

The Marriage of a Converted Woman with a Religious Leader from Maqashid Syari'ah Perspective at Batu Ampar District

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ABSTRACT

The phenomenon of female converts marrying under the guardianship of religious leaders in Batu Ampar District presents a unique issue, as it does not entirely align with national legal procedures, yet enjoys broad acceptance within the local community. While earlier studies have focused on court-appointed guardians (wali hakim) or the role of wali muhakkam in emergencies, limited research has analyzed this phenomenon through the lens of hearing shari'ah. This study seeks to address that gap by exploring the underlying factors, examining the validity of the marriage process according to classical Islamic jurisprudence, and interpreting it through the objectives of Islamic law. Using a qualitative descriptive method, data were collected through interviews and field observations. The findings reveal that the factors prompting the use of religious leaders as marriage guardians include the absence of a Muslim lineage guardian, economic limitations in accessing formal legal procedures, social pressure to maintain family honour, and the high legitimacy of religious leaders within the community. From the perspective of fiqh procedures, the marriage fulfilled all the essential pillars and conditions, such as the presence of acceptance (offer and acceptance), two just witnesses, a guardian (still), and a dowry (mahar). From the viewpoint of maqashid syari'ah, the marriage achieved the protection of religion (hifzh al-din), life (hifzh al-nafs), honor (hifzh al-'ird), lineage (hifzh al-nasl), and property (hifzh al-mal).

Keywords: *Female Converts, Religious Leaders as Guardians, Maqashid Shari'ah, Islamic Marriage Law*

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INTRODUCTION

Marriage in Islam is a sacred institution that is not only contractual, but also spiritual and legal, binding two people within a frame of worship and moral responsibility (Az-Zuhaili 2001). The validity of the marriage contract is very dependent on the fulfillment of the pillars and conditions that have been determined, namely the presence of the prospective husband, prospective wife, marriage guardian, two fair witnesses, and the consent of the qabul (Asy-Syarbini 1997; KHI 1991). In the Shafi'i school of thought which is the reference for the majority of Indonesian Muslims, the existence of a guardian for women is an absolute legal requirement for marriage (Hasanuddin 2018). The Compilation of Islamic Law (KHI) strengthens this position by explicitly stating in Article 19 that the marriage guardian is one of the main elements of the validity of the marriage contract (Ministry of Religion 2015).

The guardian of the marriage must fulfill certain requirements, such as being Muslim, male, adult, sane, independent and fair (Fadli and Juliandi 2021). In the absence of a nasab guardian, the responsibility for guardianship shifts to the state, namely through the guardian judge who is carried out by the head of the KUA (Sa'dan and Riana 2023). However, social realities in various regions show different practices. In several communities, including in Batu Ampar, East Kalimantan, people choose to use guardians from among local religious figures due to factors of trust, social closeness and ease of access (Oktaviani and Sugitanata 2019). In the context of female converts to Islam who do not have Muslim guardians, choosing a religious figure as guardian is considered more practical and dignified. This fact shows the tension between ideal legal norms and social practices that exist in society (Bakari and Darwis 2019).

This phenomenon is interesting for further research because it touches on important issues such as the protection of women's rights, the validity of marriage contracts, the role of local religious authorities, and the dynamics between state law and classical fiqh. When formal law is not easily accessible or is considered rigid, people often rely on religious figures who are considered to have moral legitimacy to legalize marriages (A'isyah and Silvia Airin 2019). This becomes complex in the case of female converts to Islam because they do not have a religious guardian, which according to Islamic law means they must be married off by a judge (Fadli and Juliandi 2021). However, the unaffordability of state services and social demands to marry quickly to maintain honor mean that local religious figures are often used as a middle ground. Within the framework of maqashid sharia, conditions like this need to be studied to find out whether the action is in accordance with the protection of religion (*hifzh al-din*), soul (*hifzh al-nafs*), honor (*hifzh al-'ird*), and offspring (*hifzh al-nasl*) (Az-Zuhaili 2001).

Several previous studies have reviewed the issue of guardianship in marriage, especially in emergency situations. Zamani explained that the delegation of guardian rights to the headman was carried out verbally or in writing because the guardian was not found, his whereabouts were unknown, or he was reluctant to get married (Zamani 2020). Sa'dan and Riana show that the hadiths regarding the guardian's obligation to have an authentic sanad reinforce the importance of the guardian's presence in the contract (Sa'dan and Riana 2023). Meanwhile, Oktaviani and Sugitanata note that in the Sasak traditional community, guardianship is sometimes given to kyai for cultural reasons and community beliefs (Oktaviani and Sugitanata 2019).

Other research by Fadli and Juliandi shows the compromise of positive law with Shafi'i fiqh in the case of an illegitimate guardian according to Sharia (Fadli and Juliandi 2021). Yunus and Arlina note that a marriage can be annulled if manipulation is found in determining the guardian (Yunus and Arlina 2017). A'isyah and Airin show that muhakkam guardians are used by students to protect themselves from adultery (A'isyah and Silvia Airin 2019), while Burhanuddin and Yunarti find that religious figures can be appointed as guardians in emergency situations (Burhanuddin and Yunarti 2021). Badri (2020) examines muhakkam guardians through an approach *maslahah mursalah*, and Bakari & Darwis concluded that the contextual approach is more acceptable than the formal textual approach (Bakari and Darwis 2019). However, none of these studies specifically examines cases of marriage between female converts to Islam and religious figure guardians within the framework of maqashid shari'ah.

The motivation for this research arises from the fact that this phenomenon lives in society, but has not been studied systematically and comprehensively. *Research gap* It

is clear that there is a lack of research that focuses on the maqashid sharia approach in understanding the legality and benefits of non-formal guardian practices in the context of female converts to Islam. Thus, this research presents *novelty* through combining fiqh, social and maqashid perspectives to assess legal practices that develop in society.

Filling this gap is important because it involves clarifying the legal status of marriage and protecting the rights of women and children. The practice of guardians of religious figures who do not go through formal procedures can give rise to legal confusion in the future. The maqashid sharia approach provides a more contextual argumentative alternative, so that Islamic law can respond to social dynamics fairly and wisely. This research can also be a basis for recommendations for legal policies that are inclusive and responsive to the conditions of communities in remote areas.

Based on this background, this research was designed to answer three main questions: (1) What are the factors that cause female converts to marry using guardians from local religious figures? (2) Is the implementation of the marriage in accordance with the marriage procedures as stated in the jurisprudence books? (3) How is the marriage carried out when viewed from the perspective of maqashid syari'ah? It is hoped that the answers to these questions will provide a new understanding of the relationship between fiqh norms, state law, and maqashid-based social practices in the context of contemporary Muslim marriages.

METHOD

This research uses a qualitative approach with a phenomenological type to explore the life experiences of women converts to Islam who marry using guardians from among religious figures, not official guardians. The phenomenological approach was chosen because it allows researchers to understand the subjective meaning of the social and spiritual experiences experienced directly by the participants. The main aim of using this method is to understand the reasons, perceptions and beliefs behind the choice of guardianship outside formal state legal procedures.

The population of this research are people in Batu Ampar District, East Kutai, who are directly involved or have in-depth information regarding the practice of marriage. Informants were determined purposively based on the relevance of their experiences to the research focus. The sample consisted of four main informants: one female convert to Islam who had experienced this practice, one religious figure who acted as a guardian, one male family member, and one staff member of the local Religious Affairs Office. The number of informants can grow along with research needs until the data reaches saturation point.

Data was collected through three main techniques: in-depth interviews, participant observation, and documentation review. Interviews were conducted using a semi-structured guide to allow flexible exploration of the informants' narratives. Observations were carried out in the social environment of the Batu Ampar community, especially at moments and places that were directly related to marriage practices. Documentation studies were carried out on official regulations such as Law Number 1 of 1974, the Compilation of Islamic Law, internal KUA documents, as well as personal documents of informants if available. Data was collected for six months, namely from June to December 2024.

Data analysis was carried out qualitatively with a thematic approach. The analysis process begins at the data collection stage and is carried out simultaneously using techniques from Miles and Huberman, namely data condensation, data presentation, and drawing conclusions. Data is categorized based on emerging themes

such as: the meaning of guardians from religious figures, reasons for selecting non-formal guardians, perceptions of state law, and the dimensions of maqashid sharia in marriage practices. Each finding was compared with documentary and observational data to ensure consistency and richness of meaning (Miles, Huberman, and Saldaña 2014).

To ensure validity and reliability, this research applies four strategies from Lincoln and Guba: credibility (through data triangulation, member checks, and discussions with colleagues), transferability (by providing in-depth contextual descriptions), dependability (through audit trails and systematic procedural recording), and confirmability (by ensuring findings come from data, not one-sided interpretation). This research did not use statistical methods because it focused on the interpretation of meaning, but thematic consistency was maintained through repeated coding and analysis techniques (Lincoln and Guba 1985).

The limitations of this research lie in its limited scope to one sub-district, as well as its focus on the guardianship practices of married female converts to Islam, so the results of this research cannot be generalized to the entire Muslim population in Indonesia. Nevertheless, these findings are relevant as an important reflection on the flexibility of applying Islamic law in certain social contexts that have strong religious and cultural structures. The information provided in this method is expected to be detailed enough to be replicated by other researchers in a similar context.

RESULT AND DISCUSSION

1. Factors Causing the Marriage of Converted Women to Religious Leaders

The results of research in Batu Ampar District show that the practice of marrying female converts to Islam using guardians from among religious figures is a complex response to intertwined social, economic, cultural and religious conditions. The case of Novi Sabalia, the main informant, is a representation of this condition. He was born into a Muslim family, but since childhood he was raised in a Christian environment due to his mother's marriage to a non-Muslim man. After living together informally, Novi and her partner decided to return to Islam and have a sharia marriage. Religious awareness is the main driving factor to legitimize their relationship according to sharia.

However, the process of legalizing marriage through formal state channels is hampered by economic limitations and a lack of procedural understanding. Dispensation for child marriages through religious courts is considered impractical because it takes time, costs and legal requirements are difficult to fulfill. In these conditions, society offers a value-based solution: marrying the couple to a religious figure who has high moral and religious legitimacy. Social factors also play an important role. People in Batu Ampar District consider relationships without legal marriage as a threat to family honor and social order. The collective pressure for couples to immediately marry religiously reflects the strong culture of maintaining morals in the community. In many cases, community encouragement is not merely moral advice, but rather a form of social responsibility for the stability of norms.

From a religious perspective, Novi's status as a convert to Islam resulted in the loss of the guardianship rights of her biological father who was of a different religion. In the view of jurisprudence, women without religious guardians must be married by a guardian judge. However, when this route is difficult to access, the community takes an alternative by appointing a religious figure as an emergency guardian. Religious figures in this context are not only respected as spiritual leaders, but are also

considered to have the legal capacity to legalize marriages. Apart from that, local culture also strengthens this practice. Religious figures in this area are not only worship leaders, but also conflict mediators, family advisors, and guardians of religious customs. In a social structure like this, legalization of marriage by religious figures has more moral and social legitimacy than official state documents.

This finding is in line with the view in Islam that marriage is a sacred institution that not only functions socially, but also as a means of worship and maintaining honor (Az-Zuhaili 2001:32). Marriage, in the perspective of sharia, is *mitsaqan ghalizhan* (a very strong agreement) as mentioned in Q.S. An-Nisa: 21. In the hadith of the Prophet Muhammad SAW it is also emphasized that marriage is a way to lower your gaze and protect your private parts (HR. Bukhari-Muslim). So, in Novi and Ari's situation, the step to get married immediately under the guidance of a local religious figure represents a real form of implementing maqashid sharia, especially the protection of religion and honor.

Within the framework of Shafi'i jurisprudence, the validity of a marriage is highly dependent on the existence of a legal guardian. In Novi's case, his status as a Muslim convert who does not have a Muslim nasab guardian makes the existence of a nasab guardian invalid, and the option of using a guardian judge is the only way according to the rules of Islamic law (Al-Nawawi 2005:174). However, because access to a formal guardian judge is difficult and expensive, local communities appoint religious figures to carry out the contract. This shows the flexibility of Islamic law in emergency situations, as Wahbah Az-Zuhaili emphasized that emergencies open up legal leeway to maintain benefits (Az-Zuhaili 2001:41).

This discussion has common ground with a number of previous studies. Zamani's research (2020) shows that the delegation of guardian rights to the head of the KUA often occurs due to the absence of the lineage guardian or due to certain social factors, with a taukil process that can be carried out orally or in writing (Zamani 2020). Meanwhile, Sa'dan and Riana (2023) found that the necessity of having a guardian in a marriage contract is very dependent on the validity of the hadith used as a legal basis, with some hadiths being valid and others not worthy of being used as evidence. This study strengthens the finding that flexibility regarding marriage guardianship is often born from a social and fiqhiyah approach that is responsive to community conditions (Sa'dan and Riana 2023).

In addition, research by Oktaviani and Sugitanata (2019) in the Sasak Sade community shows that the delegation of guardianship to religious figures was carried out not because of the absence of guardians, but because of traditional prohibitions. This shows that in various local contexts, religious figures often become a solution that is morally valid and accepted by the community (Oktaviani and Sugitanata 2019). Research by Fadli and Juliandi (2021) also reveals that compromises between positive law and Shafi'i jurisprudence are often made in appointing guardian judges, especially in cases of nasab validity. This emphasizes that even state institutions such as the KUA often have to negotiate with social conditions and community beliefs in implementing marriage laws (Fadli and Juliandi 2021).

On the other hand, research by Yunus and Arlina (2017) provides the opposite picture, where marriages carried out with invalid guardians were annulled by the Sharia Court because they were deemed to have misused the information of guardians who were actually still alive. This case emphasizes the importance of formal legitimacy and administrative honesty in the implementation of marriages (Yunus and Arlina 2017). This is different from research findings in Batu Ampar which showed that the

selection of guardians for religious figures was carried out openly, known to the public, and there was no falsification of documents. So, this action is not in the category of legal violation, but rather a form of normative adaptation that is still within the corridor of maqashid sharia and the principle of benefit.

Support for the use of religious figure guardians in emergency situations was also found in A'isyah and Airin's (2019) study, which examined similar practices among students in Malang. There, muhakkam guardians are chosen by students to avoid adultery because they don't want to involve a judge guardian or don't have a nasab guardian. Even though this action is outside formal channels, this practice is considered valid maqasid because the aim is to protect religion (*hifz al-din*) (A'isyah and Silvia Airin 2019). Burhanuddin and Yunarti's (2021) study also emphasizes that in conditions of emergency and social urgency, religious figures who have an understanding of jurisprudence and social authority can become marriage guardians while still maintaining sharia principles (Burhanuddin and Yunarti 2021).

The findings of this research also show how important religious figures are in the social structure of the village. In the culture of Beno Harapan Village, religious figures are not only seen as spiritual leaders, but also as authoritative figures who are trusted in resolving family legal problems. Thus, the use of religious figures as guardians is not only based on religious emergency, but also on widely recognized social legitimacy. This condition strengthens the observation that in rural communities, social legitimacy is often more meaningful than the administrative validity of the state.

Based on the discussion above, it can be concluded that the factors that cause the marriage of female converts to Islam using marriage guardians from among religious figures in Batu Ampar District are rooted in multidimensional conditions, including religious, social, economic and local cultural aspects. The absence of Muslim guardians is a major factor, which is exacerbated by limited access to guardian judges due to financial and administrative obstacles. In this condition, local people choose religious figures as alternative guardians, with considerations of maintaining honor, avoiding social slander, and fulfilling the demands of sharia. This choice shows the socio-religious adaptation of society in fulfilling maqashid sharia, namely the protection of religion (*hifz al-din*), honor (*hifz al-'ird*), and offspring (*hifz al-nasl*).

This finding shows that there is tension as well as harmony between formal state law and religious-based social law. Even though legally the use of guardians outside official channels is contrary to the provisions of the Compilation of Islamic Law, in practice society prioritizes the principle of benefit in order to maintain moral and social integrity. This strengthens the view that Islamic law is contextual and must be responsive to the realities of the people. In conclusion, the practice of using religious figures as guardians in emergency contexts such as those found in Batu Ampar is a real manifestation of the dynamics between text, context and the real needs of society in implementing Islamic teachings substantively.

2. Marriage Procedure According to the Books of Fiqh

The implementation of the marriage contract between Novi Sabalia and Ari Siswanto in Batu Ampar District shows that even though it was carried out in an emergency situation, the procession was still guided by the fiqh structure believed by the local community. The contract was held at the At-Taqwa Mosque, a place that has important religious and social functions in the community. Religious figure H. Suriani acted as marriage guardian because there was no lineage guardian for the Muslim woman. Before the ceremony, H. Suriani first ensures that the bride and groom have said the two sentences of the shahada and understand the religious obligations of

marriage. This proves that the process is not carried out haphazardly, but begins with clarification of the Islamic beliefs of both parties as the basis for the validity of the contract according to the Shari'a.

The contract procession is simple, solemn, and fulfills all the legal elements of marriage according to the Shafi'i school of thought. The consent is carried out directly in one assembly, witnessed by two adult men who are known as mosque leaders and are considered fair by the community. The dowry in the form of a gold ring is given openly, adding transparency and seriousness to the implementation of the contract. The bride and groom, based on information from informants, also read *istighfar* and stated their intentions before the ceremony took place, showing spiritual readiness in living married life. There is no pause between consent and *qabul*, showing validity and continuity in the pronouncement of the contract as required in the jurisprudence books.

Researchers' observations also confirm that the community accepts and recognizes the validity of the marriage. The two witnesses presented have good reputations and are considered to meet the criteria for marriage testimony. The religious figure who leads the ceremony is also very careful in ensuring that all elements of the wedding are fulfilled without any defects. The social legitimacy of Novi and Ari's marriage is proven by the community's acceptance after the ceremony; no discrimination, rejection or negative rumors were found. Although this marriage has not been registered at the Office of Religious Affairs due to administrative and economic obstacles, it substantially fulfills the requirements for a valid marriage according to Islamic law. Thus, this marriage contract is considered valid by the community, not only religiously but also socially.

When linked with several references, these findings show harmony between field practice and classical jurisprudence concepts. In the Shafi'i School, a guardian is an absolute requirement for the validity of a woman's marriage contract. The absence of a Muslim lineage guardian in the Novi case caused the guardianship rights to cease and pass to the judge's guardian. However, because access to the guardian judge, in this case the head of the KUA, was hampered by administrative and geographical problems, the guardian *muhakkam* was chosen as an emergency solution. The religious figure who married them is considered to meet the requirements as a guardian: Muslim, male, mature, fair and of sound mind. This is in accordance with the opinion of Imam Al-Mawardi and Wahbah Az-Zuhaili who allow the use of guardian *muhakkam* in emergency situations and do not allow access to guardian judges (Al-Mawardi 1996; Az-Zuhaili 2001).

In terms of conformity to national law, even though this marriage has not been officially registered at the KUA, the elements of sharia validity are still maintained. According to KHI Articles 14 and 19, the marriage guardian must be present and fulfill certain requirements. When the lineage guardian does not meet the requirements, a judge guardian can be appointed. However, the reality in society as found in research shows that the people of Beno Harapan Village prioritize the legality of marriage according to religion first, then consider legal registration. This shows that there is a difference in priorities between socio-religious legitimacy and state administration.

When compared with previous studies, the findings of this study have an interesting intersection. For example, Zamani's study regarding the role of the *penghulu* as guardian of judges shows that in the absence of a guardian of the lineage, the *penghulu* takes over this role both orally and in writing. Even though in the case of Novi and Ari it was not official leaders but religious figures who acted, the emergency context behind this action was similar (Zamani 2020). Meanwhile, Sa'dan and Riana

highlighted the importance of the quality of the hadith sanad regarding the requirement of a guardian in marriage, which strengthens the legal legitimacy of the need for a guardian in the marriage contract. In the case of Novi and Ari, the fact that the female nasab guardian is non-Muslim is also a strong reason why the guardian must be replaced, in line with the provisions of classical jurisprudence which is based on authentic hadiths regarding the role of guardians (Sa'dan and Riana 2023).

In another context, Oktaviani and Sugitanata's research on the Sasak Sade community in Lombok shows that local religious figures were given guardianship authority not because of the absence of lineage guardians, but because of cultural factors (Oktaviani and Sugitanata 2019). Even though their backgrounds are different, the Sasak Sade community's approach to religious figures as the authorities in marriage contracts shows a pattern of social respect similar to that found in Batu Ampar. Fadli and Juliandi's research on the compromise of positive law and Shafi'i jurisprudence in the case of marriage guardians in Aceh also strengthens this finding, that in many cases, social emergency factors and administrative difficulties become rational considerations for finding practical solutions in implementing marriage contracts (Fadli and Juliandi 2021).

However, not all studies fully support this type of emergency guardianship practice. Yunus and Arlina in their study warned that manipulation in the judge's application for guardianship, for example by making fake letters, could be a strong reason for canceling the marriage (Yunus and Arlina 2017). In the context of this research, even if there is no manipulation of documents, the risk of non-compliance with state procedures remains. This is a critical note that administrative legality remains important to avoid legal complications in the future, for example in registering the birth of children or inheritance rights. A'isyah and Airin's research also shows that the use of muhakkam guardians among students in Malang is indeed religiously legal to protect themselves from adultery, but still leaves formal legality issues in the eyes of the state (A'isyah and Silvia Airin 2019).

From the point of view of *maslahah murlah*, research by Badri Manaf (2021) and Bakari & Darwis (2019) provides justification for the practice of guardianship of religious figures in emergency situations, as long as it fulfills the principle of *maslahah* and maintains harmony and the conditions for the validity of the marriage (Badri 2020; Bakari and Darwis 2019). In the case of Novi and Ari, choosing a guardian for a religious figure is considered more beneficial than allowing them to live without official ties, considering the economic limitations and legal access they face. Therefore, the findings of this research indicate that the principles of *maqashid sharia* and local socio-cultural considerations are important factors in the practice of marriage guardianship outside formal procedures.

Furthermore, the execution of the contract performed in the mosque, by paying attention to the presence of fair witnesses, the re-reading of the *shahadat*, the handing over of the dowry, and the *ijab qabul* performed in one assembly, further strengthens the validity of the contract from the point of view of *Sharia*. This is in line with the rule of *fiqhiyyah* that in an emergency, the legal procedure can be simplified as long as the basic principles are not neglected. As per the *rulesal-dharurat tubih al-mahzurat*"which means that emergency conditions can allow something that is prohibited, as long as it is within certain limits and still maintains the *maqashid* of the *sharia*.

Thus, these findings can be concluded that the implementation of Novi and Ari's marriage contract has in principle fulfilled the pillars and legal requirements for marriage according to the *Syafi'i* school of jurisprudence, although from the state

administrative aspect there are still shortcomings. Geographical constraints, economic limitations and social norms in local communities are factors that encourage holding contracts in emergency form. This shows that under certain conditions, flexibility in the implementation of Islamic law is necessary to maintain the benefit of individuals and society. However, it is important to continue to encourage the official registration process at a later date in order to fulfill national legal aspects and provide full legal protection to partners and their offspring.

3. Support the answers with the results.

The implementation of the wedding between Novi Sabalia and Ari Siswanto in Batu Ampar District, if viewed from perspective *maqashid shari'ah*, reflects maximum efforts in maintaining the basic principles of Islamic law. Starting from *hifzh al-din* (religious protection), the two of them decided to get married according to Sharia law after previously living without an official relationship, based on fear of sin and strong encouragement from society. The contract process begins with a repeat creed as a form of spiritual commitment, witnessed directly by religious leaders and mosque congregation. Apart from maintaining religion, this marriage also realizes *hifzh al-nafs* (protection of the soul), because after the contract, the couple feels psychological calm which was previously disturbed by social stigma and community pressure. Researchers' observations prove that local people are encouraging this marriage in order to maintain social harmony and environmental peace.

Aspect *hifzh al-'ird* (guardianship of honor) and *hifzh al-nasl* (offspring protection) also appears to be dominant in this practice. Local religious leaders consider that marrying the two religiously is an effort to save personal and family dignity. Observations show that after the wedding, the community's view of Novi and Ari changed to be more positive, showing that the community interpreted this marriage as an act of dignity. From an ancestral perspective, this marriage also guarantees the clarity of the lineage of the child who will be born, something that is highly valued in local community traditions. Even though it has not been registered in the state, this contract provides social and religious legitimacy to the status of children and their family structure, which is in line with the main goal of Islamic law in forming an orderly and moral society.

Element *hifzh al-mal* (property protection) is also starting to become visible, because couples are starting to realize the importance of family economic management based on sharia law. Apart from that, principles *maslahah 'amma* (public benefit) and *raf'ul haraj* (eliminating difficulties) is the main reason religious figures facilitate this marriage outside official channels. Taking into account the difficulty of access to religious courts and the high costs, the choice of using a religious figure as a guardian is considered rational and *syar'i*. In this practice, there is also visible effort *sadd al-dzari'ah* (prevention of damage), because marriage is considered a solution to prevent slander and immorality. Thus, Novi and Ari's marriage has substantially fulfilled all the elements *maqashid shari'ah* even though it is not yet state-administered. This strengthens the argument that in the context of a social emergency, the validity of the Shari'a does not merely lie in the formalization of the law, but in its success in fulfilling the true benefits of the people.

When viewed from the perspective of *maqashid syari'ah*, the implementation of the marriage between Novi Sabalia and Ari Siswanto in Batu Ampar District shows a real realization of the protection of the basic principles of Islamic law. In research data, it is known that this marriage was carried out to maintain religion (*hifzh al-din*), as confirmed by Novi who stated that she and her husband were afraid of continuing to

live in sin if they did not immediately marry legally according to Islam. Field observations confirmed these findings, showing that there was strong community support for the two to marry immediately to maintain the community's religious values. This is in accordance with the understanding of maqashid sharia which places the protection of religion as the main priority in every Islamic legal action (Az-Zuhaili 2001:32).

The aspect of protecting the soul (*hifzh al-nafs*) is also a strong foundation in the implementation of this marriage. Ari Siswanto said that after getting married, their lives became calmer, no longer overshadowed by social stigma or pressure from society. Based on observations, the social atmosphere in Beno Harapan Village shows discomfort towards couples who live together without formal ties. Thus, this marriage also functions as a protective mechanism for the safety of the soul, in accordance with the basic principles of maqashid syari'ah which prioritizes calm and safety of the human soul (Abdullah 2012: 85).

In addition, the implementation of this marriage contract also aims to maintain honor (*hifzh al-'ird*). In an interview, H. Suriani, the religious figure who married them, emphasized that one of the reasons was to avoid slander that could tarnish the good names of the bride and groom and their families. Observations in the field show changes in social acceptance of couples after marriage. This proves how the implementation of marriage fulfills the objectives of maqashid sharia in protecting personal and family honor from moral damage and social slander.

This marriage also plays an important role in maintaining offspring (*hifzh al-nasl*). Ari said that they want to ensure that their children's lineage status will be legal in the eyes of religion. This is reinforced by the observation that awareness of the importance of hereditary status is increasing in the Batu Ampar community. Through a valid marriage, maqashid sharia'ah in maintaining the continuity of religiously and socially legitimate bloodlines can be realized, in line with the provisions in marriage jurisprudence according to the Syafi'i school (Asy-Syarbini 1997:45).

In terms of property protection (*hifzh al-mal*), although currently the couple does not have many assets, they already have the awareness to prepare the legal basis for economic rights. In a developing society like Batu Ampar, the legality of husband and wife relations has an important impact on the regulation of inheritance and economic rights. This proves that even though this aspect has not yet been fully manifested, the orientation towards *hifzh al-mal* is already present in the couple's intentions and plans, in line with the principles of maqashid sharia.

The principle of public benefit (*maslahah 'amma*) is also clearly visible in the actions of religious figures in marrying them off. In an interview, H. Suriani emphasized that this step was also taken to maintain social peace, avoid slander, and prevent riots in society. Observations confirmed that communities became more peaceful after couples were married. This confirms that maqashid shari'ah is not only about individual benefits, but also broad social benefits (Al-Mawardi 1996:210).

In an emergency perspective (*dharuriyah*), the use of guardians from religious figures in difficult conditions, where the nasab guardian does not meet the requirements and the judge's guardian is difficult to access due to cost and distance, becomes a valid option. Fajeri from KUA said that in an emergency, the Shari'a provides leeway to safeguard the main benefit. This is in line with the fiqh principle "*al-dharurat tubih al-mahzurat*" (emergency conditions allow things that are prohibited) which is often used as a legal basis in similar situations.

Linking it to previous research, the results of this research are in line with Zamani's (2020) findings that under certain conditions, the delegation of guardian rights through religious figures can be carried out to maintain benefits (Zamani 2020). Meanwhile, research by Sa'dan and Riana (2023) which examines hadiths about guardians, reinforces the importance of maintaining the legal conditions for guardians in marriage, as was done in this case (Sa'dan and Riana 2023). Oktaviani and Sugitanata's (2019) study which highlights the practice of *taukil wali* in traditional communities also supports that social norms often play a role in determining the solution in cases of emergency marriage (Oktaviani and Sugitanata 2019). Meanwhile, research by Yunus and Arlina (2017) which rejects the practice of invalid guardians in cases of fake letters actually emphasizes that the validity of guardians must be obtained in an honest and sharia-compliant manner, as was done in Novi and Ari's marriage (Yunus and Arlina 2017).

This research is also relevant to the results of A'isyah and Airin (2019) which show that the use of *muhakkam* guardians in emergency conditions is acceptable as long as the aim is to protect religion and avoid sin (A'isyah and Silvia Airin 2019). Likewise, studies by Burhanuddin and Yunarti (2021) and Bakari and Darwis (2019) emphasize the importance of a contextual approach to protecting *maqashid sharia* values in guardianship practices (Bakari and Darwis 2019; Burhanuddin and Yunarti 2021). Therefore, the findings of this research prove that the implementation of Novi and Ari's marriage, although not perfect in terms of state administration, has fulfilled the substance of *maqashid syari'ah* in protecting religion, life, honor, lineage and the general benefit of society.

Based on the description of the discussion, it can be concluded that the implementation of the marriage between Novi Sabalia and Ari Siswanto in Batu Ampar District, when viewed from the *maqashid syari'ah* perspective, has fulfilled the basic principles of Islamic *syariah*. Efforts to maintain religion (*hifzh al-din*), soul (*hifzh al-nafs*), honor (*hifzh al-'ird*), descendants (*hifzh al-nasl*), as well as creating general benefits for society have been realized through the marriage contract. Even though the state administration route has not been fully implemented, the substance of sharia, namely the protection of basic human needs, has been realized. Apart from that, the emergency principle (*dharuriyah*) is also applied proportionally considering limited access to formal institutions, so that the use of religious figure guardians as an alternative remains within the *maqashid sharia* corridor.

The findings of this research are also strengthened by previous research which shows that in emergency situations, a contextual approach to guardianship practices can be justified in order to maintain the main values of Islamic law (Zamani, 2020; A'isyah & Airin, 2019; Burhanuddin & Yunarti, 2021). Meanwhile, studies such as Yunus and Arlina (2017) remain an important reminder that the use of guardians must remain within the corridors of honesty and valid Sharia requirements. Thus, these findings justify that Novi and Ari's marriage contract practice, although simple and locally based, is still in line with *maqashid syari'ah* which aims to realize individual and social benefits in a balanced manner.

CONCLUSION

This research shows that the practice of marrying female converts to Islam with guardians from among religious figures in Batu Ampar District is not just a procedural violation, but rather a social response to the structural limitations faced by society. In the context of the absence of religious guardians, social pressure, and limited access to

formal legal channels, society views religious figures as the most appropriate and trusted figures to carry out the role of guardian. This decision, although not in accordance with state administrative standards, is still based on the desire to maintain moral values and family honor. This finding is relevant because it illustrates how Islamic law is not only understood textually, but also contextually within the framework of maqashid sharia which emphasizes the protection of religion, life, honor, lineage and property. This research strengthens the argument that in certain situations, solutions based on local wisdom and religious authority can be in line with the main principles of sharia, even though procedurally they do not meet state regulations. Therefore, these findings are important for policy makers, academics and practitioners of Islamic law to consider legal flexibility that still guarantees the benefit of the people amidst existing systemic limitations.

REFERENCES

- A'isyah, Siti, and Silvia Airin. 2019. "MARRIAGE WITH THE WALI MUHAKKAM FROM THE MAQASHID AL-SYARIAH PERSPECTIVE." *INTAJ Scientific Research Journal* 2(02):84-114. doi: 10.35897/intaj.v2i02.153.
- Abdullah, M.A. 2012. *Islam as Science: Epistemology, Methodology, and Ethics*. Yogyakarta: Student Library.
- Al-Mawardi. 1996. *Al-Hawi al-Kabir fi Fiqh al-Syafi'i*. Beirut: Dar al-Kutub al-'Ilmiyyah.
- Al-Nawawi. 2005. *Raudhah al-Thalibin wa 'Umdah al-Muftin*. Beirut: Dar al-Fikr.
- Asy-Syarbini, K. M. 1997. *Mughni al-Muhtaj ila Ma'rifah Ma'ani Alfaz al-Minhaj*. Beirut: Dar al-Fikr.
- Az-Zuhaili, W. 2001. *Al-Fiqh al-Islami wa Adillatuhu (Vol. 7)*. Damascus: Dar al-Fikr.
- Badri, Mohammad Manaf. 2020. "The position of Kiai as muhakkam guardians in marriage from a maslahah murlah perspective and a compilation of Islamic law: Case study in Jung Torok Degeh Village, Ambunten District, Sumenep Regency."
- Bakari, Makbul, and Rizal Darwis. 2019. "Judicial Analysis of Marriages of Women Converting to Islam with Religious Figures' Marriage Guardians." *Al-Mizan* 15(1):1-32. two: 10.30603/am.v15i1.835.
- Burhanuddin, Burhanuddin, and Sri Yunarti. 2021. "ANALYSIS OF THE JUDGE'S RULING REGARDING ITS BAT NIKAH CASE NUMBER 2/Pdt.P/2019 IN THE SAWAHLUNTO RELIGIOUS COURT FROM THE PERSPECTIVE OF MUNAKAHAT FIKIH." *JISRAH: Journal of Sharia Science Integration* 2(1):141. two: 10.31958/jisrah.v2i1.3217.
- Fadli, Fadli, and Budi Juliandi. 2021. "Negotiations between Positive Law and Islamic Law: Determination of Marriage Guardians at the Idi Rayeuk Religious Affairs Office, Aceh, Indonesia." *JIL: Journal of Islamic Law* 2(2):268-83. two: 10.24260/jil.v2i2.329.
- Hasanuddin. 2018. "Principles And Conditions In Marriage Worship According To The Four Schools Of Fiqh." *Pulpit Academica Journal* 2(2):115-27.
- Ministry of Religion. 2015. "A collection of laws and regulations regarding marriage (Edition II)." *Directorate General of Islamic Community Guidance, Directorate of Islamic Religious Affairs and Sharia Development*.
- KHI. 1991. "Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law."

- Lincoln, Y. S., and E. G. Guba. 1985. *Naturalistic Inquiry*. London: Sage Publications.
- Miles, Matthew B., A. Michael Huberman, and Johnny Saldaña. 2014. *Qualitative Data Analysis, A Methods Sourcebook*. 3th ed. California: SAGE Publications, Inc.
- Oktaviani, and Arif Sugitanata. 2019. "GRANTING THE RIGHTS OF MARRIAGE GUARDIANS TO KYAI: Practices of Taukil Marriage Guardians of the Sasak Sade Traditional Community." *Al-Ahwal* 12(2):161-72. doi: 10.14421/ahwal.2019.12204.
- Sa'dan, Saifuddin, and Ardelia Vidya Riana. 2023. "THE QUALITY OF THE CHAIN (SANAD) OF HADITH CONCERNING THE LEGAL GUARDIAN (WALI) OF THE NIKAH." *PETITA: JOURNAL OF LEGAL AND SHARIAH SCIENCES* 8(2):255-74. doi: 10.22373/petita.v8i2.175.
- Yunus, Fakhurrazi M., and Dewi Arlina. 2017. "Cancellation of marriage due to marriage without the guardian's permission (Study of the Sigli Syar'iyah Court decision number 246/Pdt.G/2012/MS-Sgi)." *Samarah* 1(1):101-28. doi: 10.22373/sjhc.v1i1.1572.
- Zamani, Saif 'Adli. 2020. "PENGHUL AS GUARDIAN IN THE MARRIAGE CONTRACT (Study of the Penghulu of Religious Affairs Offices in the Yogyakarta City Area)." *Al-Ahwal: Journal of Islamic Family Law* 12(2):173-83. doi: 10.14421/ahwal.2019.12205.

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