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Reformulation of the Concept of Guardians in Facing Conflicts Between Parental Power and Women's Rights in Indonesia : An Analysis of Ralf Dahrendorf's Conflict Theory

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Abstract

This study examines the reformulation of the concept of wali 'aḍal in Indonesia in response to conflicts between parental authority and women's rights in marriage. Although Islamic law and Indonesian legislation provide mechanisms for resolving a guardian's refusal to marry off a woman under his guardianship, uncertainties regarding the criteria for determining 'aḍal may create challenges for legal certainty and women's protection. This study aims to analyze the conflict between parental authority and women's marital rights through Ralf Dahrendorf's conflict theory, examine the concept of wali 'aḍal in Islamic jurisprudence and Indonesian positive law, and formulate a more equitable conceptual framework. The research employs normative legal research through library research, using statutory, conceptual, and theoretical approaches. Primary legal materials include relevant legislation and the Compilation of Islamic Law, while secondary materials comprise scholarly books, journal articles, and previous studies. The data are analyzed qualitatively through legal interpretation and conceptual reasoning. The analysis indicates that wali 'aḍal reflects a potential conflict of authority when a guardian's decision contradicts a woman's marital choice without sufficient legal justification. This study proposes three interconnected measures: establishing clearer criteria for determining 'aḍal, developing a staged conflict-resolution mechanism that prioritizes dialogue while safeguarding women from coercion, and reaffirming the guardian's role as a protector rather than an absolute decision-

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maker. These measures seek to strengthen legal certainty, protect women's rights, and preserve family welfare.

Keywords: Wali 'Aḍal; parental authority; women's rights; conflict theory; Ralf Dahrendorf.

INTRODUCTION

In Islamic marriage law in Indonesia, guardianship is a pillar that must be fulfilled by the prospective bride, as emphasized in the Compilation of Islamic Law (KHI) (Nurdin, 2022). The authority of the guardian is essentially given to protect the interests of the woman, not for the guardian's personal interests, so the prohibition for guardians to obstruct marriage (*'adal*) has a normative basis in the Qur'an, Surah Al-Baqarah verse 232.

وَاِذَا طَلَّقْتُمُ النِّسَآءَ فَبَلَغْنَ اَجَلَهُنَّ فَلَا تَعْضُلُوْهُنَّ اَنْ يَّنْكِحْنَ اَزْوَاجَهُنَّ اِذَا تَرَاضَوْا بَيْنَهُمْ بِالْمَعْرُوْفِ ذٰلِكَ يُوْعَظُ بِهٖ
مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللّٰهِ وَالْيَوْمِ الْاٰخِرِ ذٰلِكُمْ اَزْكٰى لَكُمْ وَاَطْهَرُ وَاللّٰهُ يَعْلَمُ وَاَنْتُمْ لَا تَعْلَمُوْنَ

When you divorce your wives and they have reached their waiting period, do not prevent them from marrying their husbands if they have agreed upon a just and equitable arrangement. That is advised to those among you who believe in Allah and the Last Day. That is purer for you and purer. Allah knows, while you do not know.

In national law, the agreement of both prospective bride and groom is a valid condition for marriage in Article 6 paragraph (1) of Law Number 1 of 1974 (Republic of Indonesia, "Law Number 1 of 1974 concerning Marriage, Article 6 paragraph (1).," .) , and Article 28B paragraph (1) of the 1945 Constitution guarantees the right of every person to form a family (Republic of Indonesia, "1945 Constitution of the Republic of Indonesia, Article 28B paragraph (1).," .) To overcome guardians who refuse without sharia reasons, Article 23 paragraph (2) of the KHI provides a mechanism for determining the Religious Court so that the guardian judge can act (Republic of Indonesia, "Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law, Article 23 paragraph (2).,.".) Ideally, this construction balances parental authority with the woman's right to determine her life partner.

Although Islamic law and legislation have regulated the mechanism for resolving the rejection of a marriage guardian, the issue of guardian 'adhal still occurs in marriage practices in Indonesia. The rejection of a guardian can be motivated by disapproval of the prospective

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husband, economic conditions, family background, differences in social status, or customary considerations (Putri, Fia Maulidiana, Khoirul Asfiyak, and Humaidi Humaidi., 2025). This shows that the issue of guardian 'adhal is not only related to legal provisions, but is also influenced by family relationships and socio-cultural values of society. Normatively, this issue is related to Article 23 of the Compilation of Islamic Law and Regulation of the Minister of Religious Affairs Number 30 of 2024 concerning Marriage Registration (Shadiq, Gusti Muhamad, Zulfa Jamalie, and Anwar Hafidzi., 2026). From the perspective of Ralf Dahrendorf's conflict theory, the rejection of a guardian can be understood as a conflict of interest due to differences in authority and social position between the guardian and the woman who wants to marry. When the guardian's authority conflicts with the woman's choice, the conflict can escalate to the Religious Courts. Therefore, the study of guardianship is necessary to understand the relationship between guardianship authority, spouse choice, sociocultural influences, and legal resolution.

The absence of clear boundaries has a significant impact on women, families, and the justice system. Women face uncertainty over time and the psychological burden of having to go through legal proceedings against their own parents, while family relationships risk becoming strained and previously hidden conflicts become exposed (Retnoningtias, Diah Widiawati, et al., 2024). This uncertainty also has the potential to push some couples to take unregistered paths, which weakens legal protection for women and their children. From a judicial perspective, the absence of clear benchmarks opens up room for differences in judgment between judges, making it difficult to guarantee legal certainty and a sense of justice uniformly (Zubaidi & Fauzi, 2026). Therefore, a reformulation of the concept of wali *'adhal is needed* that not only interprets the rejection of a guardian textually, but also understands the roots of the conflict of authority and protects women's rights, using Dahrendorf's conflict theory as an analytical tool.

Several previous studies have been conducted. Ahmad Taufiq's research (Ahmad Taufiq, 2026). shows that although classical fiqh differs in determining the authority of a guardian, rejection without a sharia reason cannot be justified. Article 23 of the KHI regulates the use of a judicial guardian through a court order if the lineal guardian is adhal. In Parepare, this problem is influenced by weak family communication, parental divorce, economic inequality, social status, and customs. The KUA acts as a mediator, while the determination of an adhal guardian is the authority of the religious court. Therefore, participatory examinations, clarity of sharia reason criteria, and harmonization of regulations are needed to ensure legal certainty, women's dignity, and family justice . Muhammad Khabibuallah Idris's study (Idris, 2026). Indicates that the authority of a marriage guardian is not absolute, but must be exercised as a form of protection for women

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while still respecting the interests, the consent of the prospective bride and groom, and the principle of freedom from coercion as regulated in Indonesian law and a number of other Muslim countries. Research by Nailul Muna Fadli et al (Nailul Muna Fadhli et al., 2025). Shows that the views of Salaf scholars on Islamic law, especially in the matter of marriage, have become the object of criticism from a number of contemporary Muslim thinkers because they are considered less in line with developments in thinking about women's rights. One issue that continues to be discussed is the concept of wali mujbir, especially regarding the limits of the guardian's authority in determining marriage. This debate shows the importance of understanding the foundations of Islamic legal thought and methodology comprehensively so that the interpretation of marriage provisions is not separated from the context, objectives, and principles of justice that underlie them. Rahma Herawati's study (Herawati, 2025). Shows that the determination of wali adhal by the Religious Court is a legal instrument to protect the interests of women when the marriage guardian refuses to carry out a marriage without a basis that is justified by sharia. This mechanism is in line with the objectives of maqāṣid al-syarī'ah, especially in protecting offspring (hifẓ al-nasl), soul (hifẓ al-nafs), and religion (hifẓ al-dīn), while also providing legal protection for women's rights to enter into marriage in accordance with applicable regulations. Research by Saiful Amar, et al (Amar et al., 2025). Emphasized that the appointment of a guardian adhal by the Religious Court serves as a form of protection for women's constitutional rights to enter into marriage and build a legitimate family according to law. Therefore, it is necessary to optimize the role of the Religious Court in resolving similar cases and increase public understanding regarding the limits of the guardian's authority so that the implementation of guardianship remains in line with legal provisions and the principles of justice.

The five previous studies have provided a strong foundation, but still leave clear conceptual gaps. Taufiq asserts that the rejection of a guardian without a sharia-compliant reason is unjustifiable and highlights causal factors in Parepare, such as weak family communication, economic inequality, social status, and customs. Idris emphasizes that the guardian's authority is not absolute and must be exercised to protect women, while Fadli et al. critique the concept of wali *mujbir* from the perspective of contemporary Muslim thought. Herawati views the appointment of wali *'adhal* as an instrument of protection in line with *the maqasid of sharia* , and Amar et al. position it as protecting women's constitutional rights. The apparent pattern is that these studies focus on the limitations of the guardian's authority, the court's determination mechanism, and the protection of women, thus placing the conflict between guardians and women as a backdrop, rather than an object of analysis. No study has yet interpreted wali *'adhal*

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as a power relation that results in conflicting interests between dominant and subordinate parties, nor has any used a conflict theory framework to reformulate the concept *of 'adhal* itself. As a result, the criteria for sharia reasons that Taufiq said needed to be clarified still lacked a solid analytical basis, while the solutions offered generally involved optimizing the role of the courts and educating the public without addressing the root of the conflict.

Therefore, *the novelty* of this research lies in the use of Ralf Dahrendorf's conflict theory as an analytical framework to reformulate the concept of guardian *'adhal* , which in previous studies tended to be discussed through the approaches of fiqh, *maqashid* , and positive law. Dahrendorf's theory views conflict as originating from the relationship of authority within an association, namely when the party holding the authority and the party subject to it have conflicting interests. In the context of guardianship, the nasab guardian is positioned as the authority holder and the prospective bride as the submissive party, so that the guardian's rejection can be read as a conflict of interest that is initially latent and then becomes manifest when the case is submitted to court. This reading allows the research to analytically distinguish between rejections born of legitimate protection and rejections that constitute abuse of authority. From this distinction, more measurable criteria for *'adhal are formulated* , as well as conflict management that does not stop at the appointment of a guardian judge, but also includes mediation and participatory involvement of the parties. Thus, this research offers a conceptual reformulation that bridges fiqh, positive law, and the sociology of conflict, rather than simply repeating existing findings on women's protection.

Therefore, this study aims to analyze the conflict between parental authority as guardians of lineage and women's rights in marriage through Ralf Dahrendorf's conflict theory. This study also aims to examine the concept of guardian *'adhal* in Islamic jurisprudence, the Compilation of Islamic Law, and Indonesian laws and regulations, including the limitations and criteria of sharia reasons that are still problematic. Furthermore, this study aims to formulate a reformulation of the concept of guardian *'adhal* that provides legal certainty, protects women's rights, and still respects the role of guardians and the welfare of the family.

RESEARCH METHODS

This study uses a normative legal research method with a library research approach. This method was chosen because the research focuses on examining legal provisions, legal principles, and the concept of guardianship in Islamic law and Indonesian positive law. The research aims to identify conceptual issues regarding the authority of guardianship in marriage when dealing with

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women's rights to choose a life partner, while simultaneously developing ideas for reformulating the concept of guardianship that is oriented towards justice and the protection of women's rights.

This study uses three approaches: a statutory approach, a conceptual approach, and a theoretical approach. The statutory approach is used to examine the provisions governing marriage guardians, judicial guardians, and the appointment of 'aḍal guardians in Indonesian positive law. The conceptual approach is used to examine the definition, legal basis, objectives, and limits of the authority of marriage guardians based on Islamic law and family law literature. The theoretical approach is used to analyze the relationship between parental authority and women's rights through Ralf Dahrendorf's conflict theory, particularly regarding authority, interests, and conflicts arising from differences in social positions. These three approaches are used in an integrated manner to build a basis for argumentation for a more just reformulation of the concept of 'aḍal guardians.

This study utilizes secondary data obtained through a literature search. The data are divided into three groups. First, primary legal materials, which include laws and regulations related to marriage, the Compilation of Islamic Law, and other provisions relevant to the authority of marriage guardians and the determination of 'aḍal guardians. Second, secondary legal materials, which include fiqh books, Islamic family law books, Ralf Dahrendorf's work on conflict theory, scientific journal articles, previous research results, and expert opinions related to parental authority and women's rights in marriage. Third, tertiary legal materials, in the form of legal dictionaries, encyclopedias, and other reference sources that help explain the terms and concepts used in the study. All materials were selected based on their relevance, credibility, and relevance to the focus of the study.

Legal materials and literature were analyzed qualitatively through legal interpretation and conceptual reasoning. The analysis was conducted in several stages: identifying legal provisions governing guardianship, outlining the concepts of guardianship authority and women's rights based on relevant legal sources, and examining potential conflicts between the two using Ralf Dahrendorf's conflict theory. The results of the analysis were then used to assess the adequacy of the guardianship concept in protecting women's rights without disregarding the guardian's position in marriage law. The final stage was to formulate arguments for the reformulation of the guardianship concept by considering the limits of the guardianship authority, the validity of the reasons for rejection, conflict resolution mechanisms, and the principle of justice in the family. Thus, this research is expected to produce a conceptual formulation that can enrich the development of Islamic family law in Indonesia.

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DISCUSSION

Conflict between the Authority of the Guardian and Women's Rights in Marriage: An Analysis of Ralf Dahrendorf's Conflict Theory

Dahrendorf's conflict theory is suitable for analyzing the guardianship issue *because* it rejects the assumption that social order arises from harmonious value agreements. In *Class and Class Conflict in Industrial Society* (1959), Dahrendorf places authority as the center of analysis, namely the inherent right of certain positions to rule and the inherent obligation of others to obey. This division creates two structurally opposed interest groups, regardless of the good or bad intentions of the individuals. When applied to the realm of guardianship, this approach shifts the focus of the question. Guardians who refuse to marry are not necessarily judged as stubborn individuals, but rather as positions of authority whose authority carries the potential for conflict with those subordinate to them. In this way, the guardianship dispute *can* be explained through the structure of the relationship, not just the characters of the parties, and this shift in perspective opens up the possibility of a more in-depth analysis than a moral judgment of individuals.

The Compilation of Islamic Law constructs the position of guardian in a manner very closely aligned with Dahrendorf's concept of positional authority. A guardianship is established as a pillar of marriage for the prospective bride, and the Compilation of Islamic Law establishes a kinship order that determines who is entitled to be a guardian (Aditya & Fathullah, 2023). This means that authority is attached to position in the family line, not to the personal competence or suitability of the person holding it. A father holds authority because of his position as a father, and that authority shifts to the next of kin only when the position becomes vacant. This construction explains why even legally competent adult women cannot marry without the presence of a guardian, because the validity of the contract depends on the fulfillment of the structure, not solely on the will of the individual. At this point, marriage functions as a social unit in which some positions are given the legal authority to direct other positions, so that the characteristics of an imperatively coordinated association are clearly evident (Reumi, Frans; Irianti, Hasmi; Judijanto, Loso., 2025).

Dahrendorf emphasized that legitimate authority is always limited, and this limitation is key to understanding *'adhal* . In Islamic jurisprudence, the guardian's authority rests on the concept of protection (*wilayah*), namely, safeguarding the woman's interests, not fulfilling the guardian's personal interests (Hanum & Adly, 2025). Rejection based on sharia grounds, such as a prospective husband who is not of the same religion, is not suitable in matters permitted by sharia, or causes real harm, remains within the limits of that authority (Maghfiroh & Roro, 2026).

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Rejection based solely on personal preference, family prestige, or differences in educational level shows a different symptom, namely authority that exceeds the purpose of its existence. The authority has gone beyond its legitimate scope, so that the resistance of the subordinate party becomes legally valid. This framework also shows why the court's decision is not merely an administrative procedure, but rather an acknowledgement that the limits of the guardian's authority can be violated and therefore need to be corrected by the authorized institution.

The conflict stems from interests that, according to Dahrendorf, are inherent in roles, not consciously chosen. The role of guardian leads to a tendency to maintain the continuity of status, honor, and family relationship patterns, while the role of bride-to-be leads to a tendency to determine her own life's direction (Munir, 2026). In Dahrendorf's formulation, the dominant party tends to be interested in maintaining the existing situation, while the subordinate party is interested in changing it, and this pattern is evident in the relationship between guardians and women . Both tendencies existed before the proposal came, but did not yet appear as a conflict. Field findings regarding triggering factors show how these latent interests take shape, for example, rejection due to the prospective husband's lower education in Bangkinang (Hurrahmah, 2023). customary reasons in Selong , (Hadi, 2024). As well as a combination of weak family communication, economic inequality, social status, and customs in Parepare (Mutmainnah, 2025). These factors don't create conflict out of thin air, but they provide the momentum that makes hidden differences of interest inevitable. Thus, education, customs, and economics are more accurately read as triggers than causes.

The transition from latent to manifest interests depends on the subordinate's ability to recognize their position and act, and Dahrendorf mentions the technical, political, and social requirements for this ability (Mozin et al., 2024). In the context of guardians *'adhal*, the political requirements are available in the form of legitimate legal channels, namely Article 23 of the Compilation of Islamic Law and Regulation of the Minister of Religious Affairs Number 20 of 2019 which delegates the determination of guardians *'adhal* to religious courts. The social requirements are seen in the expansion of women's access to education and information, so that rights that were previously considered normal for parents to determine can now be questioned. In Dahrendorf's view of quasi *-groups* and interest groups, it explains why guardianship conflicts appear widespread and casuistic . Women who face guardian rejection have the same latent interests, but they are generally unorganized, do not know each other, and pursue legal channels individually. In Dahrendorf's terms, they are more like quasi-groups than interest groups with a collective program and voice (Haris, 2021). As a result, each case is resolved as a single event, and

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the accumulation of women's experiences does not automatically translate into pressure for normative reform. This helps explain why the boundaries of *'adhal* remain undefined despite the recurrence of the case, as structural change, in Dahrendorf's framework, generally requires articulated interests, not simply isolated suffering.

Another consideration in Dahrendorf's theory is that a person can occupy a dominant position in one association and a subordinate position in another, so that the pattern of authority is not always concentrated in one group (Pramesta et al., 2026). Educated and economically independent women hold relatively strong positions in the workplace or education, but remain subordinate in guardianship matters. This misalignment between associations explains why the rejection of the guardian often feels increasingly unreasonable for the woman, because she feels she is not equal to his capacity in other areas. On the other hand, the guardian himself often maintains his authority because he feels that it is the only space he still has full control over. This tension shows that the dispute over guardianship *is* not only related to the existence or absence of sharia reasons, but also to the shifting of the broader map of power in society.

Religious court rulings can be understood as a form of conflict regulation, but their practice leaves behind problems that can be interpreted through Dahrendorf's concepts of conciliation, mediation, and arbitration. The guardian *'s petition is* examined as a voluntary matter, preventing the guardian from being positioned as an opponent entitled to defend himself, even though the substance of the case is a conflict of interest. This type of mechanism quickly provides certainty for women but does not address the damaged relationship. Dahrendorf also stated that conflict regulation is only effective if the conflicting parties recognize the validity of the procedure (Nurjaman et al., 2025). Therefore, the guardian's involvement in the hearing is not merely a matter of procedural fairness, but also a prerequisite for the decision to be accepted and not give rise to new resistance.

Two other dimensions of Dahrendorf's theory conflict intensity and violence help explain why some cases proceed relatively peacefully while others end in family breakdown or extramarital marriages. Intensity refers to the level of emotional involvement and the losses at stake, while violence refers to the way the conflict is expressed. The case of the guardian *of the 'adhal* is considered high-intensity because it concerns the identity, family honor, and future of the woman (Putra et al., 2026). When channels for resolution are distrusted or perceived as slow, conflict tends to seek alternative channels, such as unregistered marriages or severance of family ties. Therefore, the quality of conflict regulation determines whether conflicting interests lead to

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healthy change or to lasting relationship damage, suggesting that attention to process is as important as attention to outcome.

The Concept and Limitations of Wali *'Adhal* in Islamic Jurisprudence, Compilation of Islamic Law, and Legislation in Indonesia

Understanding the guardianship *of 'adhal* means understanding the point at which the guardian's authority ceases to be respected as protection and begins to be treated as a barrier . Linguistically, *'adhal* means to restrain or hinder. In Islamic jurisprudence, it refers to a guardian's refusal to marry a woman under his guardianship even though she has requested it and the prospective husband is suitable (Daud & Sururuie, 2021). This definition seems simple, but it conceals three criteria that determine the entire debate when a woman's request is considered valid, when a prospective husband is considered suitable, and when a refusal is considered unfounded. Because these three criteria are not fully detailed in legal sources, the meaning of *'adhal* in Indonesia is shaped more by interpretation and practice than by a standard formulation.

The normative basis of this concept is rooted in Surah Al-Baqarah, verse 232, mentioned in the previous article , which prohibits guardians from preventing a woman from remarrying her future husband if they have reached a suitable agreement. In the narration of Imam Al-Bukhari, this verse is attributed to the companion Ma'qil bin Yasar, who initially refused to allow his sister to reconcile with her ex-husband, but then withdrew his refusal after the verse was revealed (Irawan, 2022). Analytically , the prohibition is directed at guardians, not women. Therefore, sharia itself recognizes that a guardian's authority can be abused and therefore needs to be limited from within. The hadith on the guardian's obligations in a marriage contract and the ruler's role as guardian for those without one complement this framework, as both demonstrate that guardianship is a trust whose management can be transferred if not properly implemented.

The differences in schools of thought indicate that the limits of a guardian's authority are not uniform, and these differences have direct implications for how *'adhal* is understood. The Hanafi school provides the broadest space for adult women to marry themselves, with guardians still having the right to object if the prospective husband is not of equal standing, so that the issue of *'adhal* is almost no longer structural (Ridho & Hannan, 2023). The majority of scholars from the Maliki, Shafi'i, and Hanbali schools make a guardian a requirement for the validity of the marriage contract, so that the guardian's refusal creates a deadlock that demands a solution (Abdihi, 2026) . In terms of resolution, their views are also different some scholars argue that the right of guardianship is transferred to a more distant guardian, while the Shafi'i school views rejection as

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injustice that transfers the right of guardianship to the judge. This difference is not merely technical, because it affects the question of who has the authority to correct the guardian : the family itself or the state.

The most crucial point in the entire debate over the limits of rejection is the concept of equivalence (*kafa'ah*). A guardian is only considered *'adhal* if he rejects a suitor, thus the scope *of kafa'ah* also determines the extent of the guardian's right to reject. Some scholars place equivalence primarily on religion and morals, while others extend it to lineage, occupation, and wealth (Muzakki & Hafshawati, 2021). This distinction is crucial for contemporary issues, as rejection due to the prospective husband's lower educational level, as reported in several studies of religious courts, will be judged differently depending on which perspective is used. Based solely on religion and morals, such rejection is difficult to justify, while using broader criteria, it can be defended.

Mujbir guardians adds another layer to this boundary issue. In certain classical views, fathers or grandfathers could marry off their daughters without explicit consent, as long as the prospective husband was a partner and the dowry was adequate (Hanum & Adly, 2025). This concept indirectly strengthens the guardian's discretion in judging, because the woman being married is not seen as the main determinant of decisions. However, contemporary thinkers' criticism of this concept, as noted by the study of Fadli et al., which is written in the background, emphasizes that the right *to ijbar* should be read as a form of protection that is tied to the benefit, not the right to coerce. This reading is in line with national law which makes the consent of the prospective bride and groom a condition of marriage. This means that when classical jurisprudence which gives freedom to guardians meets the principle of consent in modern law, the measure of *'adhal* also shifts: the guardian's refusal, which previously might have been considered reasonable, is now more easily questioned.

The Compilation of Islamic Law structures guardianship in a series of interrelated articles, but leaves gaps at the most crucial points. Article 19 establishes guardianship as a pillar, Article 20 requires that the guardian be Muslim, sane, and mature, Article 21 establishes the order of lineage guardianship, and Article 22 stipulates the transfer of guardianship rights to the next guardian if the most entitled guardian is ineligible or unable to perform. Article 23 then stipulates that a guardian-judge can act if the lineage guardian is absent, unavailable, absent, *'adlal* , or reluctant, and in the case of an *'adlal* or reluctant guardian, the guardian-judge only acts after a ruling from the Religious Court (Fajri, 2021). This arrangement demonstrates a clear policy choice: direct transfer to a judge for *'adlal cases* , bypassing further guardianship, with the court acting as

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gatekeeper. However, the Compilation of Islamic Law does not define *'adlal* , does not mention its elements, and does not specify whether sharia grounds constitute an exception. This article regulates the legal consequences of *'adhal* , but does not regulate what *'adhal is* .

From a legal perspective, this gap is not filled by higher law. Law No. 1 of 1974 states that marriages are valid according to religious law and must be registered, requires the consent of both prospective bride and groom, and provides for the annulment of marriages conducted with invalid guardians. However, it does not specify the concept of marriage guardians or *'adhal* . Minister of Religious Affairs Regulation No. 20 of 2019 concerning Marriage Registration delegates the determination of *'adhal guardians* to the Religious Courts or the Sharia Courts, thus regulating administrative procedures without outlining substantive criteria. Hierarchical issues are also apparent here. The Compilation of Islamic Law (KHI) is enacted through a Presidential Instruction, not a law, while ministerial regulations are technical in nature, making the formulation of *'adhal* at the legal level practically non-existent. Consequently, the standard for determining the validity of a guardian's refusal rests on Islamic jurisprudence and judicial discretion, rather than on written, testable norms.

Reformulation of the Concept of Wali 'Adhal as an Effort to Guarantee Legal Certainty, Protection of Women's Rights, and Family Welfare

The previous discussion highlights two interrelated issues. The concept of guardianship in classical Islamic jurisprudence rests on a fundamentally protective notion, namely that guardianship authority must be subject to the objective of protection and must not be transformed into a means of obstruction. However, when this concept was incorporated into Indonesian positive law through the Compilation of Islamic Law, Minister of Religious Affairs Regulation No. 30 of 2005, and Supreme Court Regulation No. 3 of 2017, the lack of indicators and weak procedural stages gave rise to inconsistent practices. The reformulation in this sub-discussion is not intended to reject the guardianship tradition, but rather to restructure its conceptual framework to be consistent with the objectives of sharia and contemporary legal needs. This reformulation rests on three pillars: measurable 'adhal criteria, a gradual resolution mechanism that prioritizes dialogue, and a reaffirmation of the guardian's role as a protector.

A. The First Pillar is the Measurable 'Adhal Criteria

The most fundamental problem in the practice of determining a legal guardian is the lack of a clear line between legitimate and deviant refusal. Article 23 paragraph (2) of the Compilation of Islamic Law only states that a legal guardian can be appointed if the

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guardian is reluctant to marry, without explaining when the reluctance is deemed unfounded (Rinwanto et al., 2023). As a result, judges operate within a wide scope of interpretation, so that factually similar cases can result in conflicting decisions. This situation is not simply a matter of technical evidence, because the uncertainty of the criteria ultimately burdens the most vulnerable party, namely women who are waiting for clarity on the legal status of their planned marriage.

B. The Second Pillar is a Gradual Mechanism that Provides Space for Dialogue

The courts should be a last resort, not a starting point. Practical experience shows that many guardianship disputes are rooted in broken family communication, not irreconcilable disagreements over principles. Cases brought to court often involve relational wounds far beyond marriage permission, and a judge's decision to simply terminate guardianship status fails to address these wounds. (Naharuddin et al., 2025) Therefore, a multi-layered resolution mechanism needs to be designed so that efforts to restore relationships precede the final decision.

1. The first stage is a family consultation facilitated by the Office of Religious Affairs. The head of the Religious Affairs Office (KUA) or the marriage registrar, who currently plays only an administrative role, can be given a consultative role to bring the prospective bride and groom together with their guardian, explore the reasons for the rejection, and offer solutions, such as a further introduction period or a background check on the prospective husband.
2. The second stage is mediation by parties respected by the family, such as religious leaders, traditional leaders, or marriage advisory bodies, with a short time limit so that it does not turn into a tool of delay. This time limit is important because protracted mediation can violate a woman's right to certainty, even though mediation is intended to serve that right, not erode it. Only if these two stages fail, the case is submitted to the Religious Court for determination.

This draft needs to be safeguarded against two risks. *The first risk* is forced mediation in situations of unequal power relations. If the woman is under pressure, mediation could become a forum that reinforces the guardian's dominance. Therefore, exceptions must be available, namely the possibility of directly filing a petition with the court if there are indications of violence, threats, or confinement, or if the guardian refuses to attend without a valid reason. The *second risk* is formalism, namely mediation that merely fulfills administrative requirements without substance. Therefore, the results of the

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mediation should be recorded in a report that can be used by the judge to ensure that the dialogue effort is truly valuable in the evidentiary process.

C. Third Pillar: Guardians as Protectors, not Sole Deciders

Reformulation of procedures will be meaningless without a shift in perspective on the nature of guardianship. In the prevailing understanding, guardians are viewed as authority holders whose decisions determine the validity of a woman's wishes (Abdihi, 2026). This perspective positions women as passive objects of protection. In fact, the rationale of guardianship in Islamic jurisprudence lies in its protective function: ensuring that the prospective husband is suitable, the dowry is met, and the marriage does not harm the woman. The guardian's authority, therefore, is functional and conditional; it is valid as long as it is exercised for that purpose and loses its footing when exercised for any other purpose. This assertion has normative consequences.

1. Guardians are required to provide reasoned considerations, not simply to agree or disagree. The obligation to provide reasons transforms guardianship from a unilateral authority to a verifiable responsibility.
2. The wishes of adult women must be recognized as a substantive element in the process, not merely a formal requirement. From this perspective, the woman's position is more accurately understood as a subject in dialogue with her guardian, and the guardian as a partner who assesses suitability, not as the final arbiter.
3. The transfer of authority to a guardian judge should not be read as a punishment for the guardian, but rather as a replacement mechanism chosen to protect more basic rights.

This shift does not mean eliminating the role of the family. In societies that uphold kinship values, guardians still hold a crucial position as guardians of women's interests, especially for women less experienced in assessing potential partners. The reformulation seeks to restore the original meaning of this role. Guardians who perform their protective function well will receive respect and involvement, while guardians who use their authority as a tool of coercion will face legal repercussions. In this way, the law does not sever family ties, but rather keeps them within a just framework.

These three pillars support each other, and measurable criteria without a dialogue mechanism risk creating rigid litigation and widening the gap between family members. A dialogue mechanism without clear criteria opens the door to mediation that loses direction and is easily manipulated by dominant parties. Meanwhile, affirming the guardian's role without procedural

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support will cease to be an inoperative ethical statement. Integrating these three pillars creates a system that not only resolves disputes but also guides the parties' behavior from the outset, as the guardian knows that refusal must be justified and the woman knows that her wishes will be respected as long as they meet the requirements.

Normatively, this proposal can be realized through the improvement of Article 23 of the Compilation of Islamic Law, which contains the definition and indicators of 'adhal, as well as the adjustment of the Minister of Religious Affairs Regulation Number 30 of 2005 to regulate the role of the KUA in the initial deliberation stage. Supreme Court Regulation Number 3 of 2017 concerning guidelines for adjudicating cases of women in conflict with the law can also be used as a reference to ensure that the examination of ‘adhal guardian cases is based on a justice perspective and free from prejudice against women (Saraswati et al., 2020). In addition , the Supreme Court's internal guidelines detailing the benchmarks of evidence and the format of legal considerations will reduce disparities in decisions without having to wait for changes to the law, a more realistic path in the short term.

This reformulation essentially seeks to reconcile three frequently conflicting values. Legal certainty is achieved through predictable criteria and procedures, allowing judges to make decisions with uniform standards and allowing parties to predict the legal consequences of their actions. Protection of women's rights is achieved through recognition of legitimate will, guaranteeing unhindered access to the courts, and exempting situations involving duress from mediation. Family well-being is achieved through a dialogue that allows for resolution without damaging relationships, and by limiting legitimate refusals to reasons that genuinely concern the safety and well-being of the household.

It must be acknowledged that the tension between these three values is never completely eliminated. Overly rigid certainty can compromise case specificity, while excessive flexibility weakens certainty. Therefore, the proposed criteria should be understood as guidelines guiding judicial deliberation, not as mechanical formulas that replace the assessment of the facts. Within the framework of the maqasid sharia, the ultimate benchmark is the preservation of religion, life, intellect, posterity, and property. If a decision or procedure actually causes harm to any of these, then the decision needs to be reviewed, even if it appears to be in accordance with the article.

The reformulation of the guardianship concept outlined in this sub-discussion emphasizes that the primary issue lies not in the existence of the guardianship institution, but rather in how its authority is measured, tested, and resolved when disputes arise. Measurable criteria provide guidance for judges and certainty for the parties, a gradual mechanism paves the way for

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reconciliation before the case reaches the courtroom, and the affirmation of the guardian's role as a protector restores guardianship to its original purpose. This formulation is expected to serve as a conceptual foundation for reforming judicial norms and practices, while also opening up space for further study, particularly through empirical testing of the effectiveness of pre-litigation mediation and the consistency of the application of 'adhal indicators in various Religious Courts.

CONCLUSION

This study concludes that the occurrence of *wali ʻaḍal* in Indonesia can be understood not only as a matter of Islamic legal doctrine but also as a manifestation of conflict arising from unequal authority and competing interests within family relationships. Through Ralf Dahrendorf's conflict theory, the relationship between a *wali nasab* and a woman seeking marriage can be examined in terms of the distribution and exercise of authority. Although a guardian has an important responsibility to protect the interests of the woman under his guardianship, difficulties arise when that responsibility is interpreted as an unrestricted right to determine her marital future. A refusal to approve a marriage may become problematic when it is based primarily on personal preferences, social status, family expectations, or other considerations that lack sufficient legal and religious justification. Under these circumstances, the guardian's authority may conflict with the woman's right to choose a spouse and pursue marriage in accordance with applicable legal provisions. Therefore, the central issue is not the elimination of parental or guardianship authority, but the establishment of appropriate boundaries to ensure that such authority is exercised proportionately, responsibly, and consistently with the principles of justice and legal protection.

In response to these findings, the reformulation of *wali ʻaḍal* should focus on strengthening legal certainty while ensuring meaningful protection for women's marital rights and maintaining respect for the family's legitimate interests. First, clearer and more measurable criteria are needed to assess whether a guardian's refusal constitutes *ʻaḍal*, thereby reducing uncertainty in the interpretation and application of Islamic family law. Second, a structured conflict-resolution mechanism should encourage communication, family dialogue, and mediation before the dispute proceeds to judicial determination, provided that these processes do not expose the woman to coercion, intimidation, or further harm. Third, the role of the *wali nasab* should be understood as a form of protective responsibility rather than an absolute authority that overrides the woman's legitimate marital choice. Where dialogue fails or a refusal cannot be justified on legally and religiously relevant grounds, access to the Religious Court must remain

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available in accordance with applicable procedures. These measures are intended to establish a more balanced relationship between guardianship authority and women's autonomy. Ultimately, a fairer approach to *wali 'aḍal* should preserve the protective function of the family, prevent the misuse of authority, and ensure that decisions concerning marriage are assessed through transparent, accountable, and legally grounded procedures.

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