

KUA Legal Considerations in Determining Marriage Guardians for Children Born Out of Wedlock

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Abstract

This study aims to analyze the legal considerations of the Office of Religious Affairs (KUA) regarding the status of biological fathers as guardians of children born out of wedlock in Asahan Regency. The research uses an empirical juridical method with a qualitative approach. Primary data was obtained through interviews with the main informants consisting of three Heads of KUA, namely Dr. H. Taufik, S.Ag., Taufik Hidayat Simanjuntak, S.Fil.I., and Azwar Gunawan, S.H., and supported by officers who were directly involved in the process of registering and registering marriages, namely Hari Sakti, S.H., Alfathul Hisaby Sitorus, S.Th.I., and Fhardanis Sabil, S.H. Secondary data were obtained from the Qur'an, Hadith, Compilation of Islamic Law, Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Regulation of the Minister of Religion, Constitutional Court Decision Number 46/PUU-VIII/2010, as well as various legal literature. The results of the study show that the KUA of Asahan Regency does not recognize the biological father as the marriage guardian for children born out of wedlock because there is no legal relationship according to Islamic law. Therefore, the authority of the guardian is transferred to the guardian judge in accordance with the provisions of laws and regulations. This study also shows that the Constitutional Court Decision Number 46/PUU-VIII/2010 which regulates the civil relationship of children born out of wedlock does not change the provisions regarding guardianship in marriage. Thus, the KUA remains guided by the Compilation of Islamic Law, fiqh provisions, and marriage administration regulations to ensure legal certainty in the determination of marriage guardians.

Keywords: Legal Considerations; Office of Religious Affairs (KUA); Biological Father; Guardian; Children Born Out of Wedlock

Abstrak

Studi ini bertujuan untuk menganalisis pertimbangan hukum Kantor Urusan Agama (KUA) mengenai status ayah biologis sebagai wali nikah bagi anak yang lahir di luar nikah di Kabupaten Asahan. Penelitian menggunakan metode yuridis empiris dengan pendekatan kualitatif. Data primer diperoleh melalui wawancara dengan informan utama yang terdiri atas tiga Kepala KUA. Data sekunder diperoleh dari Al-Qur'an, Hadis, Kompilasi Hukum Islam, Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan sebagaimana telah diubah dengan Undang-Undang Nomor 16 Tahun 2019, Peraturan Menteri Agama, Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010, serta berbagai literatur hukum. Hasil penelitian menunjukkan bahwa KUA Kabupaten Asahan tidak mengakui ayah biologis sebagai wali nikah bagi anak yang lahir di luar nikah karena tidak adanya hubungan nasab yang sah menurut hukum Islam. Oleh karena itu, kewenangan perwalian dialihkan kepada wali hakim sesuai ketentuan peraturan perundang-undangan. Penelitian ini juga menunjukkan bahwa Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010 yang mengatur hubungan perdata anak yang lahir di luar nikah tidak mengubah ketentuan mengenai perwalian dalam perkawinan. Dengan

demikian, KUA tetap berpedoman pada Kompilasi Hukum Islam, ketentuan fikih, dan regulasi administrasi perkawinan untuk menjamin kepastian hukum dalam penetapan wali nikah.

Kata Kunci: *Pertimbangan Hukum; Kantor Urusan Agama (KUA); Ayah Biologis; Wali Nikah; Anak yang Lahir di Luar Nikah*

Introduction

Marriage guardians are one of the important pillars of marriage in Islamic law because they determine the validity of the marriage contract and reflect the existence of the paternal lineage that is legally recognized (*nasab*) (Sari et al., 2023). Under Indonesian law, marriage guardians are regulated by Law Number 1 of 1974 concerning Marriage, as amended by Law Number 16 of 2019, Compilation of Islamic Law (KHI), and Regulation of the Minister of Religion Number 30 of 2024 concerning Marriage Registration, all of which authorize the Office of Religious Affairs (KUA) to examine and determine the validity of the marriage guardian before the marriage is registered (Taufiq et al., 2026). Significant legal issues arise when the bride-to-be is a child born out of wedlock who is legally recognized. In Islamic family law, the biological parental relationship, the civil law relationship, and the legal lineage (*nasab*) are three different legal concepts that produce different legal consequences (Gamatri et al., 2023). The relationship of biological parents only establishes the genetic relationship, while the civil law relationship, recognized through the Constitutional Court Decision Number 46/PUU-VIII/2010, creates certain civil rights and obligations between the child and the biological father that are proven.

In contrast, the legal lineage (*nasab*) is established through a legal marriage and serves as the exclusive legal basis for determining marital guardianship. As a result, although a biological father may assume civil responsibility for a child born out of wedlock, such recognition does not automatically confer legal authority to act as the child's marital guardian (Manan, 2017). The issuance of the Constitutional Court Decision No. 46/PUU-VIII/2010 introduced a new legal dynamic by recognizing the civil legal relationship between children born out of wedlock and their biological father when biological paternity can be established through scientific evidence or other legal means.

The decision significantly strengthens the protection of children's civil rights, particularly regarding identity, alimony, and other civic interests. However, the decision does not change the legal provisions governing the *nasab* or guardianship of marriage based on the Compilation of Islamic Law. These differences have given rise to different interpretations among society, many of whom assume that the recognition of a civil legal relationship also entitles the biological father to act as the guardian of the marriage for his daughter (Murtadho, 2025).

The practical implications of this legal ambiguity are clearly seen in the administration of marriage registration at the Office of Religious Affairs in Asahan Regency. During 2023-2025, the KUA office in Asahan handled seven applications asking the biological father to act as the guardian of the marriage for a daughter born out of wedlock who was legally recognized. According to preliminary observations and interviews with the Head of KUA, the marriage registrar (*penghulu*), and the marriage registration officer, all of these applications were rejected because the applicant could not prove the paternal lineage that was legally recognized (*nasab*) as required by the Compilation of Islamic Law and the Regulation of the Minister of Religion Number 30 of 2024 concerning Marriage Registration (Taufik, 2026). In each case, the authority to solemnize the marriage is transferred to the guardian of the judge. These decisions often

raise objections from applicants and their families, who argue that a Constitutional Court ruling recognizing a civil law relationship should also allow the biological father to act as the guardian of the marriage.

This recurring pattern indicates that the issue is no longer merely a normative legal debate but has evolved into an empirical challenge in the implementation of marriage administration at the local level. The case of Asahan Regency demonstrates the continuing tension among three distinct legal concepts that are often perceived by the public as equivalent but are treated differently under Indonesian Islamic family law: biological parentage, civil legal relationship, and legally recognized lineage (*nasab*). Although Constitutional Court Decision No. 46/PUU-VIII/2010 strengthened the civil legal relationship between children born outside a legally recognized marriage and their biological fathers, the administrative practice of the Offices of Religious Affairs (KUA) continues to regard *nasab* as the sole legal basis for determining marriage guardianship.

Consequently, marriage registrars are required to reconcile public expectations with the legal provisions governing Islamic family law and marriage administration. Previous studies have primarily examined Constitutional Court Decision No. 46/PUU-VIII/2010 from a normative perspective, focusing on the legal status of children born outside a legally recognized marriage, lineage (*nasab*), civil rights, and doctrinal issues relating to marriage guardianship in Islamic law. While these studies have contributed substantially to the development of Islamic family law scholarship, they provide limited empirical evidence regarding how marriage registrars implement these legal principles in administrative practice and resolve guardianship cases involving children born outside a legally recognized marriage.

Methods

This study employed an empirical juridical method with a qualitative approach to examine the legal reasoning adopted by the Offices of Religious Affairs (KUA) in determining marriage guardianship for children born out of legally recognized marriages in Asahan Regency, North Sumatra. The research was conducted from May 1 to June 30, 2026 at three KUA offices, namely KUA Air Batu, KUA Simpang Empat, and KUA Sei Kepayang. Informants were selected purposively based on their authority and direct involvement in the examination of marriage registration applications and the determination of marriage guardians. The primary informants consisted of the Heads of the three KUA offices H. Taufik, Taufik Hidayat Simanjuntak, and Azwar Gunawan, supported by marriage registrars and officers directly involved in marriage registration, namely Hari Sakti, Alfathul Hisaby Sitorus, and Fhardanis Sabil. Primary data were collected through semi-structured in-depth interviews, each lasting approximately 45 minutes, while secondary data were obtained from the analysis of marriage administration documents, including marriage registration files, birth certificates, family cards, identity cards, supporting statements submitted by applicants, records of the appointment of guardian judges, and other official documents related to marriage registration. The study also examined seven applications submitted between 2023 and 2025 in which biological fathers sought to act as marriage guardians for daughters born out of wedlock. The document analysis focused on marriage records, children's birth dates, birth certificates, family cards, and other administrative documents used by the KUA to verify the existence of legally recognized paternal lineage without disclosing the applicants' identities. All data were analyzed through the stages of data reduction, data display, and conclusion drawing, while the validity of the findings was ensured through triangulation of interview data, documentary evidence, and relevant legal sources.

Results and Discussion

1. Practice of Determining Marriage Guardians for Children Born Out of Wedlock Legally at the Office of Religious Affairs in Asahan Regency

The guardian of marriage is one of the important pillars of marriage in Islamic law because it determines the validity of the marriage contract and reflects the existence of a legally recognized paternal lineage between the bride-to-be and her father's relatives (Inayatillah, 2024). Therefore, determining whether a biological father can be the guardian of a daughter born out of wedlock is not just a normative issue, but also an administrative legal issue that must be resolved by the Office of Religious Affairs (KUA) during the marriage registration process. In practice, KUA officers are required to harmonize the principles of Islamic law, laws and regulations, and constitutional provisions, as well as respond to the expectations of applicants who often equate the biological father-child relationship with legal lineage (Muthohhari, 2023). Field research conducted at the KUA Air Batu, Simpang Empat, and Sungai Kepayang offices shows that the determination of marriage guardians follows a systematic administrative procedure before the marriage registration application can be approved.

Based on an interview with H. Taufik, Head of KUA Air Batu, the first stage of the examination consisted of verifying the completeness and authenticity of all administrative documents submitted by the applicants. These documents include identity cards that include, family certificates, birth certificates of the bride-to-be, parental birth certificates (if any), letters of recommendation from the village, and other supporting documents required under the Regulation of the Minister of Religion on Marriage Registration. According to him, the document examination is not only aimed at verifying administrative completeness but also to determine whether the prospective guardian has a legally recognized father-child relationship with the bride-to-be. After administrative verification, KUA officers conduct a substantive examination of the documents to determine the legal status of the prospective bride. This stage includes comparing the parent's marriage date with the child's date of birth, checking whether the marriage is legally registered, and assessing the consistency of personal data contained in birth certificates, family certificates, and other official records.

If a discrepancy is found, applicants are required to provide clarification or additional supporting evidence before the registration process proceeds. According to H. Taufik, the purpose of this examination is to determine the existence of legally recognized *nasab*, not just to confirm the relationship between biological parents (Interview, 10 May 2026). According to Taufik Hidayat Simanjuntak, Head of the Office of Religious Affairs (KUA) of Simpang Empat District, the verification of marriage guardianship begins with a comprehensive examination of the administrative documents submitted by the applicants. When the documents indicate that the prospective bride was born before the legal registration of her parents' marriage or when no legally recognized marriage can be substantiated, the KUA conducts further verification through direct interviews with the prospective bride, the proposed guardian, and immediate family members. These interviews are intended to clarify the chronology of the parents' relationship, the circumstances surrounding the child's birth, and the family's legal status. Nevertheless, oral statements obtained during the interview cannot substitute for documentary evidence establishing a legally recognized paternal lineage. Therefore, the biological father's acknowledgment alone is insufficient to confer legal authority to act as the marriage guardian (Interview, 26 May 2026).

Similarly, Azwar Gunawan, Head of the Office of Religious Affairs (KUA) of Sei Kepayang District, explained that the legal assessment undertaken by the KUA distinguishes between three different legal concepts: biological parentage, civil legal

relationship, and legally recognized lineage (*nasab*). He stated that Constitutional Court Decision Number 46/PUU-VIII/2010 recognizes the civil legal relationship between a child born outside a legally recognized marriage and the biological father, thereby establishing certain civil rights and obligations, including maintenance and inheritance. However, the decision does not modify the legal requirements governing marriage guardianship under the Compilation of Islamic Law, which continues to require the existence of a legally recognized paternal lineage. Consequently, the determination of a marriage guardian is based on the validity of the *nasab* rather than solely on biological or civil relationships (Interview, 7 June 2026).

2. Legal Reasons from The Asahan Regency Religious Office in Rejecting the Biological Father as a Marriage Guardian

The findings of this study show that the determination of marriage guardians by the Office of Religious Affairs (KUA) in Asahan Regency is based on three interrelated considerations, namely the principles of Islamic law, positive Indonesian law, and administrative verification procedures applied during marriage registration. These three components are applied sequentially in practice. Islamic law provides a substantive legal basis regarding lineage (*nasab*), Indonesian positive law regulates the legal consequences of lineage and marital guardianship, while the KUA translates these legal norms into administrative procedures through document verification and legal assessment before determining whether the biological father or guardian judge is legally authorized to solemnize the marriage.

a. Basis of Islamic Law

Empirical findings show that KUA officials consistently distinguish between the relationship of biological fathers and legally recognized lineages (*nasab*). According to the Head of KUA and marriage registrars interviewed during this study, the biological paternal relationship alone is not enough to form the legal relationship necessary for marital guardianship. In contrast, the authority to be a guardian of the marriage depends on the existence of a legal paternal lineage established through a valid marriage recognized according to Islamic law.

This understanding reflects the classical doctrine adopted by the majority of Muslim jurists (*jumhūr al-fuqahā'*), including the Maliki, Shafi'i, and Hanbali schools, which distinguish biological relations from legal lineages (Attas, 2022). In this framework, children conceived outside of a valid marriage are legally bound (*nasab*) to the mother and the mother's family, while the biological father does not automatically acquire the legal rights arising from the lineage, including the authority to act as the guardian of the marriage. The legal reasoning applied by KUA officials is supported by the hadith of the Prophet:

أُولَدُ لِلْفِرَاشِ وَلِلْعَاهِرِ الْحَجَرُ

The child belongs to the owner of the marriage bed (*firāsh*), while the adulterer is not entitled to anything. The officials interviewed emphasized that this hadith should not be understood only as a normative justification for denying the rights of the biological father. On the other hand, in Islamic jurisprudence, the hadith establishes the legal principles that govern the determination of lineage (Pattiasina, 2024). The phrase *al-walad lil-firāsh* signifies that the legal lineage is associated with a child born in a legally valid marriage (*firāsh*), thus ensuring certainty regarding family relationships, inheritance, and guardianship. Thus, the hadith serves as a legal basis for determining the fate, not as a moral judgment aimed at children born out of wedlock. This interpretation underlies the distinction consistently maintained by KUA officials between biological relationships and legally recognized lineages when determining marital guardians (Wahyuni, 2026).

b. Indonesian Positive Law

The doctrine of Islamic law regarding heredity has been incorporated into Indonesian positive law through the KHI Compilation of Islamic Law, specifically Article 100, which states that children born out of wedlock who are legally recognized only have a legal lineage with the mother and the mother's family. As a result, the biological father does not have the legal authority to become the guardian of the marriage because the marital guardianship is considered a legal consequence of the birth and not of the biological parent relationship (Zuhriah & Mayasari, 2012).

Further findings show that KUA officials interpreted the Constitutional Court Decision Number 46/PUU-VIII/2010 in a limited way (Setyawan et al., 2024). According to the Head of KUA interviewed, the Constitutional Court recognizes the civil law relationship between a child born out of wedlock and a biological father that is proven in matters such as alimony, identity, and other civil rights. However, the Decree does not change the legal provisions governing the lineage or marital guardianship contained in the Compilation of Islamic Law.

As a result, the recognition of a civil law relationship does not automatically grant the biological father custody authority. For this reason, KUA officials continue to implement the Compilation of Islamic Law together with the Marriage Law and the Regulation of the Minister of Religion on Marriage Registration as the main legal framework for determining the guardian of marriage.

c. Administrative Procedures Implemented by the Religious Office

According to Hari Sakti, as a marriage registrar (*penghulu*) at the Office of Religious Affairs (KUA) of Air Batu District, every application involving a child born outside a legally recognized marriage is initially examined through a comprehensive administrative verification process. He stated that the examination includes the assessment of marriage certificates, birth certificates, family cards, identity cards, and other supporting documents to determine whether a legally recognized paternal lineage (*nasab*) exists (Interview, 15 June 2026).

Furthermore, Alfathul Hisaby Sitorus, as a marriage registrar (*penghulu*) at the Office of Religious Affairs (KUA) of Simpang Empat District, stated that if inconsistencies are identified during the examination of administrative documents, additional verification is conducted through interviews with the prospective bride, the proposed guardian, and close family members. According to him, this procedure is intended to clarify the chronology of the parents' relationship and the legal status of the child. However, oral statements cannot replace authentic documentary evidence in establishing a legally recognized paternal lineage (*nasab*) (Interview, 20 June 2026).

According to Fhardanis Sabil, as a marriage registration officer at the Office of Religious Affairs (KUA) of Sei Kepayang District, the results of the administrative and factual verification form the basis for determining the lawful marriage guardian. He stated that when the verification demonstrates that no legally recognized paternal lineage exists, the biological father cannot be appointed as the marriage guardian. In such circumstances, the authority to solemnize the marriage is transferred to a judge-appointed guardian (*wali hakim*) in accordance with the applicable provisions of Indonesian Islamic family law and marriage administration (Interview, 25 June 2026). The interview findings consistently demonstrate that the determination of marriage guardianship at the KUA is conducted through a systematic process comprising administrative document examination, factual verification, and legal assessment.

This procedure ensures that the appointment of a marriage guardian is based on legally recognized lineage (*nasab*) rather than solely on biological parentage, thereby ensuring legal certainty and conformity with the principles of Islamic family law and the

prevailing marriage administration regulations. Administrative verification is carried out by thoroughly checking various population documents and marriage documents submitted by the bride-to-be. The documents examined include identity cards (KTP), family cards (KK), birth certificates, marriage books or marriage certificates of both parents, and other supporting documents related to the identity and family relationships of the parties.

The examination aims to ensure that there is a compatibility between the identity of the prospective bride, the identity of the father listed in the population document, and the legal status of the marriage of both parents. If data discrepancies are found, identity mismatches, or indications that the child was born out of wedlock legally according to the provisions of the law, the officer does not necessarily designate the biological father as the guardian of the marriage, but conducts a follow-up examination through clarification to the parties and tracing other supporting documents. The results of the interview with Hari Sakti show that in the practice of service at KUA, administrative examinations have a very important function as an instrument to trace the relationship of a legitimate *nasab*.

The headmen explained that the existence of the father's name on the family card or birth certificate could not always be used as a basis for determining guardianship rights. The determination of the marriage guardian must be based on evidence of a valid marriage between the father and mother of the bride-to-be at the time of her birth. Therefore, the marriage book or marriage certificate of parents is one of the main documents that is always verified to ensure the existence of a *nasab* relationship that is recognized according to Islamic law. In addition to document checks, the headmen also conduct direct interviews with prospective brides, guardians, and family members if there are doubts about the legal status of the child or family relationship (Sakti, 20226).

Alfathul Hisaby Sitorus, revealed that this step was taken to obtain more comprehensive information about the chronology of birth, the marriage history of the parents, and the possibility of a court decision or other legal documents related to the civil status of the child. According to the informants, the mechanism is part of a preventive effort so that there are no errors in the determination of the marriage guardian that have the potential to affect the validity of the marriage contract. These findings show that the process of determining a marriage guardian in KUA is not only oriented towards fulfilling administrative requirements, but also reflects the application of the principles of legal certainty, prudence, and protection of marital validity (Sitorus, 2026).

Then Fhardanis Sabil, revealed that comprehensive document verification and clarification of dubious data, the head ensures that every determination of the marriage guardian is carried out based on a valid *nasab* relationship in accordance with the provisions of fiqh, the Compilation of Islamic Law, and marriage administration regulations. Thus, the examination procedure is an important instrument in maintaining orderly marriage administration as well as providing legal certainty for the parties who carry out the marriage (Sabil, 2026).

3. Implications of The Constitutional Court Decision Number 46/PUU-VIII/2010 on The Determination of Marriage Guardians

One of the most significant findings of this study is that the legal reasoning adopted by the Office of Religious Affairs (KUA) in Asahan Regency is based on a strict conceptual distinction between civil law relations, civil law relations, and legal lineage (*nasab*). Although these concepts often overlap in public perception, empirical findings show that KUA officials consistently consider them to be separate legal categories that produce different legal consequences. This distinction is particularly important because

the legal status of a marriage guardian according to Islamic family law is determined exclusively by legally recognized lineage, not by biological evidence or civil law recognition.

Interviews with H. Taufik, Taufik Hidayat Simanjuntak, Azwar Gunawan, together with marriage registrars and marriage registrars, show that many applicants assume that the Constitutional Court Decision Number 46/PUU-VIII/2010 automatically grants the right to the biological father to become a marriage guardian. According to the informant, this assumption arises because the Constitutional Court Decision is often interpreted broadly as an acknowledgment of any legal consequences of biological paternity.

However, KUA officials have consistently explained that the Decree only regulates the civil legal relationship between the child and the biological father and does not change the concept of Islamic law on *nasab*, which remains the exclusive legal basis for marital guardianship. From a conceptual perspective, the relationship between father and son biologically only establishes the genetic relationship between a father and a child. Advances in forensic science, including DNA testing, can prove the biological relationship of father and son with a high degree of certainty.

Nevertheless, biological certainty does not automatically produce every legal consequence recognized in Islamic family law. Empirical findings show that KUA officials recognize biological relationships as factual reality; However, factual biological relationships are distinguished from legal relationships that arise through legal recognition. As a result, biological recognition alone cannot establish the authority to act as the guardian of the marriage (Utami, 2014). The concept of civil relations, as recognized by the Constitutional Court Decision Number 46/PUU-VIII/2010, occupies a different legal realm.

The Constitutional Court seeks to strengthen the constitutional protection of children by recognizing that children born out of wedlock who are legally recognized should not lose their civil rights simply because of the legal status of their parental relationship. Therefore, once biological paternity can be established through scientific evidence or other legally valid evidence, the biological father bears a civil liability to the child. These obligations include alimony responsibilities, educational support, legal protection, identity recognition, and other civil rights that may arise under applicable law.

In certain circumstances, the Decree also provides a legal basis for the recognition of certain civil rights or property rights through judicial determination. Thus, the Constitutional Court Decision mainly discusses the protection of children's constitutional rights within the scope of civil law rather than the regulation of Islamic family institutions (Hamzani et al., 2015). The findings of this study reveal that KUA officials deliberately distinguish these civil consequences from legal descendants (*nasab*). In Islamic law, *nasab* is not only evidence of biological descent but a legal institution that establishes reciprocal rights and obligations in the family.

Legal descent determines not only inheritance and kinship but also marital guardianship, marital impediment (*maḥram*), maintenance obligations in the family, and other legal consequences specifically governed by Islamic family law. Therefore, although a biological father may have civil liability to a child based on the Constitutional Court Decision Number 46/PUU-VIII/2010, such responsibility does not automatically turn into legal authority based on lineage. Marital guardianship remains one of the legal consequences that comes exclusively from legally recognized *nasab* (Rahmi & Sakdul, 2016).

4. Analysis of Islamic Family Law on The Appointment of the Biological Father as the Guardian of the Marriage

The empirical findings of this study show that the determination of marriage guardians by the Office of Religious Affairs (KUA) in Asahan Regency is a legal issue that goes beyond the technical application of marriage registration regulations. More precisely, it reflects the interaction between Islamic family law, constitutional principles regarding the protection of children's rights, and the exercise of administrative authority by public officials (Habibah, 2021). As a result, the appointment of a guardian judge should not be understood as merely an administrative procedure, but as the result of a process of legal reasoning that seeks to reconcile the various legal values operating simultaneously in Indonesia's pluralistic legal system. Viewed through Gustav Radbruch's theory of legal purpose, the findings show that the practice adopted by the KUA prioritizes legal certainty (*Rechtssicherheit*) as the primary value that guides administrative decision-making. Marriage registrars consistently apply the Compilation of Islamic Law, the Marriage Law, and the Regulation of the Minister of Religion Number 30 of 2024 without expanding their interpretation beyond the legal authority expressly granted to them (Bachtiar, 2025). This consistency is very important because marriage registration is an exercise of public administrative power.

Therefore, administrative decisions that affect personal status must be predictable, consistent, and based on objective legal standards, not subjective considerations. If the marriage registrar is allowed to determine guardianship solely based on biological recognition or considerations of justice, the resulting inconsistencies will undermine legal certainty and create unequal treatment among citizens under comparable legal circumstances. Nonetheless, the findings also reveal the inherent tension between legal certainty and substantive justice (*Entitlement*). This tension becomes especially evident when a biological father has publicly acknowledged his daughter, fulfilled parental responsibilities, provided ongoing financial support, and maintained a lasting emotional connection with the child, yet remains legally ineligible to act as a guardian of the marriage because there is no legally recognized notion (Hidayati, 2022).

From the perspective of procedural legality, the appointment of a guardian judge is the correct application of the applicable legal framework. However, from a substantive justice perspective, affected families may find the outcome unfair because the legal system simultaneously recognizes the obligations of the biological father in a particular legal context while denying one of the most symbolic roles in Islamic family life the authority to be the guardian of the marriage. This apparent contradiction does not arise because the law treats biological fathers inconsistently, but because Indonesian law regulates different legal relationships through different normative regimes.

Empirical evidence suggests that many applicants fail to distinguish between a biological parental relationship, a civil law relationship, and a legal lineage (Stuttgart). However, in legal terms, these concepts produce different legal consequences (Putra et al., 2026). The relationship of biological parents establishes factual genetic relationships. The civil law relationship recognized by the Constitutional Court Decision Number 46/PUU-VIII/2010 creates reciprocal civil rights and obligations between the child and the biological father, including alimony, recognition of identity, parental responsibility, and certain property rights. In contrast, *nasab* is a legal institution in Islamic family law that determines certain legal consequences such as marital guardianship, inheritance according to Islamic law, prohibited degrees of marriage (*maḥram*), and other lineage-based rights. Therefore, a recognition of biological paternity or civil liability cannot automatically be construed as the creation of any legal consequences inherent in a legally recognized lineage (Rahayu, 2018).

Interviews conducted with the Head of KUA, marriage registrar (*penghulu*), and marriage registration officer show that these conceptual differences form the core of administrative decision-making. The informants consistently explained that the Constitutional Court Decision Number 46/PUU-VIII/2010 was interpreted as strengthening the protection of children's civil rights, not as a redefinition of the concept of *nasab* law (Zubaidah, 2023). As a result, when the petitioners used the Constitutional Court Decision as a legal basis to request that the biological father act as the guardian of the marriage, the KUA officials explained that the Decision did not regulate marital guardianship nor change the legal requirements governing the guardian. Their legal grounds are strengthened by the fact that Article 100.

Conclusion

This study concludes that the Office of Religious Affairs (KUA) in Asahan Regency consistently determines marriage guardians based on legally recognized lineage (*nasab*) and not based on biological relationships. As a result, the biological father of a daughter born out of wedlock who is legally recognized cannot become a guardian, and the authority is transferred to the guardian judge in accordance with the Compilation of Islamic Law and Regulation of the Minister of Religion Number 30 of 2024. Further findings show that the Constitutional Court Decision No. 46/PUU-VIII/2010 was interpreted by KUA officials to only recognize the civil legal relationship between the child and his biological father, without changing the legal requirements for marital guardianship because no amendments were made to the Compilation of Islamic Law or the technical regulations governing marriage registration. The novelty of this study lies in its empirical analysis of the legal reasoning used by KUA officials in applying these legal norms in administrative practice. These findings show that the KUA maintains legal certainty in the registration of marriages through the appointment of guardian judges, while the State must continue to strengthen the protection of children's rights related to identity, alimony, and other civil rights, thereby encouraging the balanced implementation of legal certainty, substantive justice, and *maslahah* in the Indonesian legal system.

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