



## Engineering (Hilah) Of Guardians For Child Marriage Of Admiral From an Islamic Law Perspective

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**Abstract:** The adulterous child marriage that occurred in Sreseh District, Sampang presents a dilemma between normative rules that require a guardian judge and the practice of engineering marriage guardians for social interests, so this empirical legal research through literature study, interviews, observations, and documentation examines the hilah pattern, motivation, impact, and Islamic legal review. Thus, four patterns were identified: taukil biological father to guardian judge, contract in a closed place that was then announced, double contract by biological father and guardian judge, and unregistered marriage with taqlid Hanafi school or walimuhakkam. Engineering is driven by the desire to cover up shame, maintain social conduciveness, prevent the annulment of the marriage by the groom, and guarantee the validity of the contract, but has an impact on reducing household harmony to divorce. From the fiqh perspective, a marriage remains valid because the contract is ratified by a judge or by the school of thought followed, while the validity of manipulation depends on the harm: it is permitted if it prevents disturbances or anarchy, but is forbidden if it is solely for the benefit of the bride's family so that the marriage is not considered.

**Keywords:** manipulation (hilah), marriage guardian, illegitimate child

**Abstract:** *Pernikahan anak zina yang terjadi di Kecamatan Sreseh Sampang menghadirkan dilema antara aturan normatif yang mensyaratkan wali hakim dan praktik rekayasa wali nikah demi kepentingan sosial, sehingga penelitian yuridis-empiris ini melalui studi pustaka, wawancara, observasi, serta dokumentasi menelaah pola hilah, motivasi, dampak, dan tinjauan hukum Islamnya. Dengan demikian teridentifikasi empat pola: taukil ayah biologis kepada wali hakim, akad di tempat tertutup lalu diumumkan, akad ganda oleh ayah biologis dan wali hakim, serta nikah siri dengan taqlid mazhab Hanafi atau wali muhakkam. Rekayasa didorong oleh keinginan menutup aib, menjaga kondusivitas masyarakat, mencegah pembatalan pernikahan oleh mempelai pria, dan menjamin keabsahan akad, tetapi berdampak pada menurunnya keharmonisan rumah tangga hingga perceraian. Dari sisi fiqh, pernikahan tetap sah karena disyahrkannya akad oleh wali hakim atau oleh mazhab yang diikuti, sedangkan keabsahan rekayasa bergantung pada kemudharatan: diperbolehkan bila mencegah kegaduhan atau anarkis, namun terlarang bila semata-mata demi kepentingan keluarga mempelai perempuan agar pernikahan tidak digagalkan.*

**Keywords:** rekayasa, wali nikah, anak zina

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## Introduction

Marriage is a crucial social institution and is recommended in Islam, as exemplified by the Prophet Muhammad (peace be upon him) through his words, deeds, and decrees. To ensure order and well-being for both partners and their families, Islamic law establishes normative rules in the form of conditions, pillars, and ethics of marriage. According to the Shafi'i school of thought, there are five pillars of marriage: the prospective husband and the prospective wife, the consent and acceptance of the marriage contract, two witnesses, and the presence of a guardian. (Setyawan, 2024) The existence of a marriage guardian is crucial from a legal perspective, especially for the bride. This importance is evident in the unanimous agreement of the imams of various schools of thought (mazhab) that a marriage guardian is a necessary condition for marriage, except for the Hanafi school, which permits marriage without a guardian. (Safitri, Yulistyowati, & Sihotang, 2023)

Marriage guardians also have their own rules, as outlined in both Islamic and state law. The Shafi'i school of thought divides marriage guardians into four types: wali bin nasab (kinship relations such as father, grandfather, brother, and uncle), wali bil-wala' (for freeing slaves), wali hakim (a judge or the KUA (Office of Religious Affairs) in certain circumstances such as the absence of a guardian), and muhakkam (a person appointed by the bride and groom to officiate their marriage). (Aditya, M., 2023) Article 21 Paragraph (1) of the Marriage Law states that guardians of marriage are divided into four groups based on their closeness to the bride, starting from the father and grandfather from the father's side to the grandfather's brother and his descendants. Thus, it is increasingly clear that the existence of a guardian of marriage is very important and is very closely attached to the bride. (Hutagalung, 2022)

However, it cannot be denied that in society, there are women born out of wedlock, who in this study are referred to as children of adultery. Under Islamic law, women born out of adultery do not have any guardians, including biological fathers, because there is no legal relationship. (Susanti & Amri, 2023) The maternal grandfather and the maternal guardian are also not qualified as marriage guardians. Based on Indonesian law (Article 43 Paragraph (1) of Law No. 1/1974), which explains that children born out of wedlock only have a civil relationship with the mother and her family. Therefore, the marriage guardian for children resulting from adultery is a judge guardian. (Faisal, 2022)

The provisions regarding the guardian judge are regulated in the Regulation of the Minister of Religious Affairs No. 30 of 2005 Article 3 Paragraphs (1) and (2), which states that the Head of the Religious Affairs Office (KUA) of the District is appointed as the guardian judge to marry the bride, and if the Head of the KUA is

unable to do so, the Head of the Islamic Religious Affairs Section on behalf of the Minister of Religious Affairs can appoint a registrar from the district or the nearest as a temporary guardian judge. (Hidayati, Idris, & Marhamah, 2023) The concept of guardianship in this marriage is formed in such a way as to fulfill the rules of Islamic law, which require a guardian in marriage. So, whatever the status of the bride, there must still be a guardian in her marriage. (Nurseto & Yassir, 2023) Thus, if a woman wants to get married, she can immediately register at the nearest Religious Affairs Office and explain her guardianship status.

Madurese society is known as a deeply religious community, firmly upholding Islamic teachings as part of their identity. Therefore, any violation of these teachings is seen as a violation of dignity and self-respect. From an anthropological perspective, Islam and Madurese society are inseparable, with religious traditions rooted in their ancestors. (Faisal, 2022) In adhering to Islamic law, Madurese society highly respects and prioritizes community leaders such as kiyais, ustazs, and elders. For Madurese, these community leaders have greater influence than government officials because they are considered able to maintain harmony, cooperation, and resolve conflicts, even often engineering solutions for harmony rather than simply implementing formal rules. One example is the case of a child's marriage for adultery that was "engineered" by the marriage guardian: although the biological father was considered ineligible as a guardian because the child was born before six months of marriage, the leaders consulted with the KUA (Religious Affairs Office) and carried out the marriage contract through a judge, while concealing the real reason to maintain family honor. (Abidin, Z., & Rahman, 2015)

According to H. Abd Aziz, Head of the Sreseh District Office of Religious Affairs (KUA), the marriage process at the KUA follows official procedures established by the government, but still prioritizes sharia rules. If there are indications of discrepancies regarding the marriage guardian, the KUA will conduct an in-depth investigation, even going directly to the prospective bride and groom's home to confirm the truth. In addition, there is another practice discovered by researchers, namely unregistered marriages conducted by a kiyai or ustadz using a muhakkam guardian, so that at the wedding reception, there is no need for a marriage contract and it does not raise suspicions that the bride is a child of adultery. The various manipulations carried out by the Madurese community regarding the marriage guardianship of children of adultery attracted researchers to study it more deeply. The goal is to identify all forms of manipulation of marriage guardians for children of adultery and analyze their validity under Islamic law, so that it can provide benefits to the entire community.

## Methods

This research uses a juridical-empirical legal research method with a case study approach. Juridical-empirical research focuses on legal studies based on practice and social reality in the field, with empirical data collected directly. (Fajar, 2015) According to Sugiyono, empirical legal research is research conducted by examining relevant facts to be explained according to applicable law. A qualitative approach is used to deeply understand the conditions of an object through narrative, not numerical, meanings, concepts, symptoms, and phenomena. It emphasizes a comprehensive understanding of the natural conditions occurring in the field rather than mere generalizations. (Abdussamad, 2021)

This research was conducted at the KUA (Office of Religious Affairs) of Sresih District, Sampang Regency, due to the location being a location with numerous instances of marital manipulation against children of adultery. The presence of the researcher in this study was a key instrument for gathering the required data. Primary data sources in this study were obtained from informants, namely the KUA of Sresih District, village heads, religious leaders, and village elders. Meanwhile, secondary data sources were generated from theoretical studies relevant to the research topic. Data collection was carried out using observation, interviews, and documentation methods. Data analysis was carried out by data reduction, data presentation, and conclusion.

## Result and Discussion

### Result

#### Overview of Research Location

The Sresih Office of Religious Affairs is located in Sresih District, Sampang Regency, East Java Province, Indonesia. The office is located at Jalan Raya Labuhan No. 11, Sampang Regency, East Java 69273. This district is located on Madura Island. It is approximately 43 kilometers west of the district capital of Sampang via Blega, Bangkalan. Labuhan Village is the administrative center. The Blega River divides the area.



**Figure 1. Map of Sresih District**  
Source: BPS Sampang Regency

The majority of the Sreseh District community adheres to the Nahdlatul Ulama (NU) school of Islamic socio-religious practice. This is evident in their worship practices and daily practices. Courtesy, tolerance, and the tradition of cooperation are still firmly held by the residents of Sreseh District. For example, when there is a community celebration, such as a wedding, many neighbors and family members arrive at least three days in advance to help with preparations. Women, in particular, are willing to quit their jobs to help. Many Sreseh residents adhere to traditional Islamic boarding school education, so it's no surprise that many religious figures who have developed ideas on Islamic law have emerged from the region.

## Implementation of Engineering (Hilah) of Guardians for Marriage of Children of Adultery at the KUA of Sreseh District

### a. Procedures for Child Marriage of Adultery

Children of adultery can still marry with the same procedures as children not resulting from adultery, namely preparing administrative documents such as birth certificates, ID cards, and family cards, and processing them through the village head and the KUA. The main difference lies in the marriage guardian, where children of adultery must use a judge guardian, not a lineal guardian. As the results of an interview with the head of the Sreseh KUA, Drs H. Abd Aziz, explained that the judge guardian is appointed by the KUA and is included in a special file in the form of a request letter from the village head and a statement letter from the KUA. As the illustration of the order of marriage guardians is as follows:



Figure 2. Order of marriage guardians from KUA Sreseh

This is reinforced by the results of an interview with Mat Ridi, Head of Bunde Village, who explained as follows:

"Agemah figures and community figures, E glassesn Sreseh nikah oneng regarding the procedures for marrying children of zina jek se, the right to marry the guardian of the judge. Tpeh kalaben pansanapan consideration is forced not to obey the kalaben sebedeh procedures, our sanajen oneng jek does not comply with the kalaben atoren sebedeh."

(Religious and community leaders in Sreseh sub-district know that the procedure for child marriage in cases of adultery is that the person who has the right to marry is the guardian or judge, but for various reasons, they are forced not to do it according to the existing procedure, even though we know that it is not by the existing regulations.) (interview, March 15, 2025)

From the description above, it is known that the marriage procedure for a child of adultery is no different from the marriage procedure for a child who is not adulterous in terms of administrative documents or other requirements, but the only difference is in the guardianship, that the guardian for the marriage of a child of adultery is a judge in this case the registrar or head of the KUA.

**b. The attitudes of society and community leaders regarding child marriage and adultery**

According to the sub-district community, Sreseh, child marriage resulting from adultery is considered a disgrace, so families, religious leaders, village officials, and the local community try to cover up the situation; they fear that disclosure would embarrass the village and tarnish the collective reputation. Therefore, the marriage ceremony is usually still conducted legally and registered at the Office of Religious Affairs (KUA), but a guardian is appointed without disclosing the bride's origins, thanks to cooperation between community leaders and the KUA.--

This is based on the results of an interview with Kyai Bakri, who is a community figure in Sreseh, who said the following:

*"Tadek Sengarep's marriage to a child of adultery happens to the family of Ben Desah. Tapeh mon lakadong deddih then the community aromasah kabeter mon statos ex-binek marriage Katon, because it can be a Majubek sigh ben nyamah becce'eh sigh"*

(No one expects child marriages to occur within the family and village. However, if they do, the community is worried that the status of the bride will be revealed, as it could tarnish the village community and the name of the village.) (interview, March 7, 2025)

In addition to the statement from Kyai Bakri, the attitude of the Sreseh community, which views the status of a child of adultery as a disgrace, is also strengthened by the results of an interview with the head of the Sreseh KUA, Drs Abd. Aziz, who said that.

*"top-notobhlih status anak zina delem nikah ampon is common. It could be said to be part of the culture of Madureh society, especially the people of Sreseh District."*

(Covering up the status of a child of adultery in a marriage is commonplace, and could even be called a culture in Madurese society, especially in the Sreseh sub-district.) (interview, February 27, 2025)

Thus, concealing the status of a child of adultery during marriage ceremonies is a common practice among the people of Sreseh District, including religious and community leaders, who even collaborate with the Office of Religious Affairs (KUA) to maintain family honor and the village's image. The primary concern for religious leaders arises when a woman who has resulted from adultery wishes to marry, as the law requires her to be married by a legal guardian.

Problems often arise when the family does not recognize the child as an adopted child and still wants to be their guardian, even though it is legally invalid. To anticipate this, several religious leaders, such as Ustadz Sanidi, record or inform younger leaders about children known to be adulterous. This is done so that when the senior leaders are gone, the next generation can still ensure that the marriage ceremony takes place according to Islamic law and applicable law.

The people of Sreseh District, like Madurese in general, highly respect and obey community and religious figures, such as village officials, village elders, and religious leaders (kyai). In various important matters, whether happy ones like marriage or embarrassing ones like disputes, they always consult with these figures before making decisions. This is part of the local culture and character. As a form of respect, when planning to marry a child, the community will visit their kiai or teacher to request a day considered auspicious and blessed for the marriage ceremony or reception. The chosen day will be accepted and carried out without considering whether it clashes with neighboring events or not. Therefore, there are several attitudes taken by the Sreseh Religious Affairs Office (KUA) towards the marriage guardians of children who have committed adultery. These attitudes are:

- 1) If both families are open and accept the prospective bride's status as a child of adultery, then the marriage can be held at the KUA with a guardian judge according to applicable regulations, without causing problems. However, according to Nur Cholis, S.Ag, former Head of the Sreseh KUA, problems arise if the prospective husband comes from the same area and the bride's status as a child of adultery is already well-known in the community. To cover up the shame, the marriage ceremony is usually carried out by a guardian judge without an opening speech from the KUA, which usually explains who the guardian is and the reason for using a guardian judge, to avoid revealing the status.
- 2) If the bride's family acknowledges the child of adultery but wishes to keep it secret from the groom and the community, the KUA (Office of Religious Affairs) will attempt to persuade them and involve community leaders so that the marriage contract is conducted at the KUA, presided over by a judge, by the regulations, and officially registered. However, if these efforts are unsuccessful, the KUA will consult with religious and community leaders to find the best solution, including the possibility of using a marriage guardian (hilah).
- 3) If the bride's family does not acknowledge the child of adultery, for example, by including the child on their Family Card, while there are witnesses from community leaders who state otherwise, the Religious Affairs Office (KUA) will be cautious and prioritize Islamic law over mere state administrative regulations. Although administratively the biological father can be registered as a marriage guardian, under sharia law, this is invalid if the biological father is not the father of the lineage. Therefore, in situations like this, the KUA Sreseh prefers that the marriage be conducted using a legal guardian to maintain religious validity.



### **The Practice of Engineering Guardians in Marriages of Children of Adultery**

As previously described, the practice of manipulating marriage guardianship for children of adultery does occur and is carried out in the community of Sreseh District as a form of response to the complexity of the legal status of these children in marriage. Based on the author's research, this practice can be classified into two main forms. First, manipulating marriage guardianship directly involves the Office of Religious Affairs (KUA), where the KUA takes an active role in finding solutions, both through administrative approaches and deliberations with community and religious leaders. Second, manipulating marriage guardianship is carried out without direct involvement of the KUA, usually carried out by the bride and groom's families together with local community or religious leaders, to circumvent the status of the child of adultery so that they can still carry out a formal and socially acceptable marriage. These two forms of manipulation reflect the dilemma between compliance with state law, Islamic law, and prevailing social norms. (Setyawan, 2024)

The practice of engineering the marriage guardian of a child of adultery involving the KUA, namely, Engineering the marriage guardian of a child of adultery, is sometimes done secretly by the registrar from the KUA, for example, by asking permission first secretly in the bride's room so that the requirements to become a guardian judge are met. Next, the biological father, who is not a guardian of lineage, performs the marriage taukil openly in front of the community, as if representing the KUA as guardian of lineage. The registrar then marries the bride and groom until it is finished, so that in the eyes of the community, the marriage ceremony looks normal, like an ordinary marriage with a guardian of lineage, even though according to religious law, the guardian judge is the one who applies. This is as per the results of an interview with Kyai Bakri, who said,

*"Praktegeh, the KUA asks for edhih ka child of zina ekamarrah to enikaagih teros sir'eh ngalakoh taukil deck KUA eade'eh Ondangan guests. So se katon nikah wali nasab se orkil ka deputy judge"*

(In practice, the KUA asks for permission from the child's room to marry, then the father performs taukil at the KUA (registrar) in front of the guests. So what is seen is the lineage guardian who taukil at the judge guardian.) (interview, March 7, 2025)

Then it was strengthened by the results of an interview with the KUA Sreseh, namely Drs. Abd. Aziz, who said that

*"enggi, kadeng panguloh salku weli hakim mangkat kakamar mantan bineh kaanggui minta edih manikah, teros etempat akad bapak biolaseh ataukil ka pangoloh"*

(Yes, sometimes the registrar, as the judge's guardian, goes to the bride's room to ask for permission to marry her, then at the place of the marriage contract, her biological father asks the registrar.) (interview, March 13, 2025)

Another practice of manipulating marriage guardians involves an agreement between the KUA (religious official) and the bride and groom's families to conduct the marriage contract secretly in a private place, such as a room, with only the bride and groom, the registrar, the biological father, and witnesses present. After the ceremony is complete, the ceremony is announced to the guests, with the rationale being that the marriage guardian, the biological father, feels embarrassed and unable to handle the ceremony in front of many people. This method creates the perception in society that the



marriage contract was conducted normally with a lineage guardian, even though it was conducted in a way that circumvents sharia provisions.

Another practice of falsifying marriage guardianship involves an agreement between community leaders and the Office of Religious Affairs (KUA) to appoint a judge as the marriage guardian, by excluding the bride's biological father from the marriage ceremony. The father's absence is then used as a formal basis for the inability of the lineal guardian to perform the marriage ceremony, and the judge replaces him. This approach is chosen to avoid conflict or debate regarding the validity of the guardianship status, while also maintaining the honor of the bride's family in the community. By excluding the biological father from the official ceremony, the public is given the impression that the marriage is taking place by Islamic law and state law, when in reality, there are elements of manipulation to maintain social harmony and the family's reputation.

Another practice of falsifying marriage guardians that occurs in society is when the Religious Affairs Office (KUA) allows the marriage ceremony to be conducted openly and normally in front of guests, using a lineal guardian as a symbol of formality to avoid suspicion or social unrest. In this process, the biological father, who is not a legal guardian according to Sharia, still performs the ceremony in public so that the event appears to proceed as a regular wedding. However, after all guests have left the location and the atmosphere has become more private, the KUA then summons the bride and groom to perform the remarriage ceremony officially and legally using a legal guardian, as stipulated in Islamic law. This step is taken as a form of compromise between social demands that demand family honor and compliance with Sharia, which requires the use of a legal guardian for children of adultery, so that the marriage remains considered religiously valid without causing public unrest.

#### **Factors Driving the Engineering (Hilah) of Guardians of Child Marriages for Adultery**

Child marriages involving adultery are often a dilemma. To circumvent this, guardians sometimes manipulate the marriage to make the ceremony appear normal to the public, especially to the groom's attendants. Several factors and reasons contribute to the manipulation of guardians for child marriages, including:

a. Covering up disgrace and maintaining the family's good name

Religious figures in Srekeh District, such as Kiai Bakri, view the practice of arranging marriage guardians for children of adultery as a socio-religious mechanism to safeguard the honor of the prospective bride's family. Because the status of "child of adultery" is viewed as a serious disgrace, both within religious norms and within the Madurese community, families and village leaders feel the need to conceal this stigma to maintain the family's reputation and allow the wedding ceremony to proceed without negative attention.

This view is echoed by other figures, Habibur Rahman and Sanidi S.Pd, who explained that kiai and community leaders usually design weddings by symbolically presenting the guardian of the lineage in front of guests, while substantively declaring the marriage valid through a guardian judge. This "covert" strategy was chosen because revealing the status of the child of adultery openly was believed to embarrass the bride and groom and their families, while covering up the shame was seen as in line with the guidance of sharia to maintain dignity (satr al'aib). Thus, the engineering

of the guardian of marriage functions as a middle way between the demands of religious law that require a guardian judge and the social demands to maintain the honor of the community.

b. Maintaining the good name of the village figures

Madurese society values dignity and honor, so when a woman born of adultery wants to marry, village leaders tend to manipulate the marriage ceremony to conceal the family's shame. This is not only for the sake of the bride, but also to preserve the dignity of the elders, since revealing the child of adultery could be seen as evidence of the leaders' failure to educate their community and tarnish the village's reputation. Sukron, the Village Secretary of Bundeh, emphasized that local leaders feel obligated to protect the community's reputation, so every detail of the wedding is carefully planned to prevent the child of adultery from becoming public knowledge.-

However, as Habibur Rahman acknowledged, this commitment to upholding dignity often clashes with positive legal norms: even though the leaders are aware that the law requires a legal guardian for children of adultery, they still choose a scheme that uses a symbolic guardian. To avoid stigma and maintain their authority, they are willing to take unofficial routes—even bypassing state administration—as long as the honor of their families and villages is maintained. This practice reflects the dilemma between adherence to legal regulations and customary demands that place collective dignity above all else.

c. Ensure the marriage contract process runs smoothly.

The prospective bride's child status is often deliberately kept secret by her family from the groom, and to ensure the ceremony runs smoothly, the family, along with religious leaders, chooses a scheme involving a marriage guardian. This strategy usually involves the symbolic appearance of the guardian in front of the guests, while the marriage contract is substantively declared valid by a judge—a step that, according to Ustadz Habibur Rahman, is taken because revealing the facts risks rejection or cancellation of the marriage by the groom's family. For the woman, the cancellation of the marriage contract not only carries emotional and material losses but also creates broader shame for the extended family, so covering up the shame is considered the safest solution to protect collective honor.

Nur Cholis, S.Ag, emphasized that the decision to keep the child of adultery a secret is strengthened if the prospective groom is completely unaware of the background; revealing the facts before the marriage ceremony can trigger emotional turmoil and social pressure that are difficult to overcome. As a result, religious leaders, KUA officials, and the woman's family often engage in moral-legal negotiations to maintain the continuity of the ceremony, even if this means contradicting state regulations that require the guardian to be transparent. This practice demonstrates the tension between adherence to sharia law, social norms, and the fear of losing the opportunity to marry, where the dignity of the woman's family is at stake in determining whether the truth is revealed or kept hidden.

d. Maintaining a conducive social atmosphere

Researchers confirmed with the Head of the Sreseh Religious Affairs Office (KUA), Drs. Abd Aziz, the arrangement of marriage guardians for children of

adultery was carried out through coordination between the bride and groom's families, village leaders, and KUA officials to reduce potential social friction. Although the marriage registrars realized this practice deviated from state regulations, as children of adultery should be married openly with a legal guardian, they still submitted to the community's aspirations: rejecting transparency to maintain the stability and dignity of the community. For the KUA, imposing standard rules was feared to trigger unrest, so that social compromise was considered more beneficial than procedural compliance.

The dominant influence of Madurese community leaders, particularly in Sresih District, reinforces this stance from the KUA (Religious Affairs Office). As Moh Qurdi explained, residents tend to be more obedient to village elders than to KUA officials; therefore, if the leaders want a manipulated marriage, the marriage registrar chooses to comply to maintain harmonious institutional relations. Sukron, the Secretary of Bundeh Village, emphasized that openly disclosing the status of a child of adultery risks undermining public trust in village leaders, who could be seen as failing to uphold the dignity of their community and creating uncontrollable chaos. Thus, the manipulation of marriage guardians serves as a symbolic bulwark to protect collective dignity, even though it conflicts with higher formal regulations.

## Discussion

### The Negative Impact of Manipulation (Hilah) Guardians of Child Marriages of Adultery According to the Marriage Law

According to information received by researchers, the manipulation of guardians for children of adultery has resulted in disharmony in households, even leading to divorce. (Ni'ami, 2022) Islam, with its high and universal sharia, has established legal principles and etiquette for both men proposing and women being proposed to. (Hidayat, Hasriyanti, & Muharuddin, 2023) Islam prescribes criteria for selecting an ideal partner for both men and women. (Adistyan, 2024) Regarding the criteria for selecting a life partner, the Prophet Muhammad (peace be upon him) said:

تُنكَحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا، وَلِحَسَبِهَا، وَلِجَمَالِهَا، وَلِدِينِهَا، فَاظْفَرْ بِذَاتِ الدِّينِ تَرِبْتُ يَدَاكَ

"A woman is married for four reasons: her wealth, her lineage, her beauty, and her religion. But of these four, the most important thing to pay attention to is her marriage," his religion. So pay attention to your religion and you will be safe." (HR. Bukhari Muslim).

Based on the hadith above, when choosing a partner, one should consider four things: religion, wealth, beauty, and lineage. In terms of lineage, the chosen person should come from a good, honorable family or lineage and possess noble character. This is because they will have good and noble children in the future. This is also by the saying of the Prophet Muhammad (peace be upon him).

تَخَيَّرُوا لِنُطْفِئُكُمْ، وَأَنْكِحُوا الْأَكْفَاءَ، وَأَنْكِحُوا إِلَيْهِمْ

"Choose a place for your (semen), and marry your equals (sekufu), and marry them." (HR Ibn Majah).

From the explanation above, the husband's disappointment is justified because he has been lied to by his wife. He hoped to get a woman of good heritage, but instead

received a child of adultery, which certainly brings shame to him and his family. This situation can cause a husband's trust in his wife to erode and create disharmony. In Islam, several factors are stipulated that permit divorce, such as physical disfigurement, such as leprosy, bone or flesh in the genitals, or mental insanity.(Tezcan, 2024) From this explanation, the case of a child of an adulterous marriage being manipulated by a guardian is not a reason that allows for divorce (fasakh nikah). However, if the husband feels uncomfortable and cannot accept his wife's condition, which can cause household conflict, then divorce is permissible according to religion.(Astell, 2023)

Article 27 of the Marriage Law, in conjunction with Article 72 of the Compilation of Islamic Law, explains the following provisions regarding marriage annulment:

- a. A husband or wife may file for annulment of marriage if the marriage was entered into under unlawful threat.
- b. If there is fraud or misunderstanding regarding the husband or wife during the marriage.
- c. The right is forfeited if the threat has stopped or the guilty party is aware of the situation and is still living as husband and wife within 6 (six) months after that and cannot use their right to file for annulment.

Furthermore, according to the explanation above, a husband who believes his prospective wife comes from a good family but is disappointed by her perceived status as the result of adultery can file for annulment or dissolution of the marriage. However, it's important to understand that a marriage can only be annulled after six months from its consummation. A divorce can then be filed if more than six months have passed.(Cantalini, Ohlsson-Wijk, & Andersson, 2024)

One additional consequence of manipulation is the manipulation of data in marriage registration files. Article 2 of the Marriage Law regulates whether a marriage is valid and whether it was conducted according to the laws of each religion and belief. Marriages must also be registered. However, a marriage can be annulled if the parties do not meet the requirements for marriage. Article 22 of the Marriage Law regulates this. If the family or authorities fail to properly supervise the marriage, resulting in the marriage being performed after a violation of the law is discovered, the marriage can be annulled. In this case, the parties concerned can request a court to dissolve the marriage.(Muthhar & Musyafirudin, 2022)

From the description above, the manipulation of marriage guardians should not lead to data manipulation, because by law, the husband and his family have the right to sue criminally against parties suspected of being involved in manipulating marriage data, including the marriage guardian's data.(Tang, Pan, & Deng, 2024) The burden of shame borne by the prospective bride's family to the prospective groom's family is the cause of the lack of public awareness in Sresih District regarding the guardianship of children resulting from adultery; therefore, it is necessary to provide understanding and explanations in a way that does not offend feelings. (Piliang & Misbahuzzulam, 2023)If the community concerned does not accept this, they will be taken to the office to explain. (ABELIA, 2023)The task of society today is to provide explanations so that they are willing to acknowledge the true reality.

### ***Manipulation (hilah) of guardians for the marriage of adulterous children according to Islamic law***

In general, Wahbah al-Zuhaili (Zuhaili, 2006) divides hilah into two types, namely permitted Hilah Syari'iyah, which is defined as a change (hilah) that occurs in the substance of sharia law that is placed for a certain problem and is used in other conditions to establish the truth or reject injustice or to obtain convenience because the need for hilah like this does not damage or destroy the benefit of sharia. Hilah like this is permitted based on sharia because this hilah is not aimed at canceling sharia law or freeing oneself from the obligations borne by someone, but is a solution or way to get out of a tight spot. (Nurliana, 2022) Next is the Prohibited Sharia Law. This law aims to change the substance of Sharia law into another form of law that is legitimate on its face but is futile on its face. This includes laws that aim to nullify Sharia rights and specifically select certain heirs to receive wills and to nullify the penalty for theft. (Wong, 2025)

Based on the form of hilah proposed by Wahbah Zuhaili, it is understood that a legal hilah that is permitted is a change to the substance of the method established by Islamic law, which is determined for a specific purpose and used in other situations to achieve truth, reject injustice, or obtain convenience. Legal halal like this does not damage the beneficial aspects of Islamic Shari'a, because they operate by the Shari'a framework. (Salma, Nirbita, & Zahra, 2024) Based on Wahbah Zuhaili's explanation above, to understand the manipulation (hilah) of guardians involved in the marriage of children of adultery, it is necessary to comprehensively examine the background of the case and the consequences that would occur if the manipulation were not carried out or was carried out. To clarify and facilitate analysis, the researcher will detail the problem of the manipulation (hilah) of guardians involved in the marriage of children of adultery as follows:

a. A loss that is detrimental to the groom's party

The hilah that occurred in Sreseh sub-district, based on the description in Sub-2, contained elements that harmed other parties, namely the prospective husband and his family. For example, the hilah was carried out to cover up the shame of the bride and her family, that the bride was the child of adultery. Or, it was intended to prevent the groom from canceling the marriage contract. At first glance, the reason used was something by Islamic law, namely, covering up the shame or shortcomings of another person. However, according to researchers, this reason is not complete enough to be used as justification for the hilah. Because this reason only looks at the perspective of the bride and does not address the perspective of the groom. In marriage, each prospective partner has the right to know the shortcomings of their prospective partner. And there is also an obligation for each prospective partner or those who know to honestly reveal these shortcomings and not to hide them. (Salma et al., 2024)

Ibn Hajar al-Haitami emphasized that the obligation to reveal deficiencies (-'blemish) in the marriage contract is absolute: it applies even if the prospective bride and groom do not ask about it, just as the seller is obliged to expose defects in goods in a sales transaction.-(Piliang & Misbahuzzulam, 2023) Covering defects that are of a sharia nature 'ī (fasik, mental disorder) and 'Urfi (poverty) is considered haram because it damages the principle of honesty 'āmalah; on the other hand, explaining it is

mandatory so that the other party can consider whether to continue or cancel the contract. Based on this principle, the status of a child of adultery according to sharia 'It is considered makruh to marry because of the unclear lineage, and in general 'Urfa is considered a disgrace in the eyes of society and must be revealed to the prospective husband. The marriage guardian's engineering to cover it up and prevent the marriage from being annulled is reprehensible because it is a double offense: concealing a fault that must be revealed and eliminating the right to choose a husband. On the other hand, if hilah is only done to prevent gossip from guests after the prospective husband has known and accepted the disgrace, so the practice is permissible, because the element of deception and the abolition of the right of khiyār is no longer there.

b. Hilah to prevent bad things from happening.

If the marriage of a child of adultery is conducted normally and without any manipulation, there is a concern that harm will occur. Therefore, in this case, the benefits and harms of manipulating the marriage of a child of adultery must be considered. Then, a comparison must be made between the two. Referring to the factors and impacts of manipulating the marriage of a child of adultery, several benefits arise from the manipulation, namely: (Salma et al., 2024)

- 1) The bride and her family's shame is hidden from the groom's family.
- 2) Maintaining the self-esteem of community and religious figures
- 3) The marriage contract was carried out
- 4) Avoid conflicts that end in anarchy

The mafsadah that might arise if the adultery child's marriage guardian's engineering is not carried out includes:

- 1) The bride and her family's shame is revealed to the groom and his family
- 2) Bringing shame to the community and religious figures
- 3) The wedding may be cancelled by the groom's side
- 4) The occurrence of conflict in society

Consideration of benefits points 1, 2, and 3 is not taken into account, as are mafsadat points 1, 2, and 3. This is because the prospective husband has the right to know the shortcomings of his future wife to use as a consideration for whether to continue the marriage or end it. One of the shortcomings that he has the right to know is the status of his future wife's child of adultery. The prospective wife and people who know the bride's shortcomings are obliged to tell the groom. Among the people who knew were the bride's family, community leaders, religious leaders, and the KUA. Thus, according to researchers, consideration of the benefits and mafsadat of points 1, 2, and 3 above cannot be used as justification for the manipulation (hilah) of the marriage guardian of an adulterous child.

Meanwhile, the benefit of point 4, namely to avoid conflict in society, and the mafsadat of point 4, namely the occurrence of conflict in society, can be taken into consideration. (Ma'ruf & Kusumawati, 2024) In this case, according to the researcher, it is necessary to consider whether the suspicion of this conflict will occur is strong or weak, and to what extent this conflict will occur. This is because, according to the information the researcher received, not all Madurese people, especially in the Sreseh sub-district, have a

hard nature and temperament that leads to anarchy. Some people have a soft or hard nature, but this does not lead to anarchy, which is called carok.

Thus, this matter must be detailed. If it is strongly suspected, based on indications and information received, that if the marriage contract is not carried out using a marriage guardian's manipulation, it will result in conflict in the community that ends in anarchy (carok), then the manipulation (hilah) of the marriage guardian for the child of adultery is legally permissible, provided that preventing harm must be prioritized over gaining benefit. (Lathif, Isep, Insan, Mustika, & Wijaya, 2020) In this case, the occurrence of anarchic conflict is a disservice, while the truth of the information received by the groom and his family is a benefit for them. (Hanafiah, 2022) In this issue, there are also two main objectives: anarchic conflict and concealing the bride's shame from the groom. Therefore, concealing the shame is chosen, considering this is a less serious objective than anarchic conflict. However, if the fear of conflict is merely a weak allegation without a strong indication, then this is a weak objective that is not taken into account and prioritizes the definite benefit of providing the bride with information about her future wife to consider when marrying her. (Piliang & Misbahuzzulam, 2023)

## **Conclusion**

The engineering (hilah) of the marriage guardian of a child of adultery is an effort made so that the marriage remains valid according to religion without the public knowing that the bride is a child of adultery, and this practice is common in Sreseh District, Sampang Regency. Some forms of engineering include: the biological father representing the marriage contract to the KUA (guardian judge) through the taukil model, the marriage contract procession is carried out in a closed place and only announced to the guests because the guardian is nervous about the contract being carried out twice, namely openly with the guardian of the lineage and then closed with the guardian judge; and the siri contract through the guardian muhakkam or following the Hanafi school of thought so that there is no need to carry out the contract in public and simply hold a reception later. Thus, the marriage remains valid and does not violate statutory regulations or Islamic law without exposing the shame of the status of the bride, who is a child of adultery.

This research is expected to broaden the community's understanding that women who are children of adultery are not related to their biological fathers, and therefore, when they marry, they must be represented by a judge. The Sreseh community's scheme can serve as a reference for children of adultery who are planning to marry and do not want their status publicly known. The hope is that the marriage will proceed smoothly without tarnishing the reputation of the individual, family, or community.

This research is certainly far from perfect. There are still many legal issues related to marital guardianship that have not been researched and developed. Therefore, the researcher strongly supports future researchers who can develop and refine this issue. Furthermore, the researcher is very open to all forms of input, both criticism and suggestions, from readers to create better articles that benefit the wider community.



## REFERENCE

- Abdussamad, Z. (2021). *Metode Penelitian Kualitatif*. Makassar: CV. Syakir Media Press.
- Abidin, Z., & Rahman, H. (2015). Tradition Bhubuwan for Invitation Model. *Jurnal Karsa*, 21(1), 105.
- Adistyan, M. (2024). The Urgensi of Qur'an Education for Teenageers in the Digital Era. *Al-Urwatul Wutsqa*, 4(2).
- Aditya, M., & M. (2023). The Concep marriage Guardian in Hanafiyah and Syafi'iyah. *Jurnal Al-Muqaranah*, 1(1).
- Astell, M. (2023). *Some reflections upon marriage*. books.google.com. Retrieved from [https://books.google.com/books?hl=en%5C&lr=%5C&id=54zQEAAQBAJ%5C&oi=fnd%5C&pg=PA55%5C&dq=marriage%5C&ots=toNg\\_aglSt%5C&sig=43\\_M7QSqtvtAtAn8RNWxy7Ep0sE](https://books.google.com/books?hl=en%5C&lr=%5C&id=54zQEAAQBAJ%5C&oi=fnd%5C&pg=PA55%5C&dq=marriage%5C&ots=toNg_aglSt%5C&sig=43_M7QSqtvtAtAn8RNWxy7Ep0sE)
- Cantalini, S., Ohlsson-Wijk, S., & Andersson, G. (2024). Cohabitation and marriage formation in times of fertility decline: The case of Sweden in the twenty-first century. *European Journal of ....* <https://doi.org/10.1007/s10680-024-09703-9>
- Faisal. (2022). Age limit provisions for Marriage. *Jurnal Al-Fikrah*, 11(1), 45–58. <https://doi.org/10.54621/jiaf.v11i1.307>
- Fajar, M. Y. A. (2015). *The Dualism of Law Research Normative and Empiris*. Yogyakarta: Pustaka Belajar.
- Hanafiah, M. (2022). Actualitation of the Concep 'Adalah in Marriage Law in Fiqih Syafi'iyah Perspective. *Jurnal Al-Fikrah*, 11(1), 79–90. <https://doi.org/10.54621/jiaf.v11i1.269>
- Hidayat, R., Hasriyanti, H., & Muharuddin, M. (2023). The Implementation of Isbat Nikah in islamic Law Compilation. *Journal of Law Justice (JLJ)*, 1(1), 41–51. <https://doi.org/10.33506/jlj.v1i1.2685>
- Hidayati, A. N., Idris, J., & Marhamah, U. (2023). The dynamics of family harmony in the Javanese weton perspective. *SHAHIH: Journal of Islamicate Multidisciplinary*, 8(1), 55–62. <https://doi.org/10.22515/shahih.v8i1.7458>
- Hutagalung, D. (2022). Pernikahan Dini Ditinjau dari Iman Kristen. *HAGGADAH: Jurnal Teologi Dan Pendidikan Kristen*, 1(1), 17–31. <https://doi.org/10.57069/haggadah.v1i1.5>
- Lathif, N., Isep, :, Insan, H., Mustika, :, & Wijaya, M. (2020). *Comparative Study of Post-Marriage Nationality Of Women in Legal Systems of Different Countries Perspective on Settlement of General Election Disputes Through Mediation, Adjudication and Legal Efforts: Settlement of State Administrative Judicial Disputes* . 650–661.
- Ma'ruf, M., & Kusumawati, I. R. (2024). The Law and Tradition of Weton Calculation in the Javanese Community of Jombang East Java (Study in Balong Besuk Village, Diwek Jombang). *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam*, 8(2), 237–250. <https://doi.org/10.25217/jm.v8i2.4136>
- Muthhar, M. A., & Musyafirudin, I. (2022). Sangsi Pelaku Pernikahan Ilegal. *Shakhsiyah Burhaniyah: Jurnal Penelitian Hukum Islam*, 7(1), 77–100. <https://doi.org/10.33752/sbjphi.v7i1.3939>
- Ni'ami, M. F. (2022). Islamic Jurisprudence Perspective In The Practice Of Divorce Due To Taklik Talak. *Al-Rasikh: Jurnal Hukum Islam*, 11(2), 107–116. <https://doi.org/10.38073/rasikh.v11i2.865>
- Nurliana, N. (2022). Pernikahan dalam Islam Antara Ibadah dan Kesehatan Menuju Keselamatan. *Al-Mutharahah: Jurnal Penelitian Dan Kajian Sosial Keagamaan*, 19(1), 39–49. <https://doi.org/10.46781/al-mutharahah.v19i1.397>
- Nurseto, A., & Yassir, M. (2023). Perwalian Orang Yang Meninggalkan Shalat dalam Pernikahan Menurut Mazhab Syafi'I dan Maliki. *Rayah Al-Islam*, 7(3), 1234–1247.

- <https://doi.org/10.37274/rais.v7i3.826>
- Piliang, A. J., & Misbahuzzulam, M. (2023). Dispensasi Bagi Wanita Hamil Untuk Menikah Dengan Pria Yang Tidak Menghamilinya Dalam Perspektif Maqashid Syariah (Studi Analisis Putusan Pengadilan Agama Tanjung Pinang Nomor 30/Pdt.P/2014/PA.TPI). *Isti`dal: Jurnal Studi Hukum Islam*, 10(1), 100–117. <https://doi.org/10.34001/ijshi.v10i1.4877>
- Safitri, E., Yulistyowati, E., & Sihotang, A. P. (2023). Implementasi Pemberian Bantuan Hukum Bagi Masyarakat Miskin Melalui Posbakum Di Pengadilan Agama Demak Kelas IB. *Semarang Law Review (SLR)*, 4(2), 36. <https://doi.org/10.26623/slr.v4i2.7394>
- Salma, P. S., Nirbita, H. K., & Zahra, F. A. (2024). Relevansi Pengaturan Wali Pernikahan Bagi Anak Hasil Zina dalam Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan dan Instruksi Presiden Nomor 1 Tahun 1991 tentang Kompilasi Hukum Islam (KHI) Dikaji dari Perspektif Hak Asasi Manusia. *Padjadjaran Law Review*, 12(1). <https://doi.org/10.56895/plr.v12i1.1619>
- Setyawan, R. (2024). Implikasi Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010 Terhadap Kedudukan Anak Di Luar Perkawinan. *Ahwaluna | Jurnal Hukum Keluarga Islam*, 1(1). <https://doi.org/10.70143/ahwalunajurnalhukumkeluargaislam.v1i1.337>
- Susanti, D., & Amri, E. (2023). Kehidupan Keluarga Pasangan Suami - Istri yang Hasil Ngitung Weton Tidak Cocok. *Culture \& Society: Journal Of Anthropological Research*, 5(2), 80–89. <https://doi.org/10.24036/csjar.v5i2.131>
- Tang, F., Pan, Y., & Deng, H. (2024). Effect of marriage on overweight and obesity: evidence from China. *BMC Public Health*. <https://doi.org/10.1186/s12889-024-21184-3>
- Tezcan, T. (2024). Gender gap in religiosity and interfaith marriage attitudes: Muslim migrants in Germany. *International Journal of Intercultural Relations*. Retrieved from <https://www.sciencedirect.com/science/article/pii/S0147176724001093>
- Wong, E. M. Y. (2025). Same-sex marriage legislation and implementation: Marital intention and barriers for marriage actualization among same-sex couples in Asia. *Journal of Marriage and Family*. <https://doi.org/10.1111/jomf.13095>
- Zuhaili, W. (2006). *Fiqih Islam Wa Adillatuhu*. Beirut: Daar Al Fikr.