

**INTERPRETATION OF RELIGIOUS FIGURES TOWARD WALI ADHOL  
ACCORDING TO ISLAMIC LAW AND THE MARRIAGE LAW (Case Study in  
Kec.Aek Nabara Barumun Kab, Padang Lawas)**

**Habibullah<sup>1)</sup>, Efnedy Arief<sup>2)</sup>, Erdi Mukhrin Siregar<sup>3)</sup>**

<sup>1,2,3)</sup> Universitas Islam Sumatera Utara Medan

**Keywords:**

Interpretation, Wali, Adhol

**\*Correspondence Address:**

[habibullah@fai.uisu.ac.id](mailto:habibullah@fai.uisu.ac.id)

**Abstract:** In this case the author looks at the interpretation of religious leaders towards Adhol wali according to Islamic law and the Marriage Law whose legal sources refer to the Fatwa of the Indonesian Ulama Council, towards the interpretation of religious figures towards this adol's wali. not inferring from generalizations. This study also uses a comparative approach. Research sources were also obtained from religious leaders and interviews with religious leaders and walis who were reluctant to marry off their daughters and included sources from the perpetrators of elopement as well as Ulama (MUI) of Aek Nabara Barumun District, and secondary data obtained from literature books, journals, articles, and other literature which serve as references or complementary sources for research. This study concludes that the interpretation of religious figures towards Adol walis according to Islamic law and the Marriage Law should be that the views of religious figures can be taken and guided for the benefit of the ummah and society and society must also comply with the marriage law to protect and maintain human dignity as creatures. the most perfect according to Law No. 1 of 1974 which is perfected by Law No. 16 of 2019 concerning marriage, then all citizens who enter into marriage must submit and comply with the marriage law in force in Indonesia.

---

## INTRODUCTION

Humans are the most perfect creatures created by Allah SWT, given reason and mind and also given lust, to preserve lust so as not to violate customary norms and decency, humans are governed by law, whether it is Islamic law which comes from Allah SWT or state law made by the government. in power. Humans as social beings must submit to the values and norms that live in society, these values and norms are not enough to maintain order in society, but it is also necessary to enforce legal rules when there are violations committed. Therefore, humans as social beings need to socialize with one another and also to carry on life and look after offspring there must be rules. In order to maintain and maintain human dignity as the most perfect creature because they are given reason and passion, to protect offspring, humans are regulated by law, namely Law No. 1 of 1974 which is perfected by Law No. 16 of 2019 concerning marriage, then all citizens who are going to marry must submit and obey the marriage law in force in Indonesia. Marriage is an act commanded by Allah SWT and recommended by the Prophet Muhammad SAW. A marriage is intended to create a happy and eternal

family (household) filled with feelings of love, compassion and peace among each of its members, as reflected in Marriage Law No. 1 of 1974 article I which reads "Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the one and only God.

Basically, those who have a direct interest in marriage are the candidates husband and wife, but it should not be forgotten that marriage is a big problem, a matter of heredity that will continue life from one generation to the next. Therefore, marriage should not only be seen as a problem of the individuals who experience it, not a personal problem that "loves" each other each other regardless of their relationship with the family, moreover the respective parents who are involved. The validity of a marriage indicates a condition where the marriage has been carried out in compliance with the conditions and harmony based on Islamic law. As for the pillars of marriage, namely the prospective groom, the prospective bride, wali (of the bride), two witnesses (male), contract (ijab and qabul). The wali of marriage in marriage is a pillar that must be fulfilled for the prospective bride who acts to marry her off. People who act as wali of marriage must meet the requirements and get along well. "The pillars and conditions have a very important position in any contract (transaction), especially the marriage contract. The marriage contract is a special contract compared to other contracts such as buying and selling or mortgages. The marriage contract is considered by the scholars as something that must be handled carefully (aqd khatir) because it will have implications for children and other things caused by marriage such as inheritance rights. One of the most important elements of the marriage contract is the marriage wali. Only the marriage wali has the right to marry off women under his walihip. This right is given by Islam to marriage wali, because women are not allowed to marry themselves. If a woman marries herself, it means she has committed adultery. As Islamic jurists say that marriages carried out without a wali, the marriage is invalid because the wali's position in the marriage contract is one of the pillars that must be fulfilled.

There are general and special trusts. Common ones are trusteeships regarding people in a region or country. Meanwhile, special trusts are related to people and property. Here what is discussed by the wali of the human wali is "Problems of walihip in marriage. Wali is a legal provision that can be imposed on other people in accordance with the field of law. Regarding marriage wali according to the Compilation of Islamic Law (KHI) is a pillar that must be fulfilled as stated in article 19 the third part, namely "Marriage wali in marriage is a pillar that must be fulfilled for the prospective bride who acts to marry her. As for those who have the right to be marriage wali of a bride-to-be, they must meet the requirements, namely: male, Muslim, mature and sane, independent, not under walihip, fair, and not currently in ihram. In KHI article 20, the person who acts as wali of marriage is "a man who fulfills the requirements of Islamic law, namely aqil and baligh Muslims. Article 20 paragraph (2) of the Compilation of Islamic Law states that "there are two types of marriage wali, namely nasab wali and judge wali. Following are the wali regulated in Article 20 paragraph 2 of the Compilation of Islamic Law. Nasab wali are wali whose walihip is based on blood relations. While the judge's wali is a marriage wali appointed by the Minister of Religion or an official appointed by him, who is given the right and authority to act as marriage wali.

## **THEORETICAL STUDY**

Wali is a legal provision that can be imposed on other people in accordance with the field of law. Regarding marriage wali according to the Compilation of Islamic Law (KHI) is a pillar that must be fulfilled as stated in article 19 the third part, namely "Marriage wali in marriage is a pillar that must be fulfilled for the prospective bride who acts to marry her. As for those who have the right to be marriage walis of a bride-to-be, they must meet the requirements, namely: male, Muslim, mature and sane, independent, not under walihip, fair, and not currently in ihram. In KHI article 20, the person who acts as wali of marriage is "a man who fulfills the requirements of Islamic law, namely aqil and

baligh Muslims. Article 20 paragraph (2) of the Compilation of Islamic Law states "there are two kinds of marriage walis, namely nasab walis and judge walis." Following are the walis regulated in Article 20 paragraph 2 of the Islamic Law Compilation. Nasab walis are walis whose waliship is based on blood relations. While the judge's wali is a marriage wali appointed by the Minister of Religion or an official appointed by him, who is given the right and authority to act as marriage wali. Then it is also explained in detail in the Compilation of Islamic Law regarding marriage walis in articles 21, 22, 23 in more detail in article 21 paragraph 1, Nasab walis consist of four groups as follows:

1. The nasab wali consists of four groups in order of position, one group takes precedence and the other groups according to whether or not the kinship arrangement is close to the prospective bride. First, the group of male relatives straight up, i.e. father, paternal grandfather and so on. Second, the group of relatives of biological brothers or paternal brothers, and their male descendants. Third, the uncle's kin group, namely the father's biological brothers, half-fathers and their male descendants. Fourth, the group of grandfather's biological brothers, paternal brothers and their male descendants.
2. If in one group of marriage walis there are several people who are equally entitled to become walis, then those who are most entitled to become walis are those who are closer in degree of kinship with the prospective bride.
3. If in one group the degree of kinship is the same, the biological relative of the same-father relative is most entitled to become a marriage wali.
4. If within a group, the degree of kinship is the same, that is, both biological degrees or the same father's relatives, they are equally entitled to become marriage walis, prioritizing those who are older and fulfilling the requirements of a wali.

The wali regulated in Article 21 cannot move to another group under it before seeing the requirements and rules of the group above it still fulfilling the requirements as a wali. If you move without fulfilling the requirements or violating the waliship rules, the marriage will be invalid. In accordance with Article 22 of the Compilation of Islamic Law which reads "If the marriage wali who has the most rights does not meet the requirements as a marriage wali or because the marriage wali suffers from speech impairment, is deaf or is aged, then the right to become wali shifts to another marriage wali according to next degree.

## **RESEARCH METHODS**

The location of this research is in Aek Nabara Barumun District, a sub-district in Padang Lawas Regency. This type of research is field research, which is a method used to obtain real and objective data in research methods by conducting field studies. Primary Data Source means the data source obtained by the compiler from the first source. In this case, it is obtained directly from the results of interviews with religious leaders at the research location regarding Wali Adhol. Secondary data sources mean data obtained in the form of documents from second hand or obtained from books, scientific papers, decisions/decisions, articles, and scriptures, books related to the matter under study.

## **DISCUSSION AND RESULTS**

### **Wali Adhol According to Islamic Law**

Wali adhol comes from the word adhol according to the language (etymology) comes from Arabic, which means to prevent or hinder. (Munawwir, 2004:441) A wali adhol is a wali who cannot marry a woman who is mature and wise with a man of her choice, while each party wants the marriage to take place. (Abdul Aziz Dahlan, 1993:1339), Basically the right to become wali in marriage is in the hands of the aqrab wali, or the person who represents the aqrab wali or the person who is given a will to become the wali. Only aqrab walis have the right to marry a woman under his

waliship to another person. Likewise, he has the right to prohibit her from marrying someone if there are acceptable reasons, for example, the husband is not in communion or because the woman has already been proposed to by someone else, or she has bad morals, or has a physical disability that causes her marriage to be void. In cases like this the wali aqrab is the one who has the right to be the wali and his rights cannot be transferred to another person, even to the judge. (Al Hamdani, 2002:120) But if the wali is not willing to marry without an acceptable reason, even though the woman already loves her husband-to-be because she already knows his kafa'ah both religion and character, the wali who is reluctant to marry is called the wali adhol, unjust.

If the wali does not want to get married, the reason must be seen first, whether the reason is syar'i or the reason is not syar'i. Syar'i reasons are reasons justified by syara' law, for example the girl's wali has been proposed by someone else and this application has not been cancelled, or her husband-to-be is an infidel, or a wicked person (for example an adulteress and likes to get drunk), or has a physical disability which hinders his duties as a husband, and so on. If the wali refuses to marry off his daughter based on syar'i reasons like this, then the wali must be obeyed and his waliship does not transfer to another party (the judge's wali). A wali can be said to be adhol if: a. The wali does not want to marry the woman to a man who is in the same league as him, even though the woman accepts the proposal of her future husband, whether the acceptance is accompanied by a demand to marry the wali or not, b. The wali wants to marry the woman to a man of her choice who is compatible with the woman, while the woman in question asks her wali to marry her to a man of her choice who is compatible with her. (Abdul Aziz Dahlan, 1993:1340)

Scholars agree that for the criteria for a wali adhol there are at least two conditions that she can fulfill, among them are: the man who proposes to her is a mate (mate), and is able to pay the mitsil dowry. Regarding the agreement of the scholars above, it was stated by Ibn Rusydi in his book "Bidayatul Mujtahid" in the statement: The scholars agree that it is not permissible for a wali to prevent his daughter (from marrying) when she is faced with a matched partner along with her mitsil dowry .(Ibn Rusydi, 1990:23). Likewise, Sayyid Sabiq in "Fiqhus Sunnah" also gave a similar statement: Among the scholars it has been agreed that in fact there is no right for a wali to block his maula, let alone forbid him from continuing the marriage, if someone wants a man who is compatible (with him) and with pay the dowry for mitsil." (Sayiq Sabiq, 1997:121) The perspective of the wali adhol according to the four schools of thought can be described in the following explanation:

1. According to the Maliki School In the Maliki School, especially among the scholars, there is the same tendency in expressing his opinion regarding this wali adhol with the Shafi'i School, in his opinion among the maliki states what means: Meaning: "When there is a good wali it is mujbir or not, preventing the maula from marrying a partner who is in the same league as the maula is willing to do so, then the waliship does not move to a distant wali (wali ab'ad) but has the right for the maula to report her case to the judge, with the intention of questioning the wali regarding the cause and reason, bnm, then the judge hands over the matter of the maula to him, but if not, the judge orders the wali to disobey to marry her after being ordered by the judge, then the judge acts to marry her "(Sayiq Sabiq, 1997:121 ) In another explanation it is explained: "In fact, a wali is declared adhol when it is certain that what is it what he does is indeed with the intention of preventing/forbidding his maula from marrying, because if it's just to refuse the person who proposes it can't show that he is legal, sometimes it's even to attract the benefit that the wali teaches for his maula whatever he is as dear as humans are to women, it will but if it is obvious that with the intention of destroying even once, the judge orders to marry her, and if she is unable to marry, then the judge will marry her" (Sayiq Sabiq, 1997:121)
2. According to the Hambali School In the Hambali School it is told about Ahmad bin Hambal that he once gave an explanation about this adhol wali. in one history, that the adhol wali,

especially the adhol one, is the aqrab wali, thus the waliship moves to the ab'ad wali. while on the other hand it explains, that waliship is transferred to the judge." there is someone who has waliship rights (wali) to prevent his maula from marrying a candidate (husband) he loves, and by giving a dowry, and he has reached the age of nine years or more (he has reached puberty), the wali's attitude is not as a wali's piety towards the maula. (and if the wali is adhol) then the waliship moves to the judge, because he is the one who has the authority to marry the maula who is being wali prevented from marrying, be it a mujbir wali or not a mujbir" (Abdul al Jaziri IV: 35). As mentioned above, there is also the Hambali school of thought among scholars who tend to have a different opinion, namely Ibn Qadamah, in expressing his opinion regarding the wali adhol he tends to go for his efforts to resolve adhol walis, with several considerations, especially based on the instructions of the hadith of Aisyah RA, did not release the involvement of all existing walis (from aqrab walis). So if there is piety in the wali, in this case it is the closest wali (wali aqrab), then the wali is replaced by the next wali who is more distant (ab'ad), and so on until the walis are exhausted, and so on, then move to another wali. wali judge.

3. According to the Hanafi School In the Hanafi school, information has also been found regarding the adhol wali. However, the information that can be expressed here is the statement of the scholars of the school. Abdurrahman Al Jaziri through his book, that according to the Ulama' of the Hanafi Madzhab is an aqrab wali who prevents his maula from marrying a partner who is in communion along with paying a dowry for mitsil, then the solution is called the same as the settlement of an unseen wali who is difficult to find and brought. Thus, the waliship does not move to the wali of the judge, while there is still another wali, namely the wali (waliab'ad) (Abdul al Jaziri IV: 41).
4. According to the Syafi'i School. The discussion regarding the problem of adhol wali and its solution, in the second Syafi'i school, both involve a ruler (judge) as the controller. As for the involvement of the ruler/judge as the controller of the two matters, it means that he is authorized to process and investigate the problem of the adhol conditioned wali along with what efforts to anticipate and resolve the emergence of these problems. this is done by the ruler/judge, of course after there is a report/submission from the maula wali adhol. (as a party that is unfairly needed / harmed). Regarding the involvement of a judge in an adhol wali, it can be seen in the commentary of a scholar from the Shafi'i school, namely Imam Jalaluddin al Mahalli in one of his books "Sarh minhajualtalibin", which among other things explains: before the judge after being ordered and clearly refusing to enter into a marriage, while the woman (who is the maulanya) along with the man who proposed is also present, or she is also brought in by witnesses to strengthen or hide it (this is if she is not present), and after before the judge, then the wali agreed to marry her. the goal is to anticipate the wali of adhol but on the contrary if he is not willing to marry then it is clear that he is the wali of adhol" (Abdul al Jaziri IV: 37). The involvement of a judge in dealing with the wali of adhol along with initial efforts to anticipate it, This will bring results when the wali returns from his 'adhol (repentance), namely his willingness to enter into a marriage contract. Imam Syafi'i explains that the transfer of wali/change of wali over the adhol wali to the judge. This happens when the adhol is from a close wali (close). Meanwhile, another wali is a wali who (ab'ad) cannot replace a replacement, in other words, it is suspended, because only the judge has the authority to replace him. He explained further through a statement: "When a wali is present, then he If you disobey and enter into a marriage, you cannot enter into a marriage with another wali from the group of relatives, t but only the judge has the authority (right) to marry her off. And this is after a report (and evidence) by the judge. Among them, the judge has the right to question the wali (the „adhol), if it is unseen, then it will turn to the party applying.

So, if only the judge has received the report (and has confirmed the report) then the judge (orders) to bring in a closer wali (close wali) and other relatives from his family. Then the judge asked: do you really object (to getting married)? If they answered that you objected, then the judge must consider that the suitors are seen as having enough, while the woman is willing to accept it, then the judge orders them to marry her. . And even if the judge does not order them (first), the judge has the authority to marry them, because if it happens that a wali is present and he disobeys to marry his maula to the partner he likes, then the judge will also marry him to the partner he liked earlier." (As Shafi'i, 1989:51)

### **Wali Adhol According to Positive Law and Islamic Law**

One of the most important elements of a marriage contract is the marriage wali. The right to marry a woman who is under her waliship is given to the nasab wali, because a woman cannot marry herself. If a woman marries herself, it means she has committed adultery. But in reality, marriage walis who are entitled to marry sometimes lose their waliship rights due to certain matters, which require that their waliship rights be transferred to a judge's wali. The transfer of the rights of the wali of marriage in terms of fiqh is known as the intiqal wali of marriage. There are several reasons that make the transfer of waliship rights from a nasab wali to a judge's wali, some of these reasons are agreed upon by the fuqaha and some others there are still differences of opinion. The transfer of waliship rights from the nasab wali, either from the aqrab wali to the ab'ad wali or to the magistrate's wali, is caused by death or because the nasab wali does not meet the waliship requirements, in this case the fuqaha agree. As for the transfer due to other reasons, there are still differences between the pafa fuqaha', one of which is regarding the transfer from the wali of the lineage to the wali of the judge caused by the wali adhol (refusal or reluctance). A woman who wants to carry out a marriage must be intermediary with a nasab wali and with the consent of both (children with walis) for the benefit of both. Therefore, it is appropriate that the matter of marriage be handed over to the wali of the lineage by not forgetting the consent of the daughter." (Mahmud Yunus, 1999:24)

In some circumstances, sometimes the lineage wali does not agree with the marriage, the wali is reluctant or refuses for certain reasons. In this case, the nasab wali will try to hinder the marriage in an effort to avoid a marriage. Of course this is contrary to Islamic Law and the applicable Marriage Law. In this case, the wali is prohibited from adhol marrying off his child. As the word of Allahswt in the letter al-Baqarah verse 232.

If you divorce your wives, then their beauty ends, then do not prevent them from remarrying their future husbands, if there is agreement between them in a way that is acceptable. That is what is advised to those who believe among you in Allah and the Last Day. It is better for you and holier. Allah knows, while you do not know. Transfer of waliship rights to the wali of the judge caused by the absence of a nasab wali (the prospective bride and groom do not have a nasab wali at all), in this case the jurists agree that waliship will be transferred to the wali of the judge. But in the case of a marriage with a judge's wali caused by other factors, or a woman who wants to get married has a nasab wali but the nasab wali does not want to marry her or refuses to marry her for other reasons, the reasons must first be seen, whether the reasons are syar'i or unshariah reasons.

Syar'i reasons are reasons that are justified by syar'i law, for example the wali's daughter has been proposed by another person and this application has not been cancelled. However, sometimes the wali refuses to marry her for reasons that are not syar'i, namely reasons that are not justified by syara' law. For example, the prospective husband is not from the same tribe, the poor, and so on. These are reasons that have no basis in the view of sharia, so they are not considered shar'i reasons. If the wali does not want to marry off his daughter for reasons that are not syar'i like this, then the wali is called an adhol wali, that is to prevent a woman from marrying her off if the woman has already demanded marriage." (Amir Syarifuddin, 21)

In this case, it turns out that there are still differences of opinion whether waliship may be transferred to a judge's wali or not. Wali *adhol*, namely the wali who is reluctant or the wali who refuses. That is, a wali who is reluctant or refuses does not want to marry or does not want to be a wali in his daughter's marriage to a man who has become his child's choice. "(Ahrom Hoerudin, 1999:47) If a woman has asked her wali to marry a man who is equal (equal), and their wali objects without any reason, the judge has the right to marry them off after it turns out that both of them are the same *kufu*, and after giving advice to the wali to withdraw his objection." (Rasjid, Sulaiman, 2004:38) In the case of *nasab walis* (wali *aqrab*) *adhol*. *Jumhur fuqaha Maliki, Hanafi, and Syafi'i* agree that waliship rights will move to the wali of the judge (Sultan), and not transfer to the wali *ab'ad*, because with *adhol*. So it is considered out of waliship rights, and this is tyranny, and to avoid tyranny, the waliship rights are handed over to the sultan or judge. Imam Ahmad is of the opinion, if the lineage wali (wali *aqrab*) is *adhol* then the waliship rights will move to the wali *ab'ad* and not to the wali judge, except if all the lineage walis (both the wali *aqrab* and the wali *ab'ad*) are *adhol* then the waliship rights will move to the magistrate." (Rasjid, Sulaiman, 2004:41)

Based on the explanation of the legal *istinbath* of the *fuqaha* above, it can be seen that the majority of *fuqaha* agree, if the *nasab wali* is *adhol* for reasons that are not *syar'i* or for reasons that have no basis in Islamic law, then the marriage of the prospective bride using a legal wali is legal. There are several factors that cause the judge's wali to carry out his function as marriage wali. Basically, the wali of the judge functions as a substitute for the wali of the lineage, and not as a representative of the wali of the lineage, in circumstances that cause the transfer of waliship rights to the hands of the wali of the judge which by law and regulations justifies it. In the Compilation of Islamic Law Article 23 it is stated;

1. The new wali of the judge can act as wali of the marriage if the wali of the lineage does not exist or is unable to present him or his place of residence is unknown or unseen or *adhol* or reluctant.
2. In the event that the wali *adhol* or is reluctant, the judge's wali can only act as marriage wali after the decision of the Religious Court regarding the wali.

As for the reason for the transfer of waliship rights from a lineage wali to a judge's wali according to the Compilation of Islamic Law which refers to the opinion of Imam Syafi'i, namely as follows: (1) There is no lineage wali; (2) Wali *mafqud* means that his existence is not certain, or that there is no wali who is equal to him; (3) The *nasab wali* becomes the bridegroom of the woman under his waliship. This happens when a woman is married to her cousin, biological or father's brother; (4) The *nasab wali* travels far (*masafatul qosri*) or is not available but does not authorize the closest wali who is present; (5) The *nasab wali* is in *ihram* for Hajj/Umrah; (6) The wali is in prison or detention where he cannot be found, or (7) The address of the wali is unknown or unseen; (8) *Tawaro's nasab wali* (hiding to avoid marriage); (9) Wali *adhol*, meaning that the wali is not willing or refuses to marry. Materially the marriage law does not clearly regulate the provisions for walis of judges, but PMA Number 2 of 1987 concerning walis of judges is an attempt to bridge the gap between the Marriage Law and Islamic Law, so that in practice the provisions regarding walis of judges materially refer to Islamic law. In the view of the Shafi'i madhhab, the judge's wali as a marriage wali functions as a substitute (not a representative) of the *nasab wali*, and judges are marriage walis because of an emergency. Thus the view of Islamic law regarding the transfer of waliship rights in marriage from a *nasab wali* to a judge's wali caused by an *adhol wali* or a reluctance to marry is an emergency law provision, or in other words the function of a judge's wali as marriage wali is seen as emergency law. If this is the view of Islamic law, then this is also the view of the Marriage Law (Compilation of Islamic Law) because what is deemed valid by Islamic law regarding the judge's wali is also the view of the Marriage Law (Compilation of Islamic Law).

## **Wali Adhol According to the Marriage Law and Compilation of Islamic Law**

Judging from the reasons or factors behind the reluctance of the nasab wali to marry off his child, of course there is a reason used, the reason for this reason must be one that complies with Shari'a law. Of course the reasons put forward by the wali as the biological father must be reasons that meet the applicable legal standards, namely reasons that are seen by Shari'a as not equal. But if this is included in an unjust act and is only the personal opinion of the father who wants to get married. So based on the explanation of the legal istinbath of the fuqaha, it can be seen that the majority of the fuqaha agree, if the nasab'adhol wali has reasons that are not shar'i or causes that have no basis in Islamic law, then the marriage of the prospective bride and groom uses a judge's wali as a substitute for the adhol wali the law is legal. In the case of a legal wali, waliship can move into the hands of a judge, who in practice in Indonesia goes through a stipulation procedure from the Religious Courts to determine whether or not the reason for the wali's refusal is justified because if the reason is correct and justified by the court, then the waliship does not transfer to another person because he is considered not legal. marriage that is carried out by using a judge's wali as a substitute for an adhol wali, is also considered valid by the Marriage Law and the Islamic Law Compilation (KHI), as long as the transfer of waliship rights to the marriage is in accordance with the provisions and laws. Article 23 of the Compilation of Islamic Law emphasizes that:

1. Paragraph (1) The new judge's wali can act as marriage wali if the lineage wali is not available or is unable to present him or his residence is unknown or is unseen or adhol or reluctant.
2. Paragraph (2) In the event that the wali adhol or is reluctant, the new wali judge can act as marriage wali after a decision has been made by the Religious Court regarding said wali.

In settling the case of the adhol wali where the waliship is transferred to the judge's wali based on existing witnesses and legal considerations, the determination of the adhol wali is based on Law no. 1 of 1974 concerning marriage, Regulation of the Minister of Religion Number 2 of 1987 concerning Wali Judges, Regulation of the Minister of Religion Number 11 of 2007 concerning Registration of Marriages and Compilation of Islamic Law (KHI) and the word of Allah SWT in Al-Quran Surah Al-Baqarah verse 232. As the following :

Meaning:

“If you divorce your wives, then their iddah period expires, then you (walis) should not prevent them from remarrying with their future husbands, if there is consent between them in a way that is ma'ruf. That is what is advised to those who believe among you in Allah and the Last Day. it is better for you and holier. Allah knows, while you do not know. (Q.S. al-Baqarah: 232).”

In this case, of course the status of the judge's wali as a substitute for an adhol wali is in accordance with what is stated in KHI article 23. Fiqh munakahat (Islamic law) is a reference in the provisions of the Compilation of Islamic Law (KHI), thus the practice of the judge's wali as a substitute for adhol wali is deemed valid by the Islamic Law Compilation, because the transfer of waliship rights to the judge's wali is in accordance with the provisions contained in the Compilation of Islamic Law (KHI) and the provisions contained in the Al Quran Surah An Nuur verse 32 as follows:

Meaning:

And marry those who are alone among you, and those who are worthy (married) from your male slaves and your female slaves. If they are poor Allah will enable them with His grace. And Allah is Extensive (His gifts), All-Knowing. (An Nuur verse 32).

The verses of the Qur'an above Surah Al-Baqarah verse 232 which explain the prohibition of a wali to prevent the marriage of a woman who is under his waliship, especially if both (the woman and the prospective husband) are determined to establish a good household relationship even though they are not in the same league in terms of assets. Not Sekufu seen in Islamic law is more to religion not wealth or throne.



The existence of a judge's wali as a substitute for an adhol wali is in accordance with the applicable provisions so that the marriage that is carried out is considered valid both in the eyes of religion and in the eyes of the law, this is in accordance with the opinion that a marriage will be considered valid or has legal force if the implementation. Marriage is in accordance with the provisions and regulations set by the Law Maker, namely Allah SWT.

### **Interpretation of Wali Adhol According to Religious Figures in Aek Nabara Barumun District, Padang Lawas Regency, North Sumatra**

#### **a. Field Findings**

1. According to Mr. Mahdan Pohan Who Met by the Author on Wednesday, September 7, 2022. Interpreting the Wali Adhol as a Religious Figure in the Aek Nabara Barumun District that marriage with the Adhol wali is permissible but must first be approached with the biological father who should be the wali in child marriage the girl. Then when alluded to the law on marrying Walli Adhol, he said that the law on marrying an adhol wali is still valid, but of course an effort must be made such as taukil wali, meaning that a wali who is reluctant to marry someone under his authority should hand it over to another nasab wali, then about how the implementation of marriage with an adhol wali he conveyed that his Trusteeship was transferred to another lineage wali. The implementation of a marriage in my village is very good, what if each of the parents of the prospective husband and prospective wife both agree, then there will be a traditional or religious process, but there are also those who marry by eloping, this is the wali first in persuaded and given advice and what if he is reluctant then his waliship rights will be transferred to another lineage wali. economic factor, or other factor.
2. It was different when interviewing the perpetrators of elopement. Meriati Wednesday, September 8, 202 The perpetrators of elopement, the first factor is not being approved by parents what do you think about the implementation of elopement, in my opinion it is legal as long as it does not violate rules or legal norms. As perpetrators of eloping, it was true that the approach was taken that my future husband was not approved by my father, however, we were determined to build that household, so we eloped, after we eloped, the wali still my father did not want to marry us, so the one who married us was and my wali was my siblings At that time my father did not approve of our marriage so I thought eloping was an alternative for how I could quickly marry the candidate of my choice.
3. In contrast to Amrona Nasution's narrative Thursday, September 9, 2022 as a married couple. One of the reasons was because our parents disapproved of our relationship, so my future husband asked me to elope. The implementation was rather simple, so both parties would quickly go through the process of carrying out my marriage. Initially, my parents did not want us to marry. held a meeting with a reunion then it was taken care of as best as possible and my parents after being persuaded were finally willing to become walis to marry us in order to maintain the good name of the family as well. So one of the ways to marry a man chosen by the head of the district office in our village is by eloping, the process will be faster and smoother, because if things are slowed down, it can embarrass the parents.
4. Mr. Milhanuddin Harahap interview Wednesday, September 8, 2022 Religious Figure of Sayur Mahincat Village, Aek Nabara Barumun District. According to Mr. Milhanuddin Harahap, the interpretation of religious leaders regarding adol's wali is that in his opinion, his position can be replaced by a judge's wali through a court decision. Paktor wali being reluctant could have been because her future husband was not in the same class or the second economic factor could have been a factor of custom and culture as well as heredity. The law of marrying an adhol wali is still valid, of course an effort must be made first, such as taukil wali, meaning that a reluctant wali should surrender his waliship to another lineage wali. Its implementation is transferred to

another lineage wali, if there is no lineage wali, it is transferred to a judge's wali after there is a religious court decision. Then related to the implementation of the marriage in the village of Sayur Mahincat Village, it is very good what if each of the parents of the prospective husband and prospective wife both agree, then there will be a kind of process through adat and also through a religious process. But if there is one of the male and female candidates whose parents do not approve, they are replaced by another wali. Things like that can happen because parents do not approve of one of them, maybe it could be the economic factor, or other factors. When it comes to the issue of elopement, in my opinion, as a religious figure, I don't agree with this because there will be parents who are displeased with their child's marriage because the consent of the parents is highly prioritized. Then asked about whether there were sanctions regarding elopement, Belua said that there was no humun for those who elope in Sayur Mahincat Village, it's just that the process will take longer than a normal or ordinary marriage. (made).

5. According to Mr. Hutri Tanjung. Interview Results Friday, September 9, 2022 as a Religious Leader in Tanjung Rokan Village, Aek Nabara Barumun District. According to him, the interpretation of Wali Adhol in marriage is in accordance with what he has learned. Yes, legal walis in marriage are biological father, grandfather up to the top, then father's brother, father's brother, or brother's child. In our place, especially in the Aek Nabara Barumun sub-district, this religious figure's interpretation of the wali adhol. I as a religious figure argue that waliship in marriage is very important because without a wali, marriage is invalid, because in the pillars of marriage, one of the pillars is a wali. As for the reason for the wali being reluctant according to Islamic law, what I know is that the reason is that the prospective husband is not of the same age or equal with him, sometimes there is an economic factor, then the second one can become a customary or cultural actor, we all know that customs and culture in our area is very strict, and there could also be a hereditary factor. If in my opinion it is in accordance with the laws and regulations that I studied, a wali who is reluctant to marry off his daughter or someone under his authority, then the right of waliship moves to the penghulu or the judge's wali after a court decision. Of course, the law is still valid to carry out a marriage with an adol wali, but an effort must be made first such as taukil wali, meaning that this reluctant wali must surrender his waliship to another lineage wali. In accordance with what I know, the implementation of a marriage with an adhol wali, the waliship rights are transferred to the nasab wali after a local court decision. If there is a problem with eloping, the wali will first be persuaded to try to exercise his waliship rights over his child under his control, or we can give him advice and if he is reluctant, then his waliship rights will be transferred to another wali, such as his grandfather or sibling or his uncle who has a family relationship. As for one of the factors that is the cause of eloping, one of them could be because the parents do not agree because they are not in a similar relationship, or it could be because of customs and culture. In my opinion, when asked about eloping, I don't agree because one of the parents doesn't like or doesn't agree, because in marriage we have to prioritize the pleasure of our parents. For sanctions, especially in our area, in Aek Nabara Barumun sub-district, there are no sanctions in our village. There is also no penalty for those who elope, it's just that the elopement process takes the longest time compared to ordinary marriages.
6. Ali Musa Tanjung S.Pd.I INTERVIEW RESULTS Thursday, September 8, 2022 Religious Leader of Marenu Village, Aek Nabara Barumun District. The legal wali in marriage is the biological father up to his grandfather, children and uncles and so on who are related to the male lineage or lineage. Interpretation of adol walis in my opinion after the issuance of the Minister of Religion regulation, of course the alim ulama are not valid as marriage walis and those who are legal as marriage walis if there is an adol wali is the head of the KUA in the sub-district. Paktor Paktor who becomes reluctant, firstly, could be because he does not agree about

his future son-in-law, and secondly, there could be a violation of the Shari'a, such as a husband-wife relationship, so that the wali becomes reluctant. When it comes to the law of marrying an adhol wali, if this reluctant wali gives up his waliship outside of the judge's wali, it is invalid, because the only legal wali who replaces him is the ka kua sub-district. May be implemented if there is already a decision of the local Religious Court. The implementation of marriages in my village is very good, what if what if each of the parents of the prospective husband and prospective wife both agree, it is in accordance with the agreement. What I know in the process of eloping is that perhaps there was no consent from either the woman's family or the man's family. Returning to the question above, the average is because of the economic factor, because it is not equal, but this couple already likes or loves each other, so to avoid that. In my opinion, if the consent process is in accordance with the Shari'a, I agree. If there is no sanction from religion, there is from adat because in our village we always go hand in hand with religion and custom.

## **CONCLUSION**

The transfer of waliship rights from a nasab wali to a judge's wali because adhol is legal according to Islamic law after attempts to persuade the biological father who is the wali in the marriage of his own biological child. Mediation must be carried out between the wali/father and his daughter, however, if the father as the wali of the lineage is still reluctant to marry off his biological child for reasons he is not in ally other than ally in religion, it is suggested that the prospective bride file a lawsuit with the Religious Court which covers the place where the prospective bride is located. stay. Based on Surah Al-Baqarah verse 232. And An-Nuur (24) verse 32 above and. The legal status of a judge's wali as a substitute for an adhol wali according to positive law and Islamic law is contained in the following Al-Quran, namely: 232 which explains the prohibition of a wali to prevent the marriage of a woman under his waliship, especially if both (the woman and the male candidate) are determined to have a good household relationship. This is in line with the opinion of the Religious Leader of Aek Nabara Barumun Sub-district saying that marriage with an adhol wali is valid after trying to persuade the biological father to become a marriage wali. According to positive law, it is based on the Compilation of Islamic Law (KHI) Article 23 paragraph 2 where the change of marriage wali from the nasab to the wali the judge's wali caused by the wali adhal or reluctantly can only be carried out after the decision of the Religious Court regarding the wali's sincerity.

## **SUGGESTIONS**

All parties must pay attention to the applicable regulations, both those originating from Islamic law and also laws and regulations made by the state. The approval of the nasab wali is very important to note because the nasab wali is the legal role holder and whether or not the marriage contract has long-term consequences for the next generation. To the nasab walis not to do adhal/reluctant to marry off their own biological children, because doing so can break the silaturrahmi.

## **REFERENCES**

- Amir Syarifudin, (2006), *Hukum Perkawinan Islam di Indonesia (antara fiqih Munakahat dan Undang-Undang Perkawinan)*, Jakarta, Prenada Media Grup.
- Buku Abu Ishaq, (1995), Ibrahim. *Almuhadzab, Juz II*, Beirut Libanon, Dar al-Kutub alIlmiyah
- Dahlan Abdul Aziz, (1996), *Ensiklopedia Islam*, Jilid 4,( PT. Icthiar Baru Van Voe, Jakarta

- Departemen Agama RI, (1989), *Al-Qur'an dan Terjemahannya*, Toha Putra, Semarang
- Departemen Pendidikan dan Kebudayaan, (1993) *Kamus Besar Bahasa Indonesia*, Jakarta, Balai Pustaka
- Departemen Pendidikan Nasional, (2008), *Kamus Besar Bahasa Indonesia*, (PT Gramedia Pustaka Utama, Jakarta
- Didiek A. Supadie, (2015), *Bimbingan Penulisan Ilmiah*, Semarang, Unissula Press
- Ghazali, Abdul Rahman. (2008), *Fiqh Munakahat*, Jakarta, Kencana
- Ghofur Ansori, Abdul, (2011), *Hukum Perkawinan Islam (perspektif dan hukumpositve)*, Yogyakarta, UII Pres
- Khoiruddin Nasution, *Hukum Perkawinan 1*, (Yogyakarta: Academia Tazzafa, 2005)
- Kompilasi Hukum Islam Tinjauan Yuridis, Filosofis Dan Sosiologis, Dalam Mimbar Hukum Aktualisasi Hukum Islam*, No. 62 Th. XIV, (2013), Jakarta, Yayasan Alhikmah
- Kompilasi Hukum Islam*, (2010), Bandung: Citra Umbara
- Muhammad Amin Suma, (2004), *Hukum Keluarga Islam di Dunia Islam*, PT Rajawali Grafindo Persada, Jakarta
- Nasrudin Salim, *Isbat Nikah Dalam Kompilasi Hukum Islam Tinjauan Yuridis, Filosofis Dan Sosiologis, Dalam Mimbar Hukum Aktualisasi Hukum Islam*, No. 62 Th. XIV, (2013), Jakarta, Yayasan Alhikmah
- Riyanto Adi, (2004), *Metode Penelitian Sosial dan Hukum*, Jakarta, Granit
- S. Nasution, (1996), *Metode Research*, Bumi Aksara, Jakarta
- Sayyid Sabiq, (1980) *Fiqh Sunnah*, Bandung, Al Ma'arif
- Syarifudin, Amir. (2003). *Garis-garis Besar Fiqh*. Jakarta: Kencana. Tim Redaksi Nuansa Aulia.
- Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan dan Kompilasi Hukum Islam*, (2007), Bandung, Citra Umbara