

**PENETAPAN WALI ADHAL (STUDI KASUS PENOLAKAN WALI
NIKAH GAIB) PUTUSAN PENGADILAN AGAMA NOMOR :
151/Pdt.P/2025/PA.Ckr.**

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ABSTRAK

Undang-Undang Nomor 1 Tahun 1974 mengatur perkawinan di Indonesia yang mensyaratkan adanya wali nikah, sehingga perkawinan tanpa izin wali dianggap batal. Permasalahan timbul ketika wali tidak diketahui keberadaannya (*gaib*) untuk menikahkan calon mempelai. Penelitian ini bertujuan menganalisis pertimbangan hukum hakim dan akibat hukum penetapan wali *adhal* di Pengadilan Agama Cikarang.

Penelitian ini menggunakan metode yuridis normatif dengan pendekatan peraturan perundang-undangan, pendekatan konseptual, dan pendekatan kasus, yang berlandaskan pada data sekunder berupa bahan hukum primer dan sekunder yang diperoleh melalui studi kepustakaan.

Hasil penelitian menunjukkan bahwa pertimbangan hukum hakim dalam penetapan wali *adhal* karena wali nasab tidak diketahui keberadaannya (*gaib*), meskipun telah dilakukan pencarian oleh calon mempelai wanita, tercermin dalam putusan Pengadilan Nomor 151/Pdt.P/2025/Pa.Ckr. Berdasarkan Pasal 23 ayat (1) dan (2) Kompilasi Hukum Islam, kewenangan perwalian beralih kepada wali hakim sebagai pengganti wali nasab, sehingga perkara tersebut telah sesuai dengan ketentuan tersebut. Meskipun hakim tidak mempertimbangkan isi pedoman yang sama dengan Kompilasi Hukum Islam yakni Peraturan Menteri Agama Nomor 30 Tahun 2005 Pasal 2 ayat (1), pada prinsipnya akad nikah yang berada di wilayah Indonesia atau di luar negeri/diluar wilayah teritorial Indonesia dapat dilangsungkan oleh wali hakim apabila wali nasab *adhal* atau tidak diketahui keberadaannya. Penetapan ini menimbulkan tiga akibat hukum berupa peralihan kewenangan perwalian kepada wali hakim, sahnya perkawinan secara agama dan negara, serta perlindungan hak perempuan. Namun demikian, hakim belum menguraikan secara rinci dasar dan kewenangan peradilan agama, meskipun Pengadilan Agama Cikarang berwenang mengadili perkara tersebut berdasarkan Pasal 49 ayat (1) Undang-Undang Nomor 7 Tahun 1989 beserta perubahannya dan Pasal 2 ayat (2) Peraturan Menteri Agama Nomor 30 Tahun 2005 tentang Wali Hakim.

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

**DETERMINATION OF ADHAL (CASE STUDY OF REJECTION OF
SUPERNATURAL MARRIAGE GUARDIAN) RELIGIOUS COURT
DECISION NUMBER: 151/Pdt.P/2025/PA.Ckr.**

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ABSTRACT

Law Number 1 of 1974 regulates marriage in Indonesia, which requires the presence of a marriage guardian, so that a marriage without the guardian's permission is considered void. Problems arise when the guardian's whereabouts are unknown (missing) to marry the prospective bride and groom. This study aims to analyze the judge's legal considerations and the legal consequences of the appointment of an adhal guardian in the Cikarang Religious Court.

This study uses a normative juridical method with a statutory regulatory approach, a conceptual approach, and a case approach, which is based on secondary data in the form of primary and secondary legal materials obtained through literature studies.

The results of the study indicate that the judge's legal consideration in determining the guardian adhal because the whereabouts of the lineage guardian are unknown (ghostly), even though a search has been conducted by the prospective bride, is reflected in Court Decision Number 151/Pdt.P/2025/Pa.Ckr. Based on Article 23 paragraphs (1) and (2) of the Compilation of Islamic Law, the guardianship authority is transferred to the guardian judge as a substitute for the lineage guardian, so that the case is in accordance with these provisions. Although the judge did not consider the same guidelines as the Compilation of Islamic Law, namely the Regulation of the Minister of Religious Affairs Number 30 of 2005 Article 2 paragraph (1), in principle, a marriage contract that takes place in the territory of Indonesia or abroad/outside the territorial territory of Indonesia can be carried out by the guardian judge if the whereabouts of the lineage guardian adhal or unknown. This determination has three legal consequences in the form of the transfer of guardianship authority to the guardian judge, the validity of the marriage according to religion and the state, and the protection of women's rights. However, the judge has not yet explained in detail the basis and authority of the religious court, even though the Cikarang Religious Court has the authority to try the case based on Article 49 paragraph (1) of Law Number 7 of 1989 and its amendments and Article 2 paragraph (2) of the Regulation of the Minister of Religion Number 30 of 2005 concerning Guardian Judges.

Keywords: Marriage, Marriage Guardian, Guardian Adhal.