

USTADZ AS MARRIAGE GUARDIAN FOR A MUSLIM CONVERT BRIDE

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Abstract

One of the legal requirements for marriage in Islam is the presence of a guardian for the bride, including for a bride who is a convert. One of the conditions for someone to act as a guardian in a Muslim marriage is that they must be a Muslim. If the bride's guardian by lineage does not meet the requirements to be a marriage guardian due to being a non-Muslim, the authority to officiate the marriage is transferred to the Authoritative guardian. This research is a normative legal study using a statutory approach, examining the role of an *ustadz* as the Authoritative guardian for a converted bride. The results of the research show that the appointment of *Ustadz* Yahya M.Y. as the Authoritative guardian for Mahalini did not comply with the procedures and regulations in force in Indonesia. The person who should have acted as the Authoritative guardian in the marriage of Mahalini and Rizky is the Head of the District Religious Affairs Office, who is appointed by the Minister of Religious Affairs to act as the guardian for a bride who has no lawful guardian or whose guardian does not meet the legal requirements. An invalid guardian causes marriage to be invalid as well. However, regarding the status of the child conceived by Mahalini at the time of the remarriage, based on Article 42 of the Marriage Law in conjunction with Article 99 point (a) of the Compilation of Islamic Law, the child is considered legitimate, as a child born from a valid marriage is recognized as a legitimate child and entitled to legal rights under the law.

Keywords: marriage guardian; marriage registration; muslim convert bride

INTRODUCTION

Marriage is a bond formed through a ceremony, involving two individuals with the aim of building a family, regulating rights and obligations, and strengthening emotional and social relationships within society. In Surah Ar-Rum (30:21), Allah states that spouses are created so that humans may find tranquility and affection between them. Moreover, marriage also functions as a legal institution that encompasses various legal aspects, such as child custody, spousal maintenance, child support, and the division of marital property (Mulyo, 2015).

The Marriage Law, specifically Law No. 1 of 1974 on Marriage, regulates the legal validity of a marriage. Article 2 paragraph (1) states that: "A marriage is legally valid if conducted in accordance with the laws of the respective religion and belief of the parties involved." This provision emphasizes that a marriage must comply with the religious or customary laws of the parties, such as the marriage contract in Islam or specific rituals in other religions. Furthermore, Article 2 paragraph (2) states that: "Every marriage must be registered in accordance with the prevailing laws and regulations." Based on this provision, in addition to being religiously valid, a marriage must also be officially registered in accordance with Indonesian law. Thus, a marriage is considered legally valid if it meets both religious requirements and is officially recorded by the state.

One of the requirements for a valid marriage in Islam is the presence of a guardian (*wali*) for the bride. According to the *madhhab* Imam Malik and Imam Shafi'i, the guardian is one of the pillars of marriage (*rukn al-nikah*). Thus, a marriage is not considered valid without a *wali* who formally marries the bride to the groom (Fitri & Miftahuddin, 2023). In Islamic marriage, there are two types of guardians: guardian by lineage (*wali nasab*) and authoritative guardian (*wali hakim*). The guardian by lineage comes from a specific bloodline, with the priority order starting from the biological father, then moving to other male relatives in accordance with Islamic legal provisions (Muttaqin & Fadhilah, 2020). If the guardian by lineage is unable to fulfill his role due to absence, failure to meet legal requirements, or refusal to officiate the marriage without a valid reason (*adhal*), the authority to act as a guardian may be transferred to the authoritative guardian. The transfer of authority from guardian by lineage to authoritative guardian occurs in various circumstances, such as the absence of a guardian by lineage, the inability of the guardian by lineage to perform his duties, Other legally recognized reasons (Ahmad Zainuddin Al-Malibari, n.d.).

A marriage that complies with all legal provisions in Indonesia is considered valid and legally recognized. Every marriage must be registered with an official institution, namely the Office of Religious Affairs (Kantor Urusan Agama) for Muslims or the Civil Registry Office for non-Muslims. A marriage that is not registered and not officiated by an authorized marriage registrar is referred to as marriage *siri*, which is a marriage that lacks legal standing under Indonesian law (Irfan Islami, 2019). A marriage *siri* that has not been registered with government institutions may submit a request for *itsbat* marriage, allowing the marriage to be legally acknowledged (Ilma, 2024).

Itsbat marriage is the legalization process conducted by the Religious Court, aimed at resolving issues related to the validity of an unregistered marriage. However, a request for *itsbat* marriage can be denied if it fails to meet the legal requirements established by Islamic law and Indonesian regulations. According to Islamic law, the essential requirements for a valid marriage include a groom and a bride as the parties entering the marriage, a guardian (*wali*) for the bride, two male witnesses, the marriage contract (*akad nikah*) (Hardiyanto Putra Limonu, 2024).

Marriages that meet *all* the provisions in the prevailing laws and regulations in Indonesia are considered valid and legally recognized. Every marriage must be registered at an official institution, namely the Religious Affairs Office for Muslims or the civil registration agency for non-Muslims. A marriage that is not registered and not supervised by a marriage registration officer is called *siri* marriage, which is a marriage that does not have legal force according to the applicable regulations (Idris *et al.*, 2023).

Siri marriages that are not registered by the government marriage agency can apply for *itsbat* nikah so that the marriage can be recognized. *Itsbat* of marriage (legalization marriage by court) is the process of validating a marriage by a religious court which aims to resolve the issue of the validity of a marriage that has taken place. However, the application for *itsbat* of marriage can be rejected if it does not meet the requirements set by Islamic law and Indonesian regulations. According to Islamic law, the conditions for the validity of marriage include, among others, the parties who will carry out the marriage are the prospective bride and groom, the guardian of the prospective bride, two witnesses, the marriage contract (Rahma & Iskandar, 2024).

On May 10, 2024, Indonesian singer Ni Luh Ketut Mahalini Ayu Raharja (Mahalini) married Rizky Febian Adriansyah Sutisna (Rizky). In the marriage, Mahalini, who has converted to Islam, was married by Ustadz Yahya M.Y. as a marriage guardian, because her legal guardian is a non-Muslim. It should be noted that a person acting as a guardian in a Muslim marriage must fulfill several conditions, namely

being Muslim, independent, of sound mind, and having reached the age of puberty. After the *siri* marriage took place, the couple applied for *itsbat* of marriage to the South Jakarta Religious Court with Number: 821/PDT.P/2024 so that their marriage would receive legally validated (CNN Indonesia).

The South Jakarta Religious Court decided to reject the application for *itsbat* of marriage. The panel of judges believed that the marriage did not fulfill one of the pillars of a valid marriage regarding the appointment of Ustadz Yahya M.Y. as the marriage guardian. According to Article 3 paragraph (1) of the Regulation of the Minister of Religious Affairs Number 30 of 2005 on the authoritative Guardian, the appointment and position of the authoritative guardian are explained, stating that the Head of the Office of Religious Affairs (KUA) in the relevant sub-district is appointed as the guardian judge to officiate the marriage of the bride.

The existence of this decision makes the marriage that was held cannot be recognized by the state. Finally, the way taken by the couple is to remarry which was held on December 27, 2024, so that marriage can be recognized as valid by religion and the state. However, by the time the remarriage took place, Mahalini was already pregnant. This case shows that even though the marriage guardian is a ustadz, it does not necessarily make the marriage valid and recognized by the state (Kapanlagi.com).

This study aims to examine and analyze the validity of the appointment of Ustadz Yahya M.Y. as the authoritative guardian for Mahalini, a convert bride who has no Muslim guardian by liniage, from the perspective of applicable Indonesian law, as well as to assess the legal status of the child she was carrying at the time the remarriage was conducted.

RESEARCH METHOD

This research uses normative legal research methods with a statutory approach. Normative legal research was chosen because the focus of this research is to analyze the *ustadz* as the marriage guardian of a mualaf bride based on the applicable legal provisions in Indonesia. The intended laws and regulations used in this research are:

1. Law Number 1 of 1974 on Marriage
2. Compilation of Islamic Law
3. Minister of Religious Affairs Regulation No. 30 of 2005 on Authoritative Guardians
4. Minister of Religious Affairs Regulation Number 19 of 2018 on Marriage Registration

RESULT AND DISCUSSION

1. Provisions for Marriage Guardians and *Itsbat* of Marriage in Indonesia

a. Marriage Guardians

Etymologically, guardian means protector, helper, or ruler. Guardian has many meanings, including:

- 1) A person who by law (religious or customary) is entrusted with the care of orphans and their property before the child comes of age.
- 2) The bride's caregiver at the time of marriage (i.e. the one who performed the marriage vows with the groom)
- 3) A pious (holy) person spreading religion
- 4) The head of the government; etc.

What is meant by guardian in terms of marriage is in accordance with point b, namely the guardian as the caregiver of the bride or can be called a marriage guardian. A marriage guardian is a person who marries off a woman to a man. This situation is because the marriage guardian in Islamic marriage law is a pillar that must be fulfilled by the prospective bride, as the party who must marry the woman (Alhabsyi *et al.*, 2023). The person who can act as a marriage guardian is a man who meets the requirements of Islamic law, namely, Muslim, *aqil* and *baligh* (a term in Islam that links puberty with one's duty to God). The marriage guardian, apart from being a pillar of marriage, is also a valid condition for a woman's marriage, without a guardian the marriage is invalid. Therefore, when a woman wants to get married, a guardian should not prevent or obstruct her, because considering how important the guardian is in marriage (Romli, 2024).

According to the Shafi'i *madhhab*, a woman who wants to get married must have a guardian, and the guardian in this *madhhab* has a position as one of the pillars that must be fulfilled in marriage. The Shafi'i *madhhab* considers void a marriage contract in which the *ijab* is pronounced by a woman, whether she is a virgin or a widow, whether she is compatible or not, with the permission of her guardian or not, directly for herself or on behalf of someone else Rosmita *et al.*, 2022). There are two types of guardians in Islam, namely the guardian by liniage and the authoritative guardian.

1) *Wali Nasab* (guardian by liniage)

Article 1 point 1 according to the Regulation of the Minister of Religious Affairs No. 30 of 2005 concerning Authoritative Guardian provides an understanding of what is meant by Guardian by liniage is a Muslim man who has a blood relationship with the prospective bride from the father's side according to Islamic law. A guardian by liniage is a guardian appointed based on a specific order of precedence. The hierarchy of guardianship is as follows: father, paternal grandfather, full brother (brother from the same father and mother), half-brother (brother from the same father), son of a full brother, son of a half-brother, paternal uncle, and son of a paternal uncle (Zahara & Sukiaty, 2024).

The guardian by liniage consists of four groups ranked in order of precedence, with one group taking priority over another based on the closeness of their kinship to the prospective bride. First, the direct male lineage, which includes the father, paternal grandfather, and so on. Second, the male sibling's group, which consists of full brothers (brothers from the same father and mother), half-brothers (brothers from the same father), and their male descendants. Third, the paternal uncle group, which includes the father's full brothers, half-brothers (brothers from the same father), and their male descendants. Fourth, the grandfather's male siblings group, which consists of the grandfather's full brothers, half-brothers (brothers from the same father), and their male descendants (Faizah, 2024). Meanwhile, the detailed order of guardianship in the Shafi'i school of thought is as follows:

- a) Biological father
- b) Paternal grandfather (from the father's lineage and further up in the male line)
- c) Full brother (brother from the same father and mother)
- d) Half-brother (brother from the same father)
- e) Son of a full brother
- f) Son of a half-brother
- g) Full paternal uncle (father's full brother)
- h) Half-paternal uncle (father's half-brother from the same father)
- i) Son of a full paternal uncle
- j) Son of a half-paternal uncle and other heirs from the kinship lineage

If multiple individuals within the same group of marriage guardians have equal rights to act as guardians, priority is given to the one with the closest degree of kinship to the prospective bride (Fadhil Mubarak & Januddin, 2022). If their kinship degree is identical, preference is given to a guardian from the father's biological relatives. Among them, the eldest and most qualified individual is prioritized. According to Article 22 of the Compilation of Islamic Law, if the most eligible guardian in the hierarchy does not meet the necessary requirements whether due to legal incapacity, speech or hearing impairment, or advanced age then the guardianship right is transferred to the next eligible guardian in the succession order (Asman, 2024).

2) *Wali Hakim* (Authoritative Guardian)

According to Wirjono Prodjodikoro, an Authoritative Guardian is a legal institution in which the court appoints a judge to act as a guardian under specific circumstances, particularly when there is no eligible guardian or when the existing guardian does not meet the requirements. An Authoritative Guardian is responsible for protecting the rights and interests of individuals who are unable to manage their own affairs. Article 1, point 2 of Minister of Religious Affairs Regulation No. 30 of 2005 on Authoritative Guardian states that an Authoritative Guardian is the Head of the Subdistrict Religious Affairs Office appointed by the Minister of Religious Affairs to act as a marriage guardian for a prospective bride who does not have a guardian (Rosida *et al.*, 2024).

An Authoritative Guardian can only act as a marriage guardian if there is no guardian by liniage, if the guardian by liniage cannot be present, if their whereabouts are unknown, if they are absent (*ghaib*), unjust (*'adhl*), or unwilling to perform their duty. In Islamic law, the appointment of an Authoritative Guardian ensures that a planned marriage between a prospective bride and groom can still take place when the bride no longer has a guardian by liniage. Since marriage is a necessity and a natural occurrence, and the woman wishes to marry a suitable man who is capable of paying the mahr, the Authoritative Guardian is authorized to act as the marriage guardian in cases where the guardian by liniage is absent or refuses to conduct the marriage (Rahimian *et al.*, 2024).

Article 2, Paragraph (1) states that if a prospective bride, whether marrying within Indonesia or abroad/in an extraterritorial Indonesian jurisdiction, does not have an eligible guardian by liniage, or if her guardian by liniage does not meet the requirements, is *mafqud* (missing), unable to perform his duties, or is *'adhl* (unjustly refusing to act as a guardian), then the marriage may be conducted with a Authoritative Guardian. Article 12, paragraph (3) of the Minister of Religious Affairs Regulation No. 19 of 2018 on Marriage Registration stipulates that a Authoritative Guardian may

act as a guardian if there is no guardian by liniage, if the guardian is unjust, if the guardian's whereabouts are unknown, if the guardian cannot be present because he is in detention, or if none of the guardian by liniage are Muslim (Rifqi, 2024).

When an individual intends to marry an Authoritative Guardian, they must submit a Authoritative Guardian request, and the other procedures remain the same as those for a marriage without an Authoritative Guardian. The only difference lies in the guardian; in the case of an Authoritative Guardian, a formal request letter or a statement confirming the absence of a guardian by liniage or the inability of the guardian by liniage to be present is required. Article 3 outlines the appointment and position of the Authoritative Guardian. The Head of the Subdistrict Religious Affairs Office within the respective district is appointed as the Authoritative Guardian to officiate the marriage of the bride (Baroque, 2025).

If the Head of the Subdistrict Religious Affairs Office is unavailable or absent, the Head of the Islamic Religious Affairs Division, on behalf of the Head of the Regional Office of the Ministry of Religious Affairs at the district/city level, is authorized to appoint one of the marriage registrars from the same or nearest subdistrict as a temporary Authoritative Guardian within the area. For remote or hard-to-reach areas with limited transportation access, the Head of the Islamic Religious Affairs Division, on behalf of the Head of the Regional Office of the Ministry of Religious Affairs, may appoint assistant marriage registrars from the respective subdistrict to temporarily act as an *Authoritative Guardian* within the jurisdiction (Syafida *et al.*, 2024).

A marriage between a Muslim man and a Muslim woman must be officially recorded in a marriage certificate by the Head of the Subdistrict Religious Affairs Office. The marriage registration process follows these steps (Awan *et al.*, 2024):

- a) Registration of marriage intention
- b) Announcement of marriage intention
- c) Implementation of marriage registration
- d) Issuance of the marriage registration book

b. *Itsbat* of Marriage (Legalization of Marriage by Court)

The term "*itsbat*" originates from Arabic, meaning determination or proof. Provisions regarding *isbat* of marriage are regulated in Article 7 of the Compilation of Islamic Law. *Itsbat* of marriage refers to a method or procedure for validating the legality of a marriage that has not been officially recorded at the local Religious Affairs Office, in accordance with applicable marriage laws, through court proceedings. The primary purpose of *itsbat* of marriage is to obtain legal certainty regarding a person's marital status, such as in the case of *siri* marriage. *Siri* marriage refers to a marriage contract that is religiously valid by fulfilling the material requirements of marriage but does not comply with formal legal requirements, meaning it is not recorded and does not receive an official marriage certificate because it was conducted outside the supervision of a Marriage Registrar Officer (Arifuddin, 2024).

A *siri* marriage requires an *itsbat* of marriage process to ensure the protection of the marital rights of both married couples. This process results in a marriage certificate, which serves as an authentic legal document proving that the marriage has indeed taken place. Having a marriage certificate facilitates the protection of a married couple's rights in the event of divorce and simplifies the process of obtaining a child's birth certificate (Billah, 2024).

Itsbat of marriage can be submitted to the Religious Court under limited circumstances, including (Hamdani *et al.*, 2025):

1. Marriage validation for the purpose of divorce proceedings;
2. Loss of the marriage certificate;
3. Doubt regarding the validity of one of the marriages requirements;
4. Marriages that took place before the enactment of the Marriage Law;
5. Marriages conducted by individuals who had no legal impediments according to the Marriage Law.

The parties eligible to submit an *itsbat* of marriage request include: the husband or wife, their children, the marriage guardian, and any other party with a legal interest in the marriage.

Referring to Article 7 paragraph (3e) of the Compilation of Islamic Law, which applies generally to all *siri* marriages, an *itsbat* of marriage request may be granted if it can be proven in court that the marriage was conducted legally, it fulfilled all requirements and essential pillars of marriage, there were no legal or religious prohibitions violated. If these conditions are met, the judge has a legal basis to approve the *itsbat* of marriage request. Conversely, if the marriage cannot be proven to have been conducted legally, fails to meet the necessary requirements, or violates any legal or religious prohibitions, then the *itsbat* of marriage request will be denied (Siswomiharjo *et al.*, 2023).

2. Analysis of Ustadz as a Marriage Guardian for a Muslim Convert Bride

Article 2 paragraph 1 of the Marriage Law stipulates that a marriage is considered valid if it is conducted in accordance with the laws of the respective religion and belief. A marriage is declared valid when it fulfills the essential and formal requirements of marriage. The essential and formal requirements referred to are:

- a. The prospective bride and groom must be of sufficient age to marry, which is 19 years old for both men and women, and the marriage must be conducted based on the mutual consent of both parties.
- b. The marriage guardian must be a male who meets the requirements of Islamic law, namely being a Muslim, of sound mind (*aqil*), and having reached puberty (*baligh*).
- c. The marriage witnesses must consist of two witnesses. Those eligible to be witnesses are Muslim men who are of sound mind, have reached puberty, are not mentally impaired, and are not hearing impaired.
- d. The marriage contract must include a clear and continuous offer and acceptance between the guardian and the prospective groom, without any time lapse (Nugraheni, 2019).

In the context of Mahalini and Rizky's marriage, Rizky is a Muslim, and Mahalini has also converted to Islam. Therefore, the marriage must be conducted in accordance with Islamic religious procedures and Sharia law, fulfilling the essential and formal requirements of marriage as mentioned above to be considered valid.

Article 2 of Minister of Religious Affairs Regulation Number 19 of 2018 on Marriage Registration stipulates that a marriage between a Muslim man and a Muslim woman must be registered in a marriage certificate by the Head of the Sub-District Office of Religious Affairs. The marriage registration process consists of several stages, starting with the registration of the marriage intention, the announcement of the marriage intention, the execution of marriage registration, and the issuance of the marriage registration book. The registration of the marriage intention must be completed no later than 10 (ten) working days before the marriage takes place. If the registration is done in less than 10 (ten) working days, the prospective bride and groom must obtain a dispensation letter from the sub-district head where the marriage contract is conducted (Wardhana *et al.*, 2023).

According to the statement from Markus Hadi Tanoto, Rizky's legal representative, Mahalini converted to Islam on May 8, 2024, and married Rizky on May 10, 2024. It can be observed that the time gap between Mahalini's conversion to Islam and the marriage ceremony was only two days. However, referring to the marriage registration provisions mentioned above, the registration of the marriage intention must be completed no later than ten working days before the marriage takes place. In the author's opinion, this is the reason why the marriage conducted on May 10, 2024, was not officially recorded.

The non-registration of a legally conducted marriage can lead to negative legal consequences for both the wife and any children born from the marriage. Some of these consequences include the wife being unable to file for divorce or claim rights over joint property, the wife not being entitled to inheritance if the husband passes away, and the child's legal status being unclear due to the absence of a birth certificate. This lack of legal recognition can create difficulties for the child in administrative matters such as education, healthcare, achievements, and career development. Additionally, the child may be unable to inherit from the father, as they would only have a legal relationship with the mother, among other complications (Davidson, 2011).

Therefore, the couple submitted an *itsbat* of marriage request to the South Jakarta Religious Court under Case Number: 821/PDT.P/2024 to have their marriage officially registered at the Office of Religious Affairs. However, the South Jakarta Religious Court ruled to reject the *itsbat* of marriage request. The panel of judges opined that the marriage did not fulfill one of the essential requirements concerning the appointment of Ustadz Yahya M.Y. as Mahalini's marriage guardian.

Mahalini, as a Muslim convert, comes from a non-Muslim family background. According to Article 20 of the Compilation of Islamic Law, one of the requirements for being a marriage guardian in a Muslim marriage is that the guardian must be a Muslim (Rosyid, 2024). Therefore, Mahalini's guardian by lineage does not meet the eligibility requirements to act as her marriage guardian. If the guardian by lineage does not meet these requirements, the authority to officiate the marriage is transferred to an Authoritative Guardian (court-appointed guardian). This is affirmed in Article 23 of the Compilation of Islamic Law, which states that an Authoritative Guardian has the authority to conduct the marriage if the guardian by lineage is absent, does not meet the requirements, or his whereabouts are unknown. In this context, the appointment of an Authoritative Guardian must go through an official legal process (Rosidi, 2024).

The procedure for appointing an Authoritative Guardian can be carried out through the Office of Religious Affairs by submitting supporting documents, such as a statement from the guardian by lineage

confirming that he is non-Muslim and a formal request for the appointment of an Authoritative Guardian. These documents are typically included in the marriage registration file submitted by the prospective bride and groom to the Office of Religious Affairs. As regulated in Article 7 paragraph (3) of the Compilation of Islamic Law, *itsbat* marriage can be submitted to the Religious Court if there is doubt regarding the validity of one of the marriage requirements (Mursalah *et al.*, 2024). The issue in Mahalini and Rizky's marriage arose when it was discovered that the appointed marriage guardian was an *ustadz*.

Referring to Article 1 point 2 of the Minister of Religious Affairs Regulation Number 30 of 2005 on Court-Appointed Guardians (Authoritative Guardian), an Authoritative Guardian is the Head of the Sub-District Office of Religious Affairs appointed by the Minister of Religious Affairs to act as a marriage guardian for a prospective bride who does not have a guardian (Zahara & Sukiati, 2024). The appointment of Ustadz Yahya M.Y. as Mahalini's marriage guardian, who is not the Head of the Sub-District Office of Religious Affairs appointed by the Minister of Religious Affairs, does not comply with the legal definition of an Authoritative Guardian under this regulation.

Article 3 of Minister of Religious Affairs Regulation Number 30 of 2005 on Court-Appointed Guardians (Authoritative Guardian) If the Head of the Sub-District Office of Religious Affairs is unable to attend or is unavailable at the time of Mahalini and Rizky's marriage, the head of the division responsible for Islamic Religious Affairs, on behalf of the Head of the District/City Office of the Ministry of Religious Affairs, is authorized to appoint one of the Islamic marriage registrars in the respective or nearest sub-district as a temporary Authoritative Guardian within their jurisdiction, on behalf of the Minister of Religious Affairs (Nurlaelawati & Salim, 2014).

For remote areas or regions that are difficult to access by transportation, the head of the division responsible for Islamic Religious Affairs, on behalf of the Head of the Ministry of Religious Affairs Office, appoints an assistant Islamic marriage registrar in the respective sub-district as a temporary Authoritative Guardian within their jurisdiction. The aforementioned procedures were not followed by this married couple, leading to the marriage guardian appointment being deemed invalid. An unqualified marriage guardian results in an invalid marriage. In the author's opinion, the decision of the South Jakarta Religious Court to reject the *itsbat* marriage request for the legalization of Mahalini and Rizky's marriage was appropriate.

The solution taken by Mahalini and Rizky was to hold a remarriage on December 27, 2024. It was later discovered that Mahalini was seven months pregnant as of January 7, 2025. Their previous marriage was conducted *siri* (unregistered), and their *itsbat* marriage request for the legalization of the *siri* marriage had been rejected. Meanwhile, at the time of the remarriage, Mahalini was already pregnant. What is the legal status of the child Mahalini was carrying when the remarriage took place?

Based on Article 42 of the Marriage Law in conjunction with Article 99 point (a) of the Compilation of Islamic Law, a legitimate child is a child born within a lawful marriage or as a result of a lawful marriage. Referring to this provision, the status of the child Mahalini was carrying at the time of the remarriage is considered legitimate under both the Marriage Law and the Compilation of Islamic Law. This is because a child born from a lawful marriage is deemed legitimate and is granted legal rights by the state. The child is not classified as one born outside of marriage, as defined in Article 100 and Article 186 Compilation of Islamic Law, which state that a child born outside of marriage only has a lineage relationship and inheritance rights with the mother and the mother's family. A child born from a lawful marriage has reciprocal inheritance rights with both the mother and her family, as well as the father and his family (Julianto *et al.*, 2024).

CONCLUSION

In the context of the marriage between Mahalini and Rizky, Rizky is a Muslim and Mahalini had also converted to Islam, thus the marriage must be conducted in accordance with Islamic religious procedures and Sharia law. One of the essential requirements for a valid marriage in Islam is the presence of a guardian for the bride. Article 20 of the Compilation of Islamic Law states that one of the conditions for someone to serve as a guardian in a Muslim marriage is that they must be a Muslim. However, Mahalini's guardian by liniage do not meet this requirement, as they are non-Muslims. If the guardian by liniage does not meet this condition, the authority to officiate the marriage is transferred to the Authoritative guardian.

The Authoritative guardian is the Head of the Sub-District Office of Religious Affairs, appointed by the Minister of Religious Affairs to act as the guardian for a bride who has no qualified guardian. The appointment of Ustadz Yahya M.Y. as the Authoritative guardian guardian in the marriage of Mahalini and Rizky does not comply with this regulation. A marriage officiated by a guardian who does not meet the legal requirements is considered invalid. Nevertheless, the legal status of the child conceived by Mahalini at the time of the remarriage is considered legitimate under the Marriage Law and the

Compilation of Islamic Law, as a child born from a valid marriage is deemed legitimate and entitled to legal rights under the law.

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