

**WALI *ADHAL* KARENA KETIDAKCOCOKAN PERHITUNGAN WETON
(Tinjauan Yuridis Penetapan Pengadilan Agama Kabupaten Malang Nomor
1044/Pdt.P/2021/PA.Kab.Mg)**

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ABSTRAK

Pasal 1 Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan merumuskan bahwa sebagai suami istri dengan tujuan membentuk keluarga (rumah tangga) yang bahagia dan kekal berdasarkan Ketuhanan yang Maha Esa. Pernikahan harus dilaksanakan berdasarkan rukun dan syarat yang diatur dalam *fikih munakahat*. Rukun dalam perkawinan ada 5 yaitu calon suami, calon istri, wali, dua orang saksi, akad. Pada penelitian ini terdapat wali Pemohon yang enggan menikahkan Pemohon dengan calon suami Pemohon karena alasan ketidakcocokan perhitungan weton antara Pemohon dengan calon suami Pemohon.

Peneliti mengangkat rumusan masalah mengenai bagaimana dasar pertimbangan hukum hakim dalam menetapkan wali *adhal* karena ketidakcocokan perhitungan weton pada penetapan Pengadilan Agama Kabupaten Malang Nomor: 1044/Pdt.P/2021/PA.Kab.Mlg. Metode penelitian yang digunakan yuridis normatif, spesifikasi penelitian menggunakan perspektif analitis, sumber data yang digunakan adalah sumber data sekunder, metode pengumpulan data dengan inventarisasi data dan metode analisis dengan menggunakan normatif kualitatif.

Berdasarkan hasil penelitian, disimpulkan bahwa Majelis Hakim berwenang mengadili perkara ini berdasarkan Pasal 49 Undang-Undang No.3 Tahun 2006 jo Undang-Undang No. 50 Tahun 2009 Tentang Peradilan Agama. Majelis Hakim dalam penetapannya mengabulkan permohonan penetapan wali *adhal* mendasarkan pada terpenuhinya alasan wali *adhal* pada Pasal 2 Ayat (3) Peraturan Menteri Agama Nomor 2 Tahun 1987 jo. Keputusan Ketua Mahkamah Agung Nomor KMA/032/SK/IV/2006 dan juga Pasal 23 Kompilasi Hukum Islam. Ketentuan – ketentuan tersebut menunjukkan terpenuhinya 3 syarat penetapan wali *adhal* yaitu calon suami Pemohon sudah meminang Pemohon, adanya penolakan dari wali Pemohon dan Pengadilan Agama telah memanggil wali Pemohon. Dalam perkara ini wali Pemohon menolak menikahkan Pemohon dengan alasan ketidakcocokan weton antara Pemohon dengan calon suami Pemohon. Menurut peneliti, Hakim dapat menambahkan Pasal 13 huruf b Peraturan Menteri Agama Nomor 20 Tahun 2019 Tentang Pencatatan Pernikahan bahwa wali *adhal* ditetapkan oleh Pengadilan Agama atau Mahkamah Syari'ah.

Kata Kunci : Wali *Adhal*, Weton, Perkawinan.

ADHAL GUARDIAN DUE TO INCOMPATIBILITY OF WETON CALCULATIONS

***(Juridical Review of The Malang Regency Religious Court Number
1044/Pdt.P/2021/PA.Kab.Mg)***

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ABSTRACT

Article 1 of Law Number 1 of 1974 concerning Marriage defines that as husband and wife with the aim of forming a happy and eternal family (household) based on the One Godhead. Marriage must be carried out based on the pillars and conditions stipulated in the fiqh munakahat. There are 5 pillars in marriage, namely prospective husband, prospective wife, guardian, two witnesses, contract. In this study, there was a guardian of the Petitioner who was reluctant to marry the Petitioner to the Petitioner's prospective husband due to the incompatibility of the weton calculation between the Petitioner and the Petitioner's prospective husband.

The researcher raised the formulation of the problem regarding how the judge's legal considerations in determining the adhal guardian were due to the incompatibility of the weton calculation in the decision of the Malang Regency Religious Court Number: 1044/Pdt.P/2021/PA.Kab.Mlg. The research method used is normative juridical, the research specification uses analytical perspective, the data source used is secondary data source, the data collection method uses data inventory and the analytical method uses qualitative normative.

Based on the results of the study, it was concluded that the Panel of Judges had the authority to hear this case based on Article 49 of Law No. 3 of 2006 in conjunction with Law no. 50 of 2009 concerning Religious Courts. The Panel of Judges in their decision granted the application for the determination of guardian adhal based on the fulfillment of the reasons for adhal guardian in Article 2 Paragraph (3) Regulation of the Minister of Religion Number 2 of 1987 jo. Decision of the Chief Justice of the Supreme Court Number KMA/032/SK/IV/2006 and also Article 23 of the Compilation of Islamic Law. These provisions indicate the fulfillment of 3 conditions for the determination of adhal guardian, namely the Petitioner's prospective husband has proposed to the Petitioner, there is a refusal from the Petitioner's guardian and the Religious Court has summoned the Petitioner's guardian. In this case, the Petitioner's guardian refuses to marry the Petitioner on the grounds of the weton incompatibility between the Petitioner and the Petitioner's prospective husband. According to the researcher, the judge can add Article 13 letter b of the Regulation of the Minister of Religion Number 20 of 2019 concerning Marriage Registration that adhal guardians are determined by the Religious Court or the Syari'ah Court.

Keywords: *Adhal Guardian, Weton, Marriage.*