

Legal Consciousness and Marriage Guardianship in a Diasporic Muslim Community: *Wali Hakim* Practices in Manado

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Abstract: This article examines how a diasporic Muslim community in Kampung Arab (Kelurahan Istiqlal), Manado, understands and negotiates marriage guardianship when a *wali nasab* refuses (*wali adhal*). Using a qualitative socio-legal design – combining field observation, interviews with religious/community leaders and residents, and document analysis – the study maps local legal consciousness and its interaction with state Islamic family law. Findings show a spectrum of community interpretations of *wali hakim* as a substitute guardian, often justified through moral reasoning to prevent illicit relationships. However, many residents are unaware that declaring a guardian *adhal* requires authorization by the Religious Court before a *wali hakim* can lawfully officiate the marriage. This gap between formal legal requirements and lived norms illustrates legal pluralism in practice and produces barriers to procedural justice. The article argues for targeted legal literacy initiatives and stronger institutional collaboration between KUA, local government, and community leaders to ensure rights protection in pluralistic settings.

Keywords: legal pluralism, legal consciousness, marriage and guardianship, *wali hakim*, *wali adhal*, access to justice, diasporic Muslim community.

Introduction

In many Muslim-majority legal systems, marriage is not only a private religious contract but also a legally regulated institution in which the state claims authority to standardize procedure, protect parties' rights, and ensure public order (Fauzi, 2018; Kamna, 2024). One critical site where "law on the books" meets "law in everyday life" is *marriage guardianship*—especially when a woman's *wali nasab* (lineage guardian) refuses to authorize the marriage (Faizah, 2023; Limonu, 2024; Umar & Syarif, 2025). In Indonesia, this refusal is commonly discussed through the concept of *wali adhal* (a "reluctant/obstructing" guardian), a condition that can trigger the intervention of a *wali hakim* (judge/state-appointed guardian) (Ade & Menad, 2025; Anne et al., 2022). Yet, the availability of this remedy does not

automatically guarantee access to it. The remedy must be understood, trusted, and navigated by ordinary citizens, and it must be activated through formal procedures.

This article examines how marriage guardianship is understood and negotiated within a culturally distinctive urban Muslim community in North Sulawesi: Kelurahan Istiqlal (popularly known as Kampung Arab) in Manado. Historically, Arab traders came to Manado for commerce, settled near the port, and intermarried with local Indonesians; over time, the community developed a concentrated settlement that eventually became known as Kampung Arab/Kelurahan Istiqlal. The location is described as strategically close to the port (less than one kilometer), reflecting its historical formation through mobility, trade, and translocal connections. This transcultural formation matters because communities shaped by migration and intermarriage often develop strong internal norms regarding family authority, marriage suitability, and communal legitimacy – norms that may not fully align with formal state procedures.

Indonesian Islamic family law recognizes *wali hakim* as a legally authorized substitute guardian (Harahap & Purba, 2025). In the study setting, community members and religious leaders commonly describe *wali hakim* as a “replacement” for the lineage guardian, with the current institutional authority located in the Office of Religious Affairs (KUA) and its officials (Mundzir et al., 2024). The formal legal position is explicit: *wali hakim* is defined as the Head of the KUA (or an authorized official) appointed to act as guardian for a bride who does not have an eligible lineage guardian.

However, the most consequential rule for disputes is the procedural gateway for *wali adhal*: *wali hakim* can act as guardian only after there is a Religious Court decision establishing the guardian’s refusal/obstruction. This is stated in the Compilation of Islamic Law (KHI), Article 23, which requires a Religious Court decision before *wali hakim* can substitute in *wali adhal* cases. A similar requirement appears in Minister of Religious Affairs Regulation No. 30/2005, which also conditions the *adhal* status on a court determination.

In principle, this rule is designed to balance two concerns: respecting family guardianship authority while preventing arbitrary obstruction of marriage rights. In practice, it creates a procedural threshold that communities must cross. If people do not know that court authorization is required – or do not view it as necessary – the remedy becomes difficult to access, even when it exists in law.

Evidence from Kelurahan Istiqlal suggests a significant gap between the formal rule and community understandings. While some residents can list conditions under which marriage with *wali hakim* is permitted – including *adhal* – the study documents that many community members do not know that the “*adhal* determination” must be proven by a Religious Court decision.

This knowledge gap is reiterated in the study's conclusions: residents may know general conditions (e.g., no lineage guardian, unknown residence, or refusal), but many remain unaware that *adhal* specifically requires a court ruling before substitution is legally valid (Ali, 2024; Yassari, 2015). At the same time, moral reasoning and social considerations often shape local judgments of legitimacy (Schröder, 2013). Some residents emphasize that as long as the basic pillars of marriage are fulfilled (bride, groom, guardian, two witnesses, and *ijab-qabul*), the marriage is acceptable (Hafidzi & Hani, 2020). Others justify proceeding to avoid illicit relationships (*zina*), or argue that marriage should proceed if both families agree, even when formal requirements are not clearly understood (Razif, 2020). These viewpoints are not merely "misinformation"; they reflect a lived normative order where community legitimacy, moral urgency, and family consensus may compete with state-legal procedure.

This tension becomes more visible in concrete disputes. In Kampung Arab Manado, one cited pattern is refusal based on perceived mismatch: for example, when a bride has higher education and economic standing than the prospective groom, the lineage guardian may refuse to authorize the marriage (Amra et al., 2018; Syawie & Bukido, 2022). Community interviews also illustrate refusal rationales such as educational hierarchy, economic disparity, and even differences in cultural background. These rationales show how marriage guardianship can operate as a gatekeeping institution through which families regulate status, mobility, and community boundaries—issues closely aligned with transcultural legal studies and social justice concerns.

Much of the existing discussion on *wali hakim* and *wali adhal* in Indonesia is framed normatively (what the law says) or institutionally (how courts decide), including studies comparing cases and judicial reasoning in specific Religious Court decisions (Ade & Menad, 2025; Munir, 2025). This article contributes a different vantage point: a community-centered account of legal consciousness and procedural navigation in a diasporic/transcultural neighborhood. The setting is also socio-demographically important: the research notes that although Kelurahan Istiqlal is majority Muslim, "not many" residents have adequate knowledge of *wali hakim* as a substitute for *wali adhal*.

The study is guided by two core questions formulated in the original research design: (1) How do residents of Kelurahan Istiqlal (Kampung Arab) understand *wali hakim* as a substitute for *wali adhal*? and (2) How is *wali hakim* substitution evaluated from the perspective of Islamic law as invoked by the community and local authorities? Building from these, the article emphasizes a socio-legal interpretation: how state Islamic law (KHI and ministerial regulation) is translated into community

practice, and how procedural justice is shaped by the interaction of legal rules, family authority, and moral reasoning.

The remainder of this article proceeds as follows. The next section outlines the qualitative socio-legal methods used in Kelurahan Istiqlal. The Results section presents thematic findings on (a) community definitions of *wali hakim* and *wali adhal*, (b) the uneven understanding of the court-decision requirement, and (c) the social rationales that structure guardians' refusals. The Discussion then interprets these findings through legal pluralism and access-to-justice lenses, highlighting practical implications for institutional outreach and rights protection in transcultural communities.

Method

This study employed a qualitative field-research design with a descriptive orientation, aiming to capture how *wali hakim* and *wali adhal* are understood and practiced in everyday community life (Creswell & Poth, 2018; Huda, 2022). The original research explicitly positions the study as *field research* focused on community perceptions in Kelurahan Istiqlal (Kampung Arab), Manado. It is also framed through a combined empirical-juridical and normative approach: empirical-juridical to document factual social practices and understandings on the ground, and normative analysis to interpret the findings against relevant legal materials (e.g., regulations and doctrinal sources).

Fieldwork was conducted in Kelurahan Istiqlal (Kampung Arab), Kecamatan Wenang, Kota Manado. The research timeline in the methods chapter states two months (16 October–14 December 2024). In addition, the article documentation indicates follow-up interviews dated 27 January 2025, suggesting that interviewing continued beyond the initial window.

Data were drawn from primary and secondary sources. Primary data were obtained directly from individuals through interviews and field engagement, while secondary data included books on marriage, the Qur'an, articles, journals, and relevant internet sources used to support normative/legal interpretation. Participants were selected using purposive sampling, with the study identifying the community of Kelurahan Istiqlal as the broader population and focusing on key informants and residents as the sample. The article specifies that interviewees included community leaders, religious leaders, and local residents in Kelurahan Istiqlal to obtain diverse perspectives on marriage through *wali hakim* as a substitute for *wali adhal*.

Three complementary techniques were used (Moleong, 2021):

1. Participant observation. Observation was conducted directly in the research setting and recorded systematically. The article describes the use of *participant*

observation to engage with and understand community issues relevant to perceptions of *wali hakim* and *wali adhal*.

2. Semi-structured interviews. Interviews were conducted face-to-face with community leaders, religious leaders, and residents in Kelurahan Istiqlal to elicit their views and experiences regarding the use of *wali hakim* in cases of *wali adhal*. An interview guide (“Alat Pengumpul Data”) is provided in the appendix, including prompts about definitions of marriage, *wali hakim*, *wali adhal*, procedural requirements, and normative judgments of legitimacy.
3. Documentation. Documentary collection involved identifying, recording, and compiling documents relevant to the research problem (e.g., local records and supporting materials), as described in the methods chapter.

Data handling followed three steps (Miles et al., 2018): (a) checking data completeness and clarity, (b) classifying materials into primary vs. secondary data, and (c) producing analytic descriptions by connecting pieces of evidence to the research focus. Analysis was iterative across three phases – before entering the field (to set the analytic focus), during fieldwork (to examine interview/observation/document data), and after fieldwork (to finalize interpretation). The article specifies the core analytic sequence as data reduction to data display to conclusion drawing.

Results and Discussion

***Wali hakim* is widely recognized, but its meaning is anchored in institutional authority (KUA)**

Across interviews and documentary materials, *wali hakim* (state-appointed marriage guardian) was widely recognized as a legitimate substitute for a *wali nasab* (lineage guardian). Yet, what “counts” as *wali hakim* in practice was not primarily framed as a theological concept alone; rather, it was strongly anchored to state-recognized institutional authority, particularly the Office of Religious Affairs (*Kantor Urusan Agama/KUA*). In other words, community recognition of *wali hakim* was simultaneously a recognition of the state’s administrative locus of religious marriage governance. This anchoring is visible in both the article’s normative framing and its field interviews.

At the doctrinal-policy level, the article reiterates that *wali hakim* is a marriage guardian “appointed by the Minister of Religious Affairs (or an authorized official)” and endowed with authority to act as guardian for women who lack an eligible lineage guardian. This formulation aligns with the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) and is operationalized through ministerial regulations that specify *who* exercises that delegated authority (Bidabad, 2024). For example, interview-based explanations and the article’s legal discussion repeatedly

identify the Head of KUA at the sub-district level as the authorized *wali hakim* under the Ministry of Religious Affairs Regulation No. 30/2005. This institutional framing was strongly echoed in residents' language. Several participants defined *wali hakim* as the guardian for those "who do not have a *wali nasab*," and they immediately associated that role with KUA as the competent authority. For instance, one resident stated that the person entitled to serve as *wali hakim* is "the KUA" (Aisyah, 2021).

Another participant emphasized that the role is carried by "the head of KUA or related KUA officials." Even where respondents described *wali hakim* simply as a "substitute guardian," their answers pointed back to KUA as the institutional site of that substitution, rather than to informal religious figures. A particularly clear boundary-making statement comes from a key informant who was both a community leader and a former head of KUA (Hasan Baziad). In describing who may act as *wali hakim*, he asserted: "who is entitled to become *wali hakim* is only KUA ...," adding that it "cannot be done by an imam and PPN (assistant marriage registrar)." This short statement is analytically important for two reasons. First, it frames *wali hakim* as non-transferable to community religious authority—even if that authority is respected socially. Second, it underscores that legitimacy is not derived from personal piety or communal standing alone, but from formal appointment and administrative competence embedded in KUA (Ade & Menad, 2025; Ali, 2024).

The same informant also described a procedural pathway that begins outside the court but quickly becomes institutional: obtaining a letter from the village office (*kelurahan*), verification at KUA, issuance of a recommendation, and then submission to the Religious Court (*Pengadilan Agama*) for a decision; if granted, the court appoints KUA to officiate the marriage. Although this procedural sequence is discussed more fully in later themes (notably access-to-justice barriers in *wali adhal* cases), it already reveals why KUA is perceived as the practical center of *wali hakim*: it is the institutional gateway through which documentary verification and state recognition flow (Anne et al., 2022; Hafidzi & Hani, 2020).

In addition to the 2005 ministerial regulation, the article also discusses earlier ministerial rules that institutionalize *wali hakim* within KUA structures, including provisions that designate the head of KUA (as the marriage registrar) as the default *wali hakim* within a sub-district, and provide substitution mechanisms when the KUA head is unavailable (Setiawan, 2018). These documentary points reinforce the empirical pattern: in community understanding, *wali hakim* is not merely an abstract legal category; it is a role attached to a bureaucratic office.

Analytically, this finding supports a legal-pluralism reading: community members operate within multiple normative orders—religious doctrine, family authority, and state regulation—but in the specific matter of *who* can authoritatively

serve as *wali hakim*, participants consistently oriented to the state's institutional architecture. This does not mean that community moral reasoning disappears. Rather, it suggests that when people speak about *wali hakim*, they are typically speaking about formal legal capacity (*wewenang*) grounded in government recognition. In this sense, *wali hakim* becomes a symbol of the state's attempt to standardize marital legitimacy, bridging religious norms and administrative legality through an institution (KUA) that is both religiously meaningful and legally authoritative.

So, recognition of *wali hakim* as a KUA-based authority does not automatically imply full procedural literacy regarding *wali adhal* (an obstructing lineage guardian). The study reports that many residents understand *wali hakim* as a substitute guardian and can mention general conditions, but "many do not know" that establishing *wali adhal* requires a Religious Court decision—meaning *wali hakim* "does not have the right and authority" to act without a court ruling. This findings helps explain why KUA's institutional anchoring matters for access to justice, KUA is not only the officiating authority but also a potential site for procedural clarification and rights-protective guidance when community interpretations diverge from formal legal requirements.

Competing legitimacy logics shape when marriage via *wali hakim* is considered acceptable

Interview data from Kelurahan Istiqlal (Kampung Arab) show that community members do not rely on a single yardstick to assess whether a marriage officiated through *wali hakim* (as a substitute for a reluctant/obstructing *wali nasab*) is "acceptable" or "valid." Instead, respondents mobilize multiple legitimacy logics that operate in parallel: (1) compliance with state/legal procedure, (2) ritual sufficiency (fulfilling the *rukun nikah*), (3) moral urgency (preventing *zina*), and (4) family consensus. These overlapping logics illustrate how marriage governance is negotiated at the intersection of formal Islamic family law and lived community norms in a transcultural urban neighborhood.

A first logic emphasizes formal legality and procedural compliance. Several respondents framed marriage through *wali hakim* as permissible provided that it does not violate applicable rules. For example, one participant stated that marriage through *wali hakim* is "valid and permissible... as long as it does not violate existing legal regulations." The article's synarticle likewise reports that many residents viewed marriage through *wali hakim* as "valid and permissible" if it does not contravene legal provisions, while also noting that some interviewees insisted it becomes *not valid* when it violates procedural requirements. This framing places legitimacy primarily within the state-religion administrative framework, where

legality is measured by conformity with codified rules and recognized institutional process (Mehozay & Factor, 2017).

Alongside that legal-procedural standard, a second logic foregrounds moral urgency, particularly the prevention of illicit relationships (*zina*). This moral framing appeared repeatedly as a justification for proceeding with marriage when a guardian's refusal is perceived as unjustified (Putri, 2025). One respondent argued that if a guardian refuses "for reasons that are not *syar'i*," the marriage may proceed so that the couple can "avoid adultery/fornication." Another participant similarly considered marriage through *wali hakim* "valid" in situations where no guardian is available, because if the marriage is delayed "it is feared they may commit *zina*." The same logic appears in the article's concluding summary, which notes that some community members interpret *wali hakim* marriage as valid in order to prevent *zina* when a lineage guardian is absent (Munir, 2025). Here, legitimacy does not primarily hinge on bureaucratic proof or procedural thresholds, but on a moral calculus about safeguarding religious and social order.

A third legitimacy logic is grounded in family agreement and communal consent. Some respondents considered marriage through *wali hakim* valid when both families have reached consensus, regardless of the conflict with the refusing guardian. One participant stated that using *wali hakim* as a substitute for *wali adhal* is valid "if both families have agreed." The article's synarticle also highlights this position as a distinct strand of reasoning: marriage through *wali hakim* is treated as valid "as long as there is agreement between both sides of the family." This frames legitimacy as emerging from relational endorsement and community settlement, not solely from state verification.

A fourth logic invokes ritual sufficiency, particularly completion of the core pillars (*rukun*) of marriage. One respondent explicitly reduced legitimacy to fulfillment of the basic components: "what matters is that the *rukun nikah* are fulfilled – there is a groom, a bride, a guardian, two witnesses, and the *ijab qabul*." This view resonates with a broader pattern noted in the article background: some community members believe that marriage is essentially valid when the pillars and conditions are met and the marriage is recorded, even though additional procedural requirements may apply in *wali adhal* cases (Ade & Menad, 2025).

These findings show a plurality of legitimacy operating within the same community. Formal legality (rules and institutional process), ritual sufficiency (*rukun nikah*), moral urgency (avoiding *zina*), and family consensus each function as a recognizable basis for declaring a *wali hakim* marriage acceptable. Importantly, these logics can pull in different directions. A marriage may be treated as morally necessary (to prevent *zina*) or socially legitimate (because families agree), while remaining procedurally contested if the community does not activate the full formal

pathway required by state Islamic family law (a point developed further in the next theme on uneven procedural literacy). In a legal-pluralist sense, these competing standards demonstrate how “validity” is negotiated across overlapping normative orders—state regulation, religious doctrine, and communal moral reasoning—creating practical consequences for access to justice when the legal remedy exists but is not uniformly navigated through the same procedural route.

Uneven procedural literacy: the court-decision requirement for *wali adhal* is widely misunderstood

A central finding of this study is that the community’s understanding of *wali hakim* (state-appointed marriage guardian) is often not matched by procedural knowledge about *wali adhal* (an obstructing/reluctant *wali nasab* [lineage guardian]). In Indonesian Islamic family law, *wali hakim* may only replace a lineage guardian in *adhal* cases after a Religious Court decision confirms the guardian’s obstruction. The article cites the Compilation of Islamic Law (KHI), Article 23(2), which states that “in the case of *wali adhal* or refusal, *wali hakim* may act only after there is a Religious Court decision regarding that guardian.” The same procedural gate is reiterated through Minister of Religious Affairs Regulation No. 30/2005, which provides that declaring a guardian *adhal* must be established by a court decision.

Despite the clarity of this formal requirement, field evidence indicates that procedural literacy is uneven and frequently incomplete. The article explicitly notes that many residents can mention general conditions under which *wali hakim* is used—such as when the lineage guardian is “exhausted,” unknown, or refusing—yet they often omit the legal threshold that *adhal* must be proven by a court ruling. This is not a marginal detail: the abstract flags it as one of the most consequential gaps in the community’s understanding, stating that “many do not know” that the *adhal* status of a lineage guardian requires a court decision, and therefore *wali hakim* “does not have the right and authority” to act without such a decision (Anne et al., 2022). The same diagnosis is repeated in the concluding section: residents may recognize *wali hakim* as a substitute and may even cite *adhal* as a reason for substitution (Ade & Menad, 2025; Munir, 2025), but “many” in Kelurahan Istiqlal still do not know that *adhal* must be confirmed by the Religious Court.

Importantly, the study also documents that procedural knowledge is not entirely absent—it is simply not evenly distributed. Some interviewees articulated the court-decision requirement explicitly. For example, one informant explained that “for *wali adhal*, there must be a Religious Court decision ... to prove the *adhal* status of the parents toward the daughter’s marriage.” Another excerpt attributes the same procedural rule to “Bapak Bagas,” emphasizing that a Religious Court decision functions as proof of the guardian’s obstruction. These accounts show that the legal rule is known among some community members (particularly those closer

to institutional knowledge), but it has not become common procedural knowledge at the broader community level.

From an access-to-justice perspective, this unevenness matters because the court-decision requirement operates as a “hidden gate”. The remedy exists in law, but it is practically difficult to activate if people do not know that court authorization is required. The article itself frames “community misunderstanding of the process of marriage via *wali hakim* when the guardian is *adhal*” as a key research problem. When coupled with the tendency – documented elsewhere in the article – for some residents to evaluate marriage validity mainly through *rukun nikah* (core marriage pillars) rather than through procedural steps, the result is a predictable socio-legal gap: couples may perceive marriage as religiously and socially urgent (e.g., to prevent *zina* while remaining unaware that formal legality in *adhal* cases requires a court ruling before *wali hakim* can officiate (Candra et al., 2023).

The findings also clarify why KUA’s role becomes decisive in practice. The article describes the pathway that connects informal community life to the formal remedy, administrative documentation from the *kelurahan* is checked at KUA; KUA issues a recommendation; the application proceeds to the Religious Court; and only after the court’s decision can KUA be appointed to officiate the marriage through *wali hakim*. In other words, when procedural literacy is uneven, KUA becomes not only the institutional guardian but also the practical point where access to the formal remedy can either be enabled (through guidance and referral) or remain inaccessible (when the “hidden gate” is not communicated). This is consistent with the article’s policy recommendation urging KUA and local government to provide community socialization and legal education on the mechanism and requirements of *wali hakim* as a substitute for *wali adhal*.

***Wali adhal* disputes reflect social gatekeeping (status, economy, culture), and cases move between informal and formal forums**

The data suggest that *wali adhal* disputes in Kelurahan Istiqlal (Kampung Arab) are not experienced merely as a technical legal category. They are often embedded in family gatekeeping practices – mechanisms through which parents (as lineage guardians) regulate marriage choices based on perceived compatibility (*sekufu/kafā’ah*), family reputation, and boundary maintenance. In interviews, residents repeatedly described *wali adhal* as a guardian’s refusal to authorize a daughter’s marriage because the prospective husband is considered “not suitable” in terms of social standing, economic capacity, or cultural background. For example, one respondent defined *wali adhal* as a guardian who refuses to marry off his daughter because “the prospective husband has a low level of education.” (Fd, interview, July 27, 2022). Another respondent linked refusal to economic mismatch,

stating that a guardian may object because the prospective husband's economic situation is "not comparable to" the daughter's (F, interview, July 27, 2022). A third respondent emphasized cultural difference as a trigger: refusal may occur because of "differences in culture" between the prospective husband and the daughter (S, interview, July 27, 2022).

These accounts indicate that guardianship operates as a status-filtering institution. The article itself notes a local case where marriage through *wali hakim* emerged because the bride was perceived to have "higher economy and education" than the groom, leading the *wali nasab* to refuse the marriage (Abas et al., 2015). In everyday terms, this resembles a community-based reading of *sekufu'* (compatibility) that goes beyond minimal legality and into social hierarchies. This social logic appears explicitly in the discussion of *sekufu'* as "equivalence" across dimensions such as age, education, piety, intelligence, and health (Aisyah, 2021; Candra et al., 2023). When guardians deploy these criteria to justify refusal, the dispute becomes a site where marriage is treated not only as a personal right but also as a family-regulated decision tied to status and identity.

At the same time, respondents' narratives show that gatekeeping does not always translate into a shared community consensus that refusal is legitimate. Several residents reframed the matter through *moral urgency* and relational autonomy, suggesting that if the couple loves each other, marriage should proceed rather than risk illicit relationships. Syafaat, for instance, argued that marriage could still be carried out if the daughter genuinely loves the prospective husband "rather than" risk *zina* (S, interview, July 27, 2022). Fira similarly suggested that economic disparity should not necessarily block marriage because couples can "build the economy together after marriage" (F, interview, July 27, 2022). These competing evaluations illustrate the plural normative environment in which *wali adhal* disputes unfold: guardians may invoke status and boundary considerations, while others prioritize the couple's agency and moral prevention of harm.

This is where the findings speak directly to legal pluralism and access to justice: disputes frequently begin in informal forums (family deliberation and community moral reasoning) but may move into formal forums (KUA and the Religious Court) when refusal persists and the couple seeks a legal remedy. A key informant (Hasan Baziad – community leader and former KUA head) described a typical scenario: when parents refuse to marry off a daughter because "her education is higher than the prospective husband's," the guardian is summoned to the Religious Court, asked to justify the refusal, and – if the reason is not accepted – "the court has the right to revoke" the guardian's authority and direct KUA to perform the marriage through *wali hakim* (Hasan Baziad, interview, July 27, 2022). In this account, the court functions as a corrective public forum capable of

overriding private gatekeeping when the refusal is judged inconsistent with legal standards of fairness and eligibility.

The data also provide a clear picture of the *institutional pathway* that enables this shift from informal conflict to formal resolution. Hasan Baziad outlined a stepwise process: first, the couple obtains a letter from the *kelurahan* and completes identity information; second, they go to KUA for verification; third, KUA issues a recommendation letter; and fourth, the matter is submitted to the Religious Court for a decision—after which the court may appoint KUA to officiate the marriage. This description aligns with the article’s doctrinal section detailing that *wali adhal* must be established through a court decision, that the bride (as applicant) files a petition, that hearings involve calling both the applicant and the guardian to be heard, and that the judge should prioritize the applicant’s interests while also hearing witnesses to strengthen the evidentiary basis. In other words, the formal mechanism is designed as a rights-protective pathway—but it requires procedural knowledge, institutional navigation, and the willingness to move the dispute from private authority into public adjudication (Anne et al., 2022).

Finally, the article warns that when refusal and conflict remain unresolved, communities may resort to informal exits that can produce social and legal vulnerability. It notes that guardians’ obstruction can contribute to outcomes such as “elopement (*kawin lari*), contract marriage (*kawin kontrak*), or other problems,” which are viewed as undesirable for marriage stability and legitimacy (Minabari, 2022; translated by author). This point is analytically important: it shows that *wali adhal* disputes are not merely procedural; they can shape trajectories that move *outside* formal regulation altogether. In legal-pluralist terms, the community navigates between multiple normative orders—family status norms, moral-religious urgency, and state Islamic law—while the ability to access formal remedies determines whether disputes are resolved through lawful substitution (*wali hakim* via court authorization) or through extra-legal alternatives that may weaken rights protection.

Transcultural Kampung Arab Manado and marriage governance: legal pluralism, competing legitimacy, and the “hidden gate” to justice

Kampung Arab in Manado (Kelurahan Istiqlal) is not simply a geographic label; it is a historically produced social space shaped by migration, trade, and community consolidation. The study context shows that Arab migrants came to Indonesia primarily “to trade,” later settling for long periods and intermarrying with local Indonesians; Manado became an early hub because the settlement was close to the port, which made commerce (and religious dissemination) easier. Over time, this diaspora settlement evolved from what was known as “Kampung Islam” into the

present-day Kampung Arab/Kelurahan Istiqlal, including a move to a location chosen explicitly to keep access to the port convenient. This transcultural history matters for marriage governance because it helps explain why marriage is treated not only as an individual legal act but also as a community-regulated institution—where family authority, religious norms, and state procedures routinely intersect.

Within this setting, marriage governance illustrates legal pluralism in action: multiple normative orders coexist and compete when people decide what counts as a “proper” marriage and how disputes should be resolved (Candra et al., 2023; Faizah, 2023). On the one hand, state-recognized religious administration anchors authority in formal institutions. Local religious leadership described *wali hakim* (state-appointed marriage guardian) as a guardian who acts due to institutional position when the *wali nasab* (lineage guardian) is unavailable or cannot function, and emphasized that, in modern practice, the trusted replacement authority is located in KUA/the *penghulu* (marriage registrar) empowered by the state. A community leader and former KUA head reinforced this institutional boundary even more explicitly: “the only party entitled to be *wali hakim* is KUA,” not an imam or informal officials. These accounts show that *wali hakim* is widely recognized, but its meaning is anchored in institutional authority—precisely the kind of “state legality” logic that formal Islamic family law seeks to standardize.

On the other hand, the same empirical material shows that community legitimacy is not monopolized by state procedure. Instead, marriage through *wali hakim* is evaluated through competing legitimacy logics that operate side-by-side:

1. State legality/procedural compliance. Some respondents treat the marriage as acceptable so long as it complies with “existing regulations,” indicating a legitimacy test grounded in conformity with formal legal rules.
2. Ritual validity. Others foreground *rukun nikah* (pillars of marriage), arguing that what matters is the presence of the core elements—bride, groom, guardian, two witnesses, and *ijab qabul* (offer-acceptance).
3. Moral urgency. Several interviewees justify proceeding through *wali hakim* in order to prevent *zina* (illicit sex), especially when a guardian refuses for reasons viewed as not *syar’i* (religiously justified).
4. Family consensus. Another strand ties legitimacy to relational agreement—marriage through *wali hakim* is seen as valid when “both families have agreed.”

Read through a legal-pluralist lens, these are not merely “different opinions.” They are competing normative infrastructures: the state’s administrative-legal framework, doctrinal-ritual sufficiency, communal moral reasoning (preventing *zina*), and kinship-based consensus each claim authority to decide what is acceptable. In practice, this plural legitimacy becomes consequential because it

shapes whether families pursue (or avoid) formal remedies, and how disputes are managed when family authority blocks a marriage.

The tension becomes sharpest in *wali adhal* cases – where a guardian obstructs a marriage – and here the study reveals a direct social justice and access-to-justice problem. Formally, Indonesian Islamic family law establishes a procedural safeguard: the shift from *wali nasab* to *wali hakim* in *adhal* situations requires a Religious Court decision. The text of the study cites KHI Article 23 and explains that when the guardian is *adhal* or refuses, *wali hakim* may act only “after there is a Religious Court decision” regarding that guardian. The same principle is reiterated via Minister of Religious Affairs Regulation No. 30/2005, which states that declaring *adhal* must be determined by a court decision. The study is equally clear, however, that many community members do not know this requirement – despite knowing other conditions for *wali hakim* (Amra et al., 2018; Faizah, 2023).

This is where a social-justice reading becomes unavoidable: when the community does not understand the formal “gate” (court confirmation of *adhal*), procedural protection becomes ineffective. The court mechanism is designed to evaluate whether refusal is justified and to protect the applicant’s interest; the procedural guidelines described in the study state that the prospective bride (the applicant) files the petition, the court summons both applicant and guardian, and the judge should prioritize the applicant’s interest while assessing evidence and witnesses. In other words, the Religious Court decision is not a bureaucratic technicality – it is meant to operate as a rights-protective checkpoint that can prevent arbitrary gatekeeping. But if the “hidden gate” is widely misunderstood, women’s ability to access a legally secure marriage can be constrained not only by a refusing guardian but also by a lack of procedural literacy and institutional navigation capacity. This produces an unequal risk: the party most directly blocked by *wali adhal* (typically the prospective bride, as the petitioner in the formal remedy) is also the party whose access to legal protection is most dependent on knowing and using the formal pathway.

Crucially, the study shows that disputes move between informal and formal forums, and that movement is itself shaped by plural legitimacy. Substantively, *wali adhal* disputes often reflect social gatekeeping around status and boundary maintenance rather than strictly legal impediments. Interview data define *wali adhal* refusal in terms such as “low education,” economic mismatch, or cultural difference between the couple – each operating as a social criterion of suitability and family honor. A community leader described a concrete scenario: when parents refuse because the daughter’s education is higher than the prospective husband’s, the guardian is summoned to the Religious Court; if the reason is not accepted, the court may revoke the guardian’s authority and appoint KUA to proceed. This illustrates

the core pluralist dynamic: informal family norms (status/compatibility boundaries) collide with formal adjudication, where the state can override family authority under defined conditions.

Procedurally, the pathway described by the former KUA head also makes clear how cases travel across institutional levels: a letter from the *kelurahan* is obtained; documents are checked at KUA; KUA issues a recommendation letter; then the matter goes to the Religious Court, which decides and can appoint KUA to officiate. In a community where *wali hakim* is widely understood as “a KUA matter” but the court-decision requirement is widely misunderstood, KUA effectively becomes the hinge institution that can either translate community moral concerns into lawful procedure, or fail to do so if the community never reaches that stage.

The justice implications become even clearer when considering what happens if formal pathways are not accessed. The study explicitly warns that refusal by *wali adhal* can contribute to outcomes such as *kawin lari* (elopement), *kawin kontrak* (contract marriage), or other harmful consequences, framed as “not good for a marriage.” From an access-to-justice standpoint, these “informal exits” are not merely moral deviations; they can also expose women to legal vulnerability by weakening registration status, evidentiary protection, and legal security tied to formally recognized marriage. The study’s recommendation is therefore structurally aligned with a social-justice agenda: it calls for KUA and local government to conduct systematic socialization and counselling so that residents understand the mechanism and requirements of *wali hakim* substitution—particularly the court-decision requirement in *wali adhal* cases (Anne et al., 2022; Harahap & Purba, 2025).

So, marriage governance in Kampung Arab Manado is best understood as a plural legal field where (a) family authority and social boundaries (education, economy, culture) operate as gatekeeping norms, (b) moral urgency (“preventing *zina*”) can be invoked to legitimate bypassing resistance, and (c) formal legality requires institutional and judicial steps that are not equally understood or accessible. In a transcultural diaspora neighborhood historically shaped by migration and the formation of a distinct social space, these competing legitimacy logics do not simply coexist—they actively structure who gets access to legally secure marriage, when disputes move into formal forums, and whether procedural protections function as intended.

Conclusion

This study shows that in Kampung Arab (Kelurahan Istiqlal), Manado—a transcultural neighborhood historically shaped by migration and settlement—*wali hakim* is widely recognized, but its practical meaning is firmly tied to KUA as the

only institution viewed as formally authorized to act as marriage guardian in substitution contexts. At the same time, community judgments about the acceptability of marriage via *wali hakim* are plural: respondents drew on state legality, ritual validity (*rukun nikah*), moral urgency (preventing *zina*), and family consensus, indicating a legal-pluralist environment where multiple normative orders compete in defining “valid” marriage.

The main access-to-justice implication is procedural: although Indonesian Islamic family law requires a Religious Court decision to establish *wali adhal* before *wali hakim* may lawfully act, this court-decision requirement is widely misunderstood at the community level. As a result, the intended procedural safeguard against arbitrary guardian refusal becomes less effective, increasing the risk that women face barriers to obtaining a legally secure marriage. Strengthening targeted legal-literacy and counselling—especially through KUA and local government—therefore becomes central to improving rights protection in pluralistic, transcultural communities.

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