflective of justice for society.

4. Conclusion

The judge in a marriage legalization (*itsbat nikah*) case involving a female *muallaf* (a woman who has newly embraced Islam) without a *wali nasab* (biological guardian) refers to Article 23 of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), which authorizes the religious court to appoint a *wali hakim* (court-appointed guardian). This provision aligns with Article 2 paragraph (1) of Law Number 1 of 1974 on Marriage, which states that a marriage is considered valid if it is conducted in accordance with the laws of the respective religion of the parties involved. The main issue faced in such cases is the absence of a legitimate *wali nasab*, due to religious differences, the refusal of the guardian to officiate the marriage, or lack of knowledge regarding the guardian's whereabouts. In this context, the judge formulates a legal premise that a *wali* is an essential pillar (*rukun*) of marriage that must be fulfilled, and in certain conditions, can be replaced by a *wali muhakkam* (substitute guardian appointed by a judge). The appointment of a *wali muhakkam* is carried out after the judge thoroughly examines the woman's Islamic status, verifies the absence of a valid *wali nasab*, and reviews supporting documents and testimonies. The judge constructs the legal argument systematically and logically, while consistently referring to both Islamic legal principles and positive (national) law. Based on these considerations, the judge concludes that the appointment of a *wali muhakkam* is valid under Islamic law and Indonesian national law, and provides both legal protection and certainty for the female *muallaf*. Furthermore, the judge also refers to the principles of *maqashid al-shari'ah*, particularly the preservation of religion and lineage, to ensure public welfare (*maslahah*) and prevent social harm (*mafsadah*). Thus, the decision to

legalize the marriage with a *wali muhakkam* is not only normatively valid, but also reflects a harmonious integration between Islamic values and the prevailing national legal system.

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