

Legitimacy of *Wali Hakim* in Leadership Succession: Integrating Administrative Law and Wahbah al-Zuhaylī's Fiqh

Hamzan Wadi^{1*}, Shofiatul Jannah², Dzulfikar Rodafi³

^{1,2,3} Universitas Islam Malang, Malang, Indonesia

¹hamzanwadi589@gmail.com, ²shofia@unisma.ac.id, ³dzulfikar.rodafi@unisma.ac.id

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*) Corresponding Author
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Abstract

This study examines the legitimacy of the *Wali Hakim* (marriage guardian) during leadership successions at the Office of Religious Affairs (KUA) in Bululawang, Malang. It explores how administrative authority and Islamic legal representation (*niyabah*) can be synchronized to ensure legal certainty and religious reassurance for couples. Employing an empirical legal research method with a case study approach, the study collects data through in-depth interviews, field observations, and legal document reviews. The analysis integrates Indonesian administrative law with a reconstruction of transition office practices. Findings reveal that legal risks concentrate in the temporal gap between a decree's effective date, its physical reception, and the formal handover. Crucially, the research identifies that operational legitimacy for signing marriage registers and acting as *Wali Hakim* rests on the *Berita Acara Sertijab* (Handover Minutes) as the definitive anchor point, rather than the mere issuance of an appointment decree. To mitigate this, the article proposes an auditable transition SOP featuring internal logs, authority attachments, and synchronized SIMKAH digital access updates. These measures provide a robust template for preventing authority vacuums, ensuring both administrative and syar'i certainty across Indonesian marriage registries.

Keywords: *Wali Hakim*, KUA Leadership Transition, Administrative Authority, Marriage Registration, Syar'i Legitimacy.

INTRODUCTION

In many Indonesian districts, marriage administration is a daily public service for ordinary families where the *Wali Hakim* often serves as the practical bridge between state procedure and the pillars of *nikah*. Its legitimacy therefore shapes legal certainty and religious confidence simultaneously, ensuring that the union is recognized both by the bureaucracy and the faith.¹ Registration itself is frequently a pragmatic response to legal plurality and uneven dispute handling, especially when families move between normative expectations and bureaucratic realities². When a *wali nasab* is absent, the state office

¹ Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan," preprint, Jakarta, 1974; Republik Indonesia, "Instruksi Presiden Republik Indonesia Nomor 1 Tahun 1991 Tentang Kompilasi Hukum Islam," preprint, Jakarta, 1991.

² Adriaan Bedner and Stijn Huis, "Plurality of Marriage Law and Marriage Registration for Muslims in Indonesia: A Plea for Pragmatism," *Utrecht Law Review* 2, no. June (2010): 175.

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steps in with this guardian role, and even a small procedural error can follow a couple for years in later claims regarding status, inheritance, or civil documents. This risk becomes sharper when leadership at the Office of Religious Affairs (KUA) changes and authority shifts faster than the paper trail, primarily because citizens tend to perceive the office as a single, continuous authority rather than a sequence of individual officeholders. With the newer recording regime pushing for clearer certainty, these transitional moments become highly visible to citizens who depend on the office as the gatekeeper of a lawful future.³

Research on Islamic marriage administration in Indonesia has grown significantly, though it often moves in separate analytical lanes. One strand studies bureaucratic reform, showing how standardization can improve access while producing new compliance burdens for local offices.⁴ Another examines authority in registration, explaining how *penghulu* and KUA heads share tasks across ministerial rules, a distinction crucial for locating responsibility during service delivery.⁵ A third strand focuses on *Wali Hakim* practice, highlighting procedural gaps and how guidance is interpreted at the frontline.⁶ Despite these rich maps of practice, authority is often treated as stable during routine service, leaving the "transition moment" under-discussed in the literature. This oversight is critical because documentation gaps often force families to pursue *isbat nikah* as a legal remedy, where *maṣlahah mursalah* is frequently invoked to restore civil rights.⁷ Without precise recording during leadership transitions, women and children remain vulnerable to losing legal protections, similar to the risks observed in unregistered marriage practices.⁸ Consequently, a short governance gap at the KUA can cascade into long-term disputes that eventually demand judicial repair.

The legal gap becomes most visible in the short interval between an appointment letter (SK) and the full operational handover in the office. During this window, duties

³ Indonesia Kementerian Agama, *Peraturan Menteri Agama Nomor 30 Tahun 2024 Tentang Pencatatan Pernikahan* (Kementerian Agama, 2024).

⁴ Ahmad Tholabi Kharlie et al., "Reforming Islamic Marriage Bureaucracy in Indonesia: Approaches and Impacts," *Al-Jāmi'ah: Journal of Islamic Studies* 59, no. 2 (2021): 255, <https://doi.org/10.14421/ajis.2021.592.255-286>.

⁵ Achmad Murtadho Usman, "Kewenangan Pencatatan Nikah Melalui Penghulu Dan Kepala KUA Dalam Perspektif Peraturan Menteri Agama Dengan Peraturan Pendayagunaan Aparatur Negara," *Harmoni* 20, no. 1 (2021): 144, <https://doi.org/10.32488/harmoni.v20i1.468>.

⁶ Saif Adli Zamani, "Penghulu Sebagai *Wali Hakim* Dalam Akad Nikah (Studi Terhadap Penghulu Kantor Urusan Agama Di Wilayah Kota Yogyakarta)," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 12, no. 2 (2020): 173–75, <https://doi.org/10.14421/ahwal.2019.12205>; Muhammad Sabir Rahman et al., "Implementation of Marriage Through *Wali Hakim* (Marriage Guardian) in the Office of Religious Affairs," *International Journal of Multicultural and Multireligious Understanding* 4, no. April (2022): 116, <https://doi.org/10.18415/ijmmu.v9i4.3643>.

⁷ Saifullah Alfirdaus et al., "The Practice of Isbat Nikah and Its Implications for Family Status in the Study of *Maslahah Mursalah*," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 2 (2025): 235–53, <https://doi.org/10.38073/rasikh.2814>.

⁸ Euis Nurlaelawati, "Pernikahan Tanpa Pencatatan: Isbat Nikah Sebuah Solusi?," *Musāwa: Jurnal Studi Gender Dan Islam* 12, no. 2 (2013): 261, <https://doi.org/10.14421/musawa.2013.122.261-277>; Alfirdaus et al., "The Practice of Isbat Nikah and Its Implications for Family Status in the Study of *Maslahah Mursalah*," 235; Muhammad Husnul Soraya, Wiranda, Bukhari Ali, "Legal Protection of Women and Children in the Practice of Nikah Sirri (Unregistered Marriage)," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 2 (2025): 271–86, <https://doi.org/https://doi.org/10.38073/rasikh.3323>.

may be performed before authority is clearly settled, yet citizens rarely see the distinction. Indonesian administrative law links validity to the source of authority—distinguishing between attribution, delegation, and mandate—each carrying different implications for legality and institutional responsibility.⁹ For the *Wali Hakim*, this administrative test meets a *fiqh* concern about who may represent public authority in a marriage contract, as representation is not only a technical matter but a condition for public trust. This study argues that the *Berita Acara Sertijab* (Handover Minutes) serves as the critical operational anchor point that bridges *de jure* appointment with *de facto* signing authority. It is the practical hinge where legality and institutional accountability meet, ensuring that the state's guardian role remains uninterrupted and legally sound.

On the *fiqh* side, Wahbah al-Zuhaylī ties the judge-guardian to the delegated representation of the ruler, linking guardianship to *wilayah* and *niyabah*, which makes the question of who holds office ethically significant during succession.¹⁰ This framing resonates with contemporary calls to integrate classical *fiqh* with modern governance needs in accountable ways, rather than treating bureaucracy as external to religious integrity.¹¹ The integrative claim of this research is fundamentally practical: if the administrative and religious sources of authority match, legitimacy is easier to defend in disputes. Conversely, if they do not, a marriage may carry an "administrative shadow" that surfaces years later in civil litigation or identity documentation.

This article specifically asks when a *Wali Hakim* act remains legitimate during KUA leadership succession, focusing on the vulnerability of the SK-to-handover interval. It offers a workable test for legitimacy that KUA offices can apply to stabilize the intersection of state administration and religious integrity. The following sections set the regulatory baseline for marriage recording and narrate a transition scenario to map where authority becomes unclear. The analysis then integrates administrative doctrines with al-Zuhaylī's *fiqh* reasoning to establish clear criteria for action. These criteria are subsequently translated into SOP suggestions and documentation habits for officers. Finally, the discussion reflects on how these tools protect citizens and strengthen institutional trust in a service that is both legal and religious in its profound social meaning.¹²

METHOD

This study employs an empirical legal research approach, also known as sociological legal research or socio-legal research. empirical legal research is a research

⁹ Indonesia, "Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang," preprint, Lembaran Negara Republik Indonesia Tahun 2023 Nomor 41, Tambahan Lembaran Negara Republik Indonesia Nomor 6856., 2023.

¹⁰ Wahbah Al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuh* (Dār al-Fikr, 2011), 9:6720.

¹¹ Dwi Dasa Suryantoro, "Transformation of Islamic Law in Responding to the Challenges of Modernity by Integrating Classical Fiqh and Contemporary Fiqh," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 2 (2025): 195, <https://doi.org/10.38073/rasikh.2747>.

¹² Kharlie et al., "Reforming Islamic Marriage Bureaucracy in Indonesia: Approaches and Impacts," 255.

method that examines law as the actual behaviour of society within its social context (law in action), in contrast to normative research, which examines law solely from the perspective of written norms.¹³ This method aims to examine how the law operates within society, including the effectiveness of the law and public compliance with it.¹⁴ This approach was chosen because the aim of the research is to analyse the gap between *das Sollen* (what ought to be) and *das Sein* (what actually is). This study will not only examine the normative provisions regarding the powers of a guardian appointed by the court under legislation and Islamic law, but will also investigate their implementation in actual practice, particularly in relation to the handover of the post of Head of the KUA in Bululawang Sub-district.

This study also employs case study approach and statutory approach. The case study approach was employed to gather the primary data and implemented by examining a specific phenomenon within a particular timeframe and context, which is the position handover of the Head of the KUA in Bululawang Sub-district that occurred during mid-December 2025. Followed by gathering detailed information using certain data collection procedures over a specific period.¹⁵ The data was collected through direct observation and in-depth interviews with informants, without the involvement of any intermediaries. These informants included the former Head of the KUA, the new Head of the KUA, the *Penghulu*/civil servant, KUA administrative staff, prospective bridal couples involved in marriages conducted with a court-appointed guardian, and the Head of the Islamic Religious Affairs Section at the Malang Regency Office of the Ministry of Religious Affairs.

The statutory approach was employed to gather secondary data implemented by examining all laws and regulations relevant to the legal issue at hand, which is the legitimacy of *Wali Hakim*, to investigate consistency, compatibility or rather contradictions that exists within the relevant regulations.¹⁶ The data was collected with documentation method by compiling the documents obtained during fieldwork at the research site; these documents include written records, archives, photographs and other materials relating to the issue of the authority and legitimacy of the judicial guardian.¹⁷

Data analysis was carried out through three sequential stages: a normative analysis, an empirical analysis, and triangulation. The normative analysis involved mapping the basis of a guardian judge's authority and the framework for the delegation of authority within administrative law, and then translating these into operational indicators for analysing the documents. The empirical test was carried out by compiling a chronology of the transition events and marriage ceremonies, and then determining the exact dates on which authority was effectively vested in specific officials. Triangulation

¹³ Yati Nurhayati et al., "Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum," *Scholar Center* (Jakarta) 2, no. 1 (2021): 1–20, <https://doi.org/10.51749/jphi.v2i1.14>.

¹⁴ Santoso Santoso A. P. A., *Pengantar Metodologi Penelitian Hukum* (Pustaka Baru Press, 2022), 20.

¹⁵ P. M. Marzuki, *Penelitian Hukum*, (Edisi Revisi) (Kencana Prenada Media Group, 2017), 134.

¹⁶ Marzuki, *Penelitian Hukum*, 133–34.

¹⁷ Muhammad Saekan, *Metodologi Penelitian Kualitatif* (Nora Media Enterprise, 2010), 62.

was carried out by comparing legal norms, documents and informants' statements to ensure that conclusions were not based on a single type of data alone.

RESULTS AND DISCUSSION

The Dynamics of Leadership Transition and Continuity of Services at KUA Bululawang

The leadership transition observed in Bululawang during mid-December 2025 illustrates the complex intersection between formal administrative schedules and the continuity of religious public services. This timeline maps how appointment instruments and service actions diverged across a critical five-day "administrative interregnum." The transition initiated with the issuance of a new appointment letter for the incoming Head of KUA, which stipulated a *Terhitung Mulai Tanggal* (TMT), the effective date of legal status, as December 15th. However, the physical *Surat Keputusan* (SK) was not received by the officer until December 20th. This discrepancy created a psychological and legal hesitation; the incoming officer described a reluctance to exercise authority before physically possessing the document, fearing that actions taken in the absence of the paper instrument might be viewed as premature or procedurally defective.

In the daily operation of the KUA, this gap was not treated as a service vacuum. Instead, continuity was maintained through the functional *penghulu* team, who managed the steady flow of NB examination folders, *Model N* register drafts, and *NA* book printing queues. This functional resilience reflects a core principle of Indonesian civil service: that administrative continuity resides within the professional chain of functional roles rather than being solely dependent on a single office holder.¹⁸

Nevertheless, staff members consistently identified the *Berita Acara Sertijab* (Handover Minutes) as the absolute operational boundary. Using the example of a handover occurring on the 22nd, staff maintained that all documents processed prior to that moment must retain the name of the former head, regardless of the new head's physical presence or prior inauguration at the district level. This adherence was reinforced by a strict "no backdating" protocol. Because the SIMKAH account credentials, electronic signature protocols, and the physical custody of the office stamp were only updated following the formal handover, the date logic remained tethered to the handover record to align with the ministerial framework for marriage recording.¹⁹ The tension during this period was palpable, characterized by a conflict between the dates appearing on legal instruments and the moment of responsibility felt by the officers involved.

This case study reveals a significant split between *de jure* authority, where it is defined by formal dated instruments, while *de facto* leadership represents the practical execution of daily duties. A dual perception emerges because the administrative markers of authority arrive in fragments rather than a single unified event. While the new head

¹⁸ Indonesia Badan Kepegawaian Negara, *Peraturan Badan Kepegawaian Negara Nomor 6 Tahun 2020 Tentang Petunjuk Pelaksanaan Pembinaan Jabatan Fungsional Penghulu. Sebagaimana Diubah Dengan Peraturan Badan Kepegawaian Negara Nomor 14 Tahun 2020* (Badan Kepegawaian Negara, 2020).

¹⁹ Kementerian Agama, *Peraturan Menteri Agama Nomor 30 Tahun 2024 Tentang Pencatatan Pernikahan*.

may be viewed as the *de jure* authority following an inauguration ceremony, they often exhibit *de facto* caution, utilizing metaphors such as not yet possessing the "key" to the office to justify their refusal to sign official registers. Simultaneously, the former head remains *de facto* in control of the instruments of office, such as stamps and registers, ensuring the queue of marriage services does not stall.

The stability of the functional *penghulu* workflow acts as a buffer during this sensitive top-level transition.²⁰ However, this dualism generates concrete legal risks. The first is a signature risk on *Model N* and *NA* forms if the date of the *akad* (marriage contract) falls within the gap between the TMT and the *Sertijab*. The second is a systems risk involving SIMKAH access and electronic signature alignment; if these are not synchronized with the formal authority holder, the resulting records may be flagged during audits as administratively inconsistent.

Finally, a sociological risk arises when the public observes two different leaders in the same week, potentially casting doubt on who truly represents the state in a *Wali Hakim* capacity. Since the *Wali Hakim* role is an official appointment and a pillar of a valid marriage under the state's guardianship, any perceived ambiguity in authority can undermine public trust in the religious integrity of the contract.²¹ This dualism, while appearing minor during routine weeks, becomes a significant liability when a marriage ceremony is scheduled unexpectedly during the transition window.

The consequences of these transitional gaps extend beyond internal bureaucracy, impacting couples and public trust in the office. Interviews revealed that couples were primarily concerned with whether their marriage was "clean", meaning free from future legal challenges. The sight of a changing *Wali Hakim* name across different days of the same week created a "quiet fear" that their marriage certificates might be contested later, even if the ceremony itself was conducted with proper solemnity and witnesses.

Staff efforts to prevent service delays were hampered by a significant increase in coordination labor. Officers had to meticulously match each marriage file with the correct signing authority while simultaneously updating digital accounts and internal stamp routines. The fear was that a single administrative inconsistency would "hurt the couple" and escalate into public rumors regarding the legitimacy of local marriages. In an office like Bululawang, which recorded 551 marriage events in 2025, including many that occurred outside the office, even a short gap in authority can affect a large volume of files.

The prevailing office norm was clear: there must be no "vacuum of *Wali Hakim*." Continuity is practically sustained by the *penghulu* chain, which maintains chronological

²⁰ Badan Kepegawaian Negara, *Peraturan Badan Kepegawaian Negara Nomor 6 Tahun 2020 Tentang Petunjuk Pelaksanaan Pembinaan Jabatan Fungsional Penghulu. Sebagaimana Diubah Dengan Peraturan Badan Kepegawaian Negara Nomor 14 Tahun 2020*.

²¹ Indonesia Kementerian Agama, *Peraturan Menteri Agama Nomor 20 Tahun 2019 Tentang Pencatatan Pernikahan* (Berita Negara Republik Indonesia Tahun 2019 Nomor 1118, 2019).

discipline and file logic while the top-level authority is clarified.²² While the immediate effect on legal security was often emotional or perceptual, the risk of long-term legal complications is real, as small inconsistencies can reappear during later legalization (*isbat*) or inheritance disputes. These field findings underscore the necessity of a rigorous administrative law review to establish the limits of authority and procedural legality during leadership successions.²³

Analysis on the Authority of *Wali Hakim* from the Perspective of Administrative Law

In the framework of Indonesian administrative law, authority (*kewenangan*) is defined as the legal capacity granted by prevailing laws and regulations to perform specific actions that carry legal consequences. This authority must be traceable to a valid source, ensuring that every official act operates within the boundaries of legality. Under the logic of Law Number 30 of 2014 concerning Government Administration, as last amended by Law Number 6 of 2023, the validity of a government decision or action is predicated on three fundamental pillars: competence, procedure, and substance.²⁴ Consequently, legality limits are not merely concerned with the "good intentions" of a public servant; they are strictly determined by whether the actor possessed the specific competence at the time of the act, functioned within their assigned scope, and strictly adhered to established procedural requirements.

In the context of the Bululawang transition, routine actions such as signing Model N and NA forms and appointing a *Wali Hakim* are not merely clerical; rather, they constitute formal Administrative Decisions (KTUN) that produce immediate and long-term legal effects. These actions constitute official government decisions (*Keputusan Tata Usaha Negara*) that produce immediate and long-term legal effects. These records become state instruments utilized in courts, civil administration, and inheritance settlements. As noted in administrative scholarship, a decision is legally binding only if the officer in question holds the authority to act at that specific chronological moment.²⁵ This explains the caution observed by the new head in Bululawang, who noted that he did not "dare" to sign before the formal handover. This hesitation aligns with the principle that administrative competence is time-bound and must be verified through dated legal instruments rather than social or physical presence in the office. While some readers may object that marriage registration is not always the same as a formal administrative decree, and that this framing risks over-legalizing a pastoral service, the response is grounded in the broader bureaucratization of Muslim marriage in Indonesia, where the state has

²² Badan Kepegawaian Negara, *Peraturan Badan Kepegawaian Negara Nomor 6 Tahun 2020 Tentang Petunjuk Pelaksanaan Pembinaan Jabatan Fungsional Penghulu. Sebagaimana Diubah Dengan Peraturan Badan Kepegawaian Negara Nomor 14 Tahun 2020*.

²³ Indonesia, "Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang."

²⁴ Indonesia, "Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang."

²⁵ H. R. Ridwan, *Hukum Administrasi Negara* (RajaGrafindo Persada, 2018), 107.

increasingly absorbed religious authority into standardized administrative procedures.²⁶ The law itself asks whether an act produces legal effects, and these registers clearly do.²⁷

Indonesian administrative law distinguishes between three primary routes of authority: attribution, delegation, and mandate. Attribution is authority rooted directly in the law; delegation involves a transfer of authority that allows the recipient to act in their own name; and mandate is an assignment where the recipient acts on behalf of the authority holder, while the final responsibility remains with the mandator.²⁸ In a KUA setting, the head's *ex officio* role as a marriage registrar and *Wali Hakim* is generally an attributed authority under sectoral regulations. However, during transitions, the "continuity of the state" is often preserved by the functional *penghulu* chain, whose mandates remain stable even as leadership rotates.²⁹

The use of *Pelaksana Tugas* (Plt) or *Pelaksana Harian* (Plh) becomes crucial when a definitive office holder has not yet assumed full control. Field data suggests that district offices prefer the outgoing head to remain until a formal handover occurs specifically to avoid an administrative vacuum. This is a strategic move to ensure that every marriage file during the transition can show a "clean chain" of authority. For a marriage ceremony (*akad*) to be resilient against future legal challenges, the file must contain a valid SK for the signer and a clear territorial placement.³⁰ This requirement aligns with the scholarly consensus that transitional periods in public office are high-risk zones for "jurisdictional defects".³¹

An administrative test for jurisdictional defects or "abuse of power" (*penyalahgunaan wewenang*) begins with the examination of documentation before evaluating intent. Under current Indonesian practice, abuse is not limited to corrupt behavior; it also encompasses overstepping jurisdiction or ignoring procedural regularity.³² In the observed Bululawang pattern, concrete procedural irregularities, where forms are signed under a name not yet competent for that specific date or backdated entries are used, could technically be classified as a defect (*cacat prosedur*).

²⁶ Eva F. Nisa, "The Bureaucratization Of Muslim Marriage In Indonesia," *Journal of Law and Religion* 33, no. 2 (2018): 291, <https://doi.org/10.1017/jlr.2018.28>.

²⁷ Usman, "Kewenangan Pencatatan Nikah Melalui Penghulu Dan Kepala KUA Dalam Perspektif Peraturan Menteri Agama Dengan Peraturan Pendayagunaan Aparatur Negara," 144.

²⁸ Indonesia, "Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang."

²⁹ Badan Kepegawaian Negara, *Peraturan Badan Kepegawaian Negara Nomor 6 Tahun 2020 Tentang Petunjuk Pelaksanaan Pembinaan Jabatan Fungsional Penghulu. Sebagaimana Diubah Dengan Peraturan Badan Kepegawaian Negara Nomor 14 Tahun 2020*.

³⁰ Ridwan, *Hukum Administrasi Negara*, 107.

³¹ Rona Indara, "Problem Kewenangan Pelaksana Tugas (PLT) Dalam Masa Peralihan Pemerintahan Daerah Sebelum Dan Sesudah Pilkada Serentak Berdasarkan Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah," *Jurnal Sains Sosio Humaniora* 8, no. 2 (2024): 22, <https://doi.org/10.22437/jssh.v8i2.25963>.

³² Enrico Parulian Simanjuntak, "Pengujian Ada Tidaknya Penyalahgunaan Wewenang Menurut Undang-Undang Administrasi Pemerintahan," *Jurnal Hukum Dan Peradilan* 7, no. 2 (2018): 237, <https://doi.org/10.25216/jhp.7.2.2018.237-262>.

To mitigate this, staff adhered to a "no backdating" practice, recognizing it as a critical internal control for audit readiness. This control is supplemented by the audit trail created by the SK receipt dates and handover minutes. Furthermore, the role of "coordination notes" from the county office serves as a supervisory mechanism, ensuring that local discretion remains bounded by higher administrative guidance.³³ It is essential to distinguish between a "defect," which may occur in good faith to keep service moving, and "abuse." Both, however, threaten the legal certainty of the marriage certificate and can trigger future litigation. Control mechanisms do not exist to stall service, but to ensure that the service rendered is legally unassailable.³⁴ Administrative errors in identifying the legitimate authority can lead to severe legal consequences. As seen in recent judicial trends, marriages can be annulled when the guardian's authority is found to be legally flawed (*tidak sah*), creating a chain of legal uncertainty that dissolves the marital bond retrospectively.³⁵ In a KUA transition context, a signature from an outgoing head after the Sertijab could potentially mirror this risk of invalidity.

BKN Regulation Number 6 of 2020 provides the legal basis for why KUA services can remain continuous despite leadership turnover. This regulation professionalizes the *penghulu* role, establishing an identifiable functional mandate that persists regardless of who holds the managerial position of "Head of KUA".³⁶ In the story of the *Wali Hakim*, this functional chain acts as the "service engine," handling file examination and preparation. By keeping this chain intact, the office avoids improvisation during transitions.

This standardized approach is consistent with the broader bureaucratic reform narrative in Indonesia, where the bureaucratization of the KUA through standardization and professionalization is meant to reduce arbitrariness and increase predictability in marriage administration.³⁷ The point is still limited, but it tightens the link between continuity in service and continuity in authority.. When the functional chain remains stable, the eventual *Wali Hakim* signature becomes defensible because it is supported by a verified and auditable workflow. This administrative stability is not merely a bureaucratic requirement; it serves as the necessary foundation for the *fiqh* analysis that follows. In both Islamic law and state law, the "representation" of authority is only persuasive when it is supported by stable roles and accurate records.

³³ Indonesia, "Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang."

³⁴ Titeu Sudrajat, "Menelaah Persoalan Penyalahgunaan Wewenang," *Jurnal Dinamika Hukum* 17, no. 1 (2017): 81, <https://doi.org/10.20884/1.jdh.2017.17.1.517>.

³⁵ Meuthia Raihan et al., "Pembatalan Perkawinan Akibat Wali Nikah Tidak Sah: Analisis Putusan Mahkamah Syar'iyah Banda Aceh Nomor 24/Pdt.G/2020/Ms.Bna," *Al-Rasikh: Jurnal Hukum Islam* 13, no. 2 (2024): 270–86, <https://doi.org/https://doi.org/10.38073/rasikh.v13i2.1944>.

³⁶ Badan Kepegawaian Negara, *Peraturan Badan Kepegawaian Negara Nomor 6 Tahun 2020 Tentang Petunjuk Pelaksanaan Pembinaan Jabatan Fungsional Penghulu. Sebagaimana Diubah Dengan Peraturan Badan Kepegawaian Negara Nomor 14 Tahun 2020*.

³⁷ Nisa, "The Bureaucratization Of Muslim Marriage In Indonesia"; Kharlie et al., "Reforming Islamic Marriage Bureaucracy in Indonesia: Approaches and Impacts," 255.

Analysis on the Legitimacy of the *Wali Hakim* from the Perspective of *Fiqh Munakahat*

In Islamic jurisprudence, *wilayah al-ammah* (public authority) serves as a critical legal safety net, securing communal order when private or agnatic guardianship (*wilayah al-khassah*) is unavailable or non-functional. In Wahbah al-Zuhaylī's treatment of *munakahat*, the *Wali Hakim* is categorized as a public representative whose legitimacy is predicated on a recognizable chain of appointment and a clearly defined jurisdictional scope, rather than on personal standing or biological proximity.³⁸ The classical concept of the "Sultan" functions as a symbol of the highest public authority that carries primary *wilayah* and authorizes *niyabah* (representation).

In the contemporary Indonesian context, this chain of authority is mediated through the state and operationalized via a ministerial appointment route. This modern structure transforms abstract public authority into verifiable instruments, such as official decrees and specific territorial placements. While a modern ministry is not a "Sultan" in the classical sense, the legal logic remains comparable: the Minister of Religion acts as the lawful channel of state authority for marriage administration, making the Head of KUA the local face of that delegated public trust.³⁹ Officers in Bululawang expressed this doctrinal trust in practical terms, asserting that a *Wali Hakim* vacuum must be avoided at all costs. They viewed this duty as an obligation attached to the office (*maqam*) rather than an individual right, illustrating how *fiqh* concepts of public responsibility are embedded in modern bureaucratic routines.

A valid exercise of *Wali Hakim* authority requires *ta'yin* (designation) and *niyabah* (representation). *Ta'yin* refers to the specific act of designating an individual to an office that produces legal effects, while *niyabah* implies that the designee acts on behalf of the public authority within defined limits.⁴⁰ Within this framework, a valid appointment must be identifiable and locatable in time; the legal question is not merely who is physically present in the KUA building, but who is connected to the state's authority through documents that chronologically match the date of the *akad* (marriage contract).

The transition week in Bululawang exposed the sensitivity of these requirements. Field interviews revealed that officers utilized the physical receipt of the SK and the formal handover minutes as the practical markers for when representation becomes socially and administratively credible. Territorial limits (*wilayah makaniyyah*) also played a central role in their discourse. Staff insisted that the *Wali Hakim* must match the Bululawang jurisdiction on the specific day of service, leading to a firm resistance against backdating. Such a practice would blur the clarity of *niyabah* and invite subsequent doubt regarding the contract's validity. If the appointment appears unclear, the risk is often perceptual—where families may accept the ceremony in the moment but later question

³⁸ Al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuh*, 9:6720.

³⁹ Kementerian Agama, *Peraturan Menteri Agama Nomor 30 Tahun 2024 Tentang Pencatatan Pernikahan*.

⁴⁰ Al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuh*, 9:6722.

the legitimate right of the actor to represent the state.⁴¹ In the Shafi'i tradition, which dominates Indonesian practice, the *Wali Hakim* acts as a substitute (*pengganti*) whose authority is strictly bound by the absence of a *wali nasab* and the presence of official state mandate.⁴² This position is distinct from guardianship in cases of children born out of wedlock, where the state's role is purely to provide legal status where a lineage-based guardian is absent.⁴³ Thus, the transition of this 'mandate' must be seamless to maintain the *syar'i* validity of the representation (*niyabah*).

The concept of *hajat* (pressing need) is employed here to describe the necessity of preventing service disruptions that would burden families. *Maslahah*, in al-Zuhayli's reasoning, refers to the practical public benefit tied to protecting rights and avoiding foreseeable harm (*daf' al-darar*) in administration.⁴⁴ Field evidence from the Bululawang transition suggest that the decision to permit the outgoing head to sign during the administrative gap was essentially a harm-prevention measure. Since couples arrived with fixed dates, invited witnesses, and high social expectations, officers feared the ripple effects of a service stoppage.

In al-Zuhayli's framework, *maslahah mursalah* can guide governance acts when traditional texts do not specify exact procedural forms, provided it remains within the boundaries of *wilayah* and *niyabah*. Thus, continuity is justified when the actor remains the most defensible bearer of public authority at that specific moment. This supports the outgoing head's signature as a temporary safeguard, provided it avoids procedural fabrications like backdating and maintains an auditable chain of authority. This aligns with scholarship warning that documentation gaps can later harm women and children in civil or inheritance claims.⁴⁵ However, *maslahah* is not a "blank check"; Bululawang staff treated it as controlled continuity rather than free improvisation, ensuring that integration with modern governance standards remained intact.⁴⁶

The doctrinal bridge for the *Wali Hakim* is that authority must be both administratively traceable and *fiqh*-legible as a form of representation. The Compilation of Islamic Law (KHI) frames the *Wali Hakim* as a state-appointed guardian who acts when a *wali nasab* is absent, unknown, or *adhal* (reluctant) after a court determination (6, Indonesia, 1991, n.p.). Bululawang officers described their rigorous file checks as the practical gateway to satisfying these conditions.

⁴¹ Kementerian Agama, *Peraturan Menteri Agama Nomor 30 Tahun 2024 Tentang Pencatatan Pernikahan*.

⁴² Hazarul Aswat and Taufik Hidayat, "Analisis Kedudukan *Wali Hakim* Sebagai Wali Nikah Pengganti Dalam Hukum Islam Perspektif Mazhab Syafi'i," *Al-Rasikh: Jurnal Hukum Islam* 13, no. 2 (2024): 225–39, <https://doi.org/https://doi.org/10.38073/rasikh.v13i2.1850>.

⁴³ Arif Rahman, "Status Dan Kedudukan Wali Dalam Pernikahan Terhadap Anak Hasil Zina Menurut Perspektif Madzhab Syafi'i Dan Kuhperdata," *Al-Rasikh: Jurnal Hukum Islam* 13, no. 2 (2024): 156–67, <https://doi.org/https://doi.org/10.38073/rasikh.v13i2.1810>.

⁴⁴ Al-Zuhayli, *Al-Fiqh al-Islami Wa Adillatuh*, 9:6721.

⁴⁵ Abdul Aziz et al., "Isbat Nikah Dalam Legalitas Hukum Islam Dan Perdata Di Indonesia Perspektif Maslahah Mursalah," *Tasyri': Journal of Islamic Law* 3, no. 2 (2024): 361, <https://doi.org/10.53038/tsyr.v3i2.141>; Nurlaelawati, "Pernikahan Tanpa Pencatatan: Isbat Nikah Sebuah Solusi?," 261.

⁴⁶ Suryantoro, "Transformation of Islamic Law in Responding to the Challenges of Modernity by Integrating Classical Fiqh and Contemporary Fiqh," 194–207.

Ministerial regulations further refine this identity. PMA 30 of 2005 explicitly ties *Wali Hakim* authority to the Head of KUA, which explains why staff resisted the idea of a random substitute signer during the transition. Furthermore, PMA 30 of 2024 strengthens the recording regime, making the representation chain more visible through digitized workflows and strict documentation.⁴⁷ Al-Zuhaylī's account supports this synthesis, as it allows for governance choices that prevent harm without violating the essential boundaries of appointment and jurisdiction.⁴⁸ The findings in Bululawang demonstrate that the strongest safeguard for the legitimacy of these marriages was not abstract theory, but disciplined dating and signer control aligned with handover minutes. It is at this precise point, in which fiqh representation and administrative legality overlap, that the security of the marriage contract is truly realized

Synthesis of the Model for Determining *Wali Hakim* Authority During the Transition Period

The synthesis of field data from Bululawang suggests that the most legitimate actor during a transition week is the individual whose authority is most empirically provable at the precise moment of the *akad* (marriage contract). In practice, officers identified the outgoing head as the "safest" *Wali Hakim* prior to the formal *Berita Acara Sertijab* (Handover Minutes), primarily because this individual maintained actual custody of marriage registers, physical control over the office stamp, and established routine access to documentation. This operational reality was reinforced by the incoming officer's professional caution; despite holding a decree with a prior *Terhitung Mulai Tanggal* (TMT), he abstained from exercising signature authority until the formal handover was complete.

This finding underscores that administrative competence is both time-bound and evidence-driven. Under the framework of Law Number 6 of 2023, an official act must be supported by a clear authority basis that aligns with the specific date and jurisdiction of the action.⁴⁹ However, recent longitudinal observations of KUA operations suggest that the stability of *Wali Hakim* services relies heavily on the consistent application of these procedural norms over time.⁵⁰ This reinforces the Bululawang model's emphasis on the *Sertijab* as the definitive operational trigger. From the perspective of Islamic jurisprudence (*fiqh*), this mirrors the requirements for recognized *niyabah* (representation). As Wahbah al-Zuhaylī emphasizes, the role of *Wali Hakim* is a formal representative function that cannot be sustained by mere physical presence or good intentions; it requires a valid, documented link to public authority.⁵¹ While this pattern provides a stabilizing model, it remains context-dependent, as the speed of document

⁴⁷ Kementerian Agama, *Peraturan Menteri Agama Nomor 30 Tahun 2024 Tentang Pencatatan Pernikahan*.

⁴⁸ Al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuh*, 9:6726.

⁴⁹ Indonesia, "Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang."

⁵⁰ Muhammad Hatta and Masrokhin, "Implementasi *Wali Hakim* Dalam Pernikahan Di Kantor Urusan Agama Kesamber Tahun 2022-2024," *QOSIM: Jurnal Pendidikan Sosial & Humaniora* 3, no. 2 (2025): 919, <https://doi.org/10.61104/jq.v3i2.1148>.

⁵¹ Al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuh*, 9:6721.

transmission and the efficiency of custody transfers can vary significantly between districts.

Transition Governance Model and Standard Operating Procedures (SOPs)

To bridge the gap between service continuity and legal certainty, a robust Transition Standard Operating Procedure (SOP) must be established. Such a model ensures that every marriage remains auditable while the KUA remains open to the public. Central to this SOP is the maintenance of a "Transition Log" that records four critical markers: the effective date on the decree (TMT), the date of physical decree reception, the inauguration date, and the exact timestamp of the *Sertijab*. These markers allow for the retroactive verification of the authority holder for any given marriage file.⁵²

Furthermore, during the transition window, each marriage file should include a "short authority attachment." This document serves as a memo explaining the basis for the acting official's signature, referencing the handover boundaries recognized by staff. Digital governance through the SIMKAH (Marriage Management Information System) must be treated as a primary control instrument rather than a secondary concern. Access credentials, electronic signature activations, and role updates should be synchronized with the physical handover and documented in a dated memo signed by both outgoing and incoming leaders.⁵³ This ensures that the digital audit trail—showing who entered, validated, and confirmed the data—aligns perfectly with the physical registers. This approach effectively integrates *fiqh* reasoning with modern governance, justifying continuity through traceable responsibility and clear documentation.⁵⁴ Implementing a transition SOP at the KUA level serves as a preventive measure against the necessity of mass *isbat nikah* programs. While mass *isbat* provides a solution for existing administrative gaps under the Islamic Law Compilation (KHI), it is a reactive approach.⁵⁵ A disciplined handover process ensures that the records are 'clean' from the start, reducing the future burden on both the citizens and the religious courts.

Table 1 outlines the administrative requirements and digital protocols for determining who is legally authorized to act as *Wali Hakim* during leadership transitions. This matrix ensures that every marriage remains valid under both physical documentation and the SIMKAH digital system.

This table serves as a compliance framework for marriage registrars to navigate the "gray area" between the issuance of an Appointment Decree (SK) and the formal Handover of Position (*Sertijab*). By synchronizing physical signatures with SIMKAH

⁵² Indonesia, "Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang."

⁵³ Fuad Riyadi, *Efektivitas Sistem Informasi Manajemen Nikah (Simkah) Dalam Implementasi Undang-Undang Nomor 24 Tahun 2013 Di KUA Kecamatan Mejubo Kudus*, no. 2 (Jurnal Pemikiran Hukum Dan Hukum Islam, 2019), 9:211, <https://doi.org/10.21043/yudisia.v9i2.4477>; Kementerian Agama, *Peraturan Menteri Agama Nomor 30 Tahun 2024 Tentang Pencatatan Pernikahan*.

⁵⁴ Suryantoro, "Transformation of Islamic Law in Responding to the Challenges of Modernity by Integrating Classical Fiqh and Contemporary Fiqh," 195.

⁵⁵ Achmad Alfian Kurniawan and Aulia Rahmadhani, "Implementasi Isbat Nikah Massal Dalam Perspektif Kompilasi Hukum Islam," *Al-Rasikh: Jurnal Hukum Islam* 13, no. 2 (2024): 179–90, <https://doi.org/https://doi.org/10.38073/rasikh.v13i2.1759>.

digital audit trails, it prevents legal challenges to the marriage's validity and ensures a clear chain of custody for official registers and stamps.

Table 1. Decision Matrix For *Wali Hakim* Authority Based On Document And Custody Status

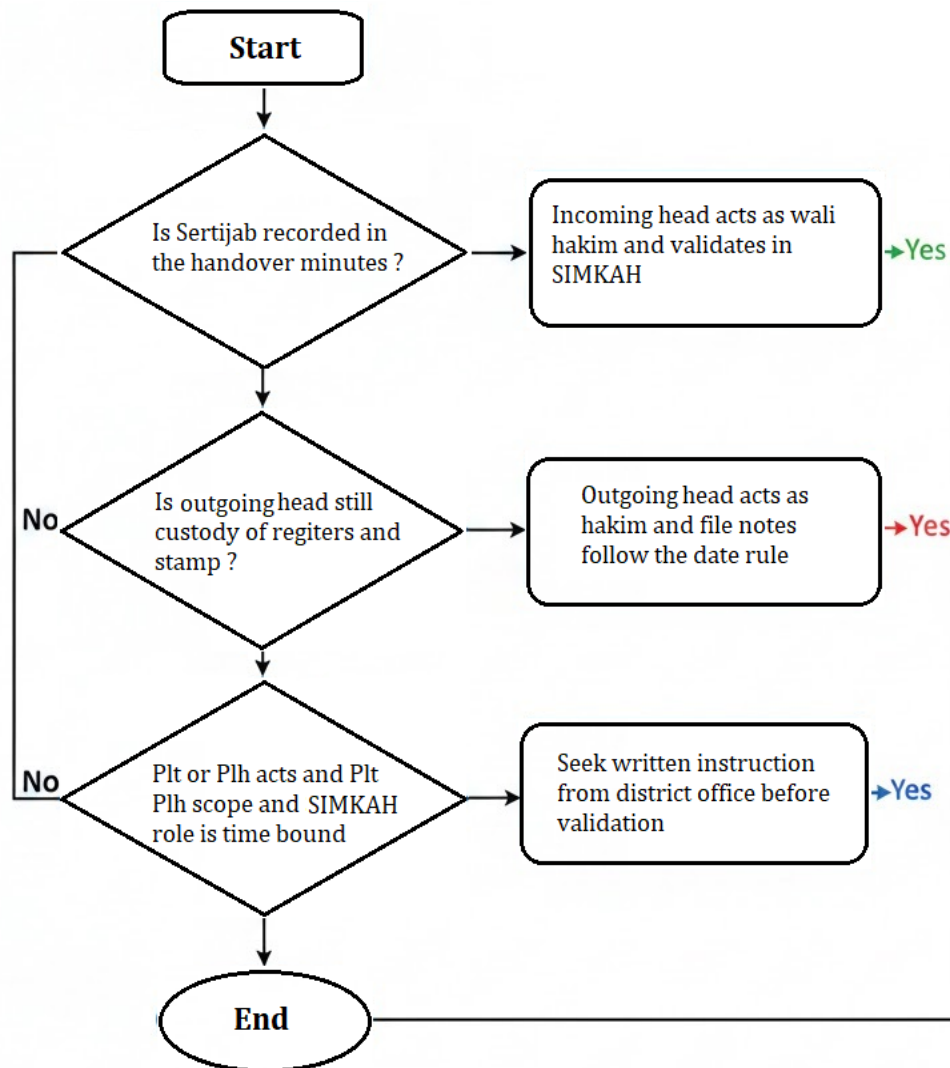
Document status in the case file	Actor who should sign as <i>Wali Hakim</i>	SIMKAH digital audit control	Minimum paper attachment in file
SK not yet received; Sertijab not yet performed	Outgoing head (safest if in custody)	Keep outgoing account active; log entry/validation timestamps	Transition log entry + note of pending SK reception
SK received; Sertijab not yet performed	Outgoing head (until handover is recorded)	Block incoming account from final validation; mark roles as pending	Copy of SK receipt note + reference to Sertijab boundary
Sertijab recorded in minutes	Incoming head (from recorded time)	Activate incoming account and e-signature; record role update time	Copy of handover minutes + updated authority note
Outgoing head absent; Plt/Plh letter exists	Plt or Plh (within stated scope)	Create temporary SIMKAH role with limited/time-bound permissions	Copy of Plt or Plh letter + scope note
No clear actor/written assignment	Escalate to District Office guidance	Freeze final validation until authority is clarified	Written instruction from District Office or postponement note

Source: Internal Standard Operating Procedures (SOP) for Marriage Administration and SIMKAH Validation.

Determining the legal authority of a *Wali Hakim* during a leadership transition is critical to ensuring the validity of a marriage under administrative law. Figure 1 presents the decision-making process based on the status of official handover documents and the possession of state registers.

As illustrated in Figure 1, the flowchart provides a systematic guide to identifying the authorized *Wali Hakim* when there is a gap between the issuance of a decree (SK) and the formal handover of duties (*Sertijab*). It prioritizes the Handover Minutes as the primary legal trigger; however, if these are absent, it relies on the physical custody of official stamps and registers or the presence of a temporary acting official (Plt/Plh) to ensure that no vacuum in legal authority occurs.

This synthesis contains several limitations that warrant consideration for future replication. First, the model is built upon a bounded transition episode in Bululawang; while it offers high-resolution clarity, it may not capture every idiosyncratic pattern of leadership change occurring across Indonesia's diverse regions. Second, the Bululawang office demonstrated a relatively disciplined administrative culture regarding date management and file control. In environments where such internal controls are less rigorous, the implementation of this model would necessitate stricter supervision and more explicit written directives from District Religious Affairs Offices.



Source: Internal Standard Operating Procedures (SOP) for Marriage Administration and SIMKAH Validation.

Figure 1. Legal Criteria for the Appointment of *Wali Hakim*

Nevertheless, the model is highly replicable because its core is procedural and auditable. Other Religious Affairs Offices (KUA) can adapt the Transition Log, the authority attachment, and the SIMKAH handover memo to fit their specific document chains and custody realities. The primary adaptation point remains the timing boundary and the formalization of its record. Depending on local digital infrastructure, the digital audit components should be scaled to what the office can reliably maintain without disrupting service to the public. Ultimately, this study offers a template for "transition governance" that balances the immediate needs of the community with the long-term requirements of legal and religious legitimacy. Ensuring the legitimacy of the *Wali Hakim* protects the sacred intention (*niyyah*) of the marriage. A sociological exploration of prophetic traditions reminds us that while intention is the heart of the union, its

implementation must align with established legal and social orders to achieve true stability.⁵⁶

CONCLUSION

The central research inquiry sought to identify the authorized *Wali Hakim* during periods of KUA leadership succession and determine how such selections safeguard the legal and religious security of marrying couples. This study posits that the resolution lies in a dual legitimacy test, where administrative validity and Shariah-compliant representation (*niyabah*) are synthesized within a single case file. In the routine operation of religious affairs, the chronological gap between the issuance of an appointment decree (SK), its physical receipt, and the formal handover (*Sertijab*) creates a frequent "administrative interregnum." During this window, marriage schedules remain fixed and services must persist to avoid public harm (*darar*). Consequently, legitimacy is at its zenith when the dated authority chain precisely aligns with the *akad* date, the territorial jurisdiction, and the recorded boundary of the handover minutes. By ensuring the signer's authority is empirically provable and traceable, the KUA provides both legal certainty and psychological reassurance to the couple, transforming a bureaucratic transition into a stable exercise of public trust.

To translate these findings into systemic stability, the Ministry of Religious Affairs should implement rigorous policy and technical reforms. At the operational level, every KUA requires a standardized Transition SOP that mandates a "Transition Log" to record key milestones—decree issuance, physical reception, and the exact timestamp of handover—thereby eliminating authority vacuums. For the digital ecosystem, the Ministry should integrate a "Transition Mode" feature within the SIMKAH system. This feature would automatically trigger once an incoming head is registered, locking final validations and electronic signatures to the authorized actor based on the formal handover status. Such a structural design would generate an immutable audit stamp, reducing human error and preventing procedural defects across various districts. Future research should evaluate the performance of this model in KUA offices with diverse staffing levels and investigate how transparent communication regarding these rules influences public perception of the state's religious authority.

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⁵⁶ Muhammad Zuhdi, "Sociological Exploration of Intentions in Marriage: A Study of the Living Hadith of the Prophet Muhammad," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 2 (2025): 287–98, <https://doi.org/https://doi.org/10.38073/rasikh.3320>.

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