

Governing Islamic Marriage: The Role of *Tawkil Wali Bil Kitabah* in Indonesia's Marriage Registration System

**Akhmad Shodikin^{1*}, Adyananda Firnaz Asyifa¹, Jefik Zulfikar Hafizd¹, Dewi Safitri¹,
Edy Setyawan¹**

¹Universitas Islam Negeri Siber Syekh Nurjati Cirebon, Indonesia

*Corresponding Author Email: shodikin73@uinssc.ac.id

ABSTRACT

This article examines *Tawkil Wali Bil Kitabah* as a legal-administrative instrument through which the state governs Islamic marriage within Indonesia's marriage registration system. The study addresses the tension between classical *fiqh munakahat* requirements, particularly the presence of a marriage guardian, and contemporary social realities marked by mobility and administrative demands. This research is primarily framed as normative-doktrinal legal research with a descriptive-analytical approach, supported by an analysis of statutory regulations, marriage registration guidelines, and relevant scholarship on Islamic family law, as well as limited field-based information from *Kantor Urusan Agama* (Office of Religious Affairs - KUA) practice in Cirebon as an illustrative example. The findings show that *Tawkil Wali Bil Kitabah* functions not merely as an administrative formality but as a state-recognized legal instrument that standardizes the delegation of guardianship authority, ensures procedural order, and strengthens legal certainty in Islamic marriage. The study also shows that this mechanism reflects the harmonization of *fiqh*, the Compilation of Islamic Law, and state administrative practice in the governance of marriage. It concludes that *Tawkil Wali Bil Kitabah* represents an evolving model of governing Islamic marriage in Indonesia, in which religious norms are operationalized through legal-administrative procedures without displacing their normative foundations.

Keywords: Islamic Family Law, Islamic Marriage Governance, KUA, Marriage Registration, *Tawkil Wali Bil Kitabah*

ABSTRAK

Artikel ini mengkaji *Tawkil Wali Bil Kitabah* sebagai instrumen hukum-administratif melalui mana negara melakukan tata kelola perkawinan Islam dalam sistem pencatatan nikah di Indonesia. Kajian ini berangkat dari ketegangan antara ketentuan *fiqh munakahat*, khususnya keharusan adanya wali nikah, dan realitas sosial kontemporer yang ditandai oleh mobilitas serta kebutuhan administratif. Penelitian ini terutama dibingkai sebagai penelitian hukum normatif-doktrinal dengan pendekatan deskriptif-analitis, yang didukung oleh analisis peraturan perundang-undangan, pedoman pencatatan nikah, dan literatur hukum keluarga Islam, serta informasi lapangan terbatas dari praktik KUA di Cirebon sebagai contoh ilustratif. Hasil penelitian menunjukkan bahwa *Tawkil Wali Bil Kitabah* tidak sekadar berfungsi sebagai formalitas administratif, tetapi sebagai instrumen hukum yang diakui negara untuk menstandardisasi pelimpahan kewenangan wali, menjamin ketertiban prosedural, dan memperkuat kepastian hukum dalam perkawinan Islam. Kajian ini juga menunjukkan bahwa mekanisme tersebut mencerminkan harmonisasi antara *fiqh*, Kompilasi Hukum Islam, dan praktik administrasi negara dalam tata kelola perkawinan. Penelitian ini menyimpulkan bahwa *Tawkil Wali Bil Kitabah* merepresentasikan model tata kelola perkawinan Islam yang berkembang di Indonesia, di mana norma keagamaan dioperasionalkan melalui prosedur hukum-administratif tanpa meniadakan dasar normatifnya.

Kata kunci: Hukum Keluarga Islam, KUA, Pencatatan Nikah, Tata Kelola Perkawinan Islam, *Tawkil Wali Bil Kitabah*

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Received: February 11, 2026; Revised: March 16, 2026; Accepted: April 25, 2026

INTRODUCTION

Marriage in Islam is not understood merely as a sacred event that binds two individuals, but also as a legal and social institution that functions to maintain order, ensure family continuity, and protect the rights of the parties involved (Azni et al., 2025; Hanafi, 2026; KHI, 1991). From a normative Islamic perspective, marriage has a strong theological foundation, as emphasized in the Qur'an regarding the aims of establishing tranquility, affection, and the continuation of lineage (Q. al-Rūm: 21), as well as the importance of a lawful and responsible family structure (Q. al-Nisā': 1). One fundamental element in Islamic marriage is the presence of a marriage guardian (*walī*), which in *fiqh* is positioned as a representation of protection and as a source of legitimacy for the contract on behalf of the bride.

In contemporary Muslim societies, the implementation of marriage has become increasingly complex (Uddin, 2023). Globalization and high levels of social mobility—such as labor migration, interregional education, and long-distance family relationships—often hinder the physical presence of a guardian (*walī*) at the time of the marriage contract (Chernyak, 2022; Ismail et al., 2024). This situation calls for legal mechanisms capable of bridging classical *fiqh* norms with modern administrative needs and legal certainty, without undermining the substance of Islamic teachings themselves (Aminudin et al., 2025; Wahyudi et al., 2025).

In the Indonesian context, the state responds to these challenges through administrative regulation of marriage that is integrated into the marriage registration system. One key instrument emerging from this policy is the Surat Ikrar *Tawkil Wali Bil Kitabah*, namely a written delegation of a marriage guardian's authority when the guardian cannot attend in person. This instrument functions not only as a practical solution, but also as a means by which the state organizes, standardizes, and supervises the conduct of Islamic marriages to ensure compliance with positive law and the principle of legal certainty (Perdirjen, 2020a).

In addition to studies that specifically discuss *Tawkil Wali Bil Kitabah*, previous scholarship on Islamic marriage administration in Indonesia has also highlighted the growing importance of legal documentation, institutional verification, and procedural order in marriage registration practices. Research on marriage registration generally emphasizes the role of the Office of Religious Affairs (KUA) not merely as a recording institution, but as a legal-administrative authority that ensures compliance with formal requirements, protects the rights of the parties, and strengthens the evidentiary status of marriage in the national legal system. Within this broader discourse, the issues of guardian attendance, document authenticity, and procedural validation have become increasingly relevant, especially in the context of social mobility and the need for legal certainty in contemporary Muslim family life.

Previous scholarship on *Tawkil Wali Bil Kitabah* in Indonesia may be grouped into two closely related strands. The first examines it conceptually as a legal and administrative response to the absence of the *walī nasab*: Wahidin (2022) frames it as a policy solution, Ummah (2023) as a form of administrative prudence to protect guardianship rights, Pratiwi (2021) analyzes it through the lens of *maqāṣid al-sharī'ah*, and Pekasa (2023) highlights the social motives behind its use. The second strand focuses on its practical implementation within KUA administration. Ahmad Risky (2024) shows that when the guardian resides far from the place of marriage, the procedure is carried out through the issuance of a *surat tawkil wali* before the Head of the KUA in the guardian's domicile and its submission to the KUA where the marriage contract takes place. Rosadi (2023) likewise finds that the implementation of *tawkil wali* in KUA practice generally follows the applicable administrative requirements, including witnesses and official validation, while earlier studies by Pani (2012) and Lestari (2022) demonstrate that, despite some technical variation among KUA officials, *Tawkil Wali Bil*

Kitabah remains widely recognized as an important legal-administrative mechanism for maintaining procedural order and the validity of marriage registration (Lestari, 2022; Pani, 2012; Pratiwi, 2021; Risky, 2024; Rosadi, 2023; Ummah, 2023; Wahidin, 2022). Taken together, these studies confirm the importance of *Tawkil Wali Bil Kitabah* in Islamic marriage administration, yet they largely treat it as a technical procedure, a practical solution, or a social-administrative phenomenon rather than as a state legal instrument through which religious norms, administrative governance, and legal certainty are integrated within Indonesia's marriage registration system.

Based on this review, it can be concluded that a gap remains in the literature regarding the understanding of the Surat Ikrar *Tawkil Wali Bil Kitabah* as part of the governance of Islamic marriage—namely, how the state regulates, legitimizes, and standardizes the practice of marriage guardianship through the marriage registration system. In fact, this mechanism has direct implications for legal certainty, the authority of the guardian, and the validity of the marriage contract within the framework of Islamic family law in Indonesia.

Accordingly, this study aims to analyze the role of the Surat Ikrar *Tawkil Wali Bil Kitabah* as a state legal instrument within Indonesia's Islamic marriage registration system. This article not only addresses the concept and mechanism of *Tawkil Wali Bil Kitabah*, but also explores its function in ensuring the legality of marriage, strengthening legal certainty, and demonstrating how fiqh norms are integrated into the state's administrative system. In doing so, this research is expected to offer a conceptual contribution to the development of Islamic family law and to the broader discourse on the relationship between religion, law, and the state in marital practice.

RESEARCH METHOD

This study is primarily framed as normative-doctrinal legal research with a descriptive-analytical approach (Darmalaksana, 2022). It examines the role of the *Surat Ikrar Tawkil Wali Bil Kitabah* within Indonesia's Islamic marriage registration system by analyzing the relevant legal norms governing marriage guardianship, marriage registration, and administrative legality. The study focuses on statutory regulations, technical guidelines on marriage registration, and scholarly works on Islamic family law in order to explain how *Tawkil Wali Bil Kitabah* functions as a legal-administrative instrument through which the state regulates and legitimizes the practice of Islamic marriage.

The primary legal materials in this study consist of legislation and regulatory instruments related to marriage registration, particularly Law No. 1 of 1974 on Marriage as amended by Law No. 16 of 2019, the Compilation of Islamic Law, Regulation of the Minister of Religious Affairs No. 30 of 2024 on Marriage Registration, and the technical guidelines issued by the Directorate General of Islamic Community Guidance concerning marriage services at the Office of Religious Affairs (*Kantor Urusan Agama*, KUA). These materials are complemented by secondary sources in the form of books, journal articles, and other academic works on Islamic family law, marriage administration, and guardianship in marriage.

To strengthen the normative analysis, this study is supported by limited field-based information obtained from interviews with five purposively selected informants in Cirebon, namely the Head of the KUA, a religious leader/amil, a marriage guardian, and two members of a bridal couple who were directly involved in the practice of *Tawkil Wali Bil Kitabah*. These informants were selected based on their institutional authority, direct involvement, and practical knowledge of marriage registration procedures. The field data were collected during the research period in Cirebon and are used only as illustrative supporting material to clarify how the relevant legal norms are implemented in administrative practice, rather than as the principal empirical basis of the study.

The analysis was conducted descriptively and analytically by identifying the relevant legal norms, interpreting their relationship with the principles of *fiqh munakahat*, and relating them to the limited field findings and administrative documents examined in this research. Through this method, the study seeks to explain how the *Surat Ikrar Tawkil Wali Bil Kitabah* operates not merely as an administrative formality but as a legal instrument that supports legality, legal certainty, and procedural order in Indonesia's Islamic marriage registration system.

Definition of Marriage and *Tawkil Wali Bil Kitabah*

Marriage, in the Indonesian legal context, is defined as a physical and spiritual bond between a man and a woman as husband and wife, with the purpose of forming a family (household) that is happy and enduring, based on the belief in the One and Only God (Law, 1974). In general lexicographic terms, the Oxford Dictionary describes marriage as "the legal relationship between two people who are married to each other," emphasizing its character as a legally recognized status (Oxford Learner's Dictionaries, 2026). In Indonesian usage, the *Kamus Besar Bahasa Indonesia* (KBBI) distinguishes between *nikah* and *pernikahan*: *nikah* refers to the marriage bond or contract (*akad*) performed in accordance with legal provisions and religious teachings, while *pernikahan* denotes (1) the act of marrying and (2) the marriage ceremony (KBBI, 2026). Taken together, these definitions indicate that marriage may be understood simultaneously as (i) a legally and religiously validated contract that establishes the spousal relationship, and (ii) a broader socio-legal institution and event aimed at forming a stable family life, with both normative and administrative dimensions.

Linguistically, the term *tawkil* derives from the Arabic verb *wakala-yuwakkilu-tawkil*, which means to entrust, authorize, or delegate an affair to another party. The terms *wakālah* or *wikālah* in Arabic also carry the meanings of protection (*al-ḥifẓ*), guarantee (*al-ḍamān*), and delegation of authority (*al-tafwīḍ*). Thus, both *tawkil* and *wakālah*, etymologically, refer to the act of transferring authority from one party to another to act on one's behalf, without any substantive difference in meaning, as both originate from the same lexical root (Perdirjen, 2020b). Within Islamic law, the concept of *wakālah* has long been recognized as a valid mechanism of representation, provided that certain conditions are met and that it is performed consciously and voluntarily.

Terminologically, *Tawkil Wali Bil Kitabah* may be understood as the delegation of a marriage guardian's (*walī*) authority to another party through a written declaration (*bil kitābah*), when the *walī nasab* is unable to be physically present at the time of the marriage contract. This delegation is formalized in the form of a *Surat Ikrar Tawkil Wali Bil Kitabah*, which serves as written legal evidence that the guardian has granted authority to a substitute guardian to solemnize the marriage contract on his behalf. Accordingly, *Tawkil Wali Bil Kitabah* is not merely a fiqh-based practice, but has been institutionalized as an administrative instrument that connects sharia norms with the state legal system (Soemiyanti, 1982).

From a theoretical perspective, this article approaches *Tawkil Wali Bil Kitabah* through the combined lens of legal governance, legal pluralism, and administrative law (Fukuyama, 2013; Griffiths, 1986; Wahab, 2025). Legal governance helps explain how the state structures and standardizes religious practices through legal instruments and procedural mechanisms; legal pluralism clarifies the interaction between *fiqh munakahat*, the Compilation of Islamic Law, and state regulations within Indonesia's marriage registration system; while administrative law highlights the importance of official authority, documentary evidence, verification, and procedural accountability in ensuring legality and legal certainty. Through this framework, *Tawkil Wali Bil Kitabah* is understood not merely

as a technical or administrative formality, but as a state-recognized legal instrument through which religious norms are operationalized and governed within the modern system of marriage registration.

Under Indonesian positive law, provisions on *Tawkil Wali Bil Kitabah* are explicitly contained in Regulation of the Minister of Religious Affairs (*Peraturan Menteri Agama*) No. 30 of 2024 on Marriage Registration. Although this regulation does not provide a detailed conceptual definition, Article 12(5) stipulates that when the guardian is not present at the time of the marriage contract, the guardian may issue a *surat tawkil wali* before the Head of the KUA, a marriage registrar (*penghulu*), or an overseas marriage registration officer in accordance with the guardian's domicile, and such declaration must be witnessed by two witnesses. This provision affirms that *Tawkil Wali Bil Kitabah* is a lawful mechanism recognized by the state within the Islamic marriage registration system (PMA, 2024).

Furthermore, Article 13 of Ministerial Regulation No. 30 of 2024 emphasizes that the *ikrar tawkil wali* is conducted to confer authority upon a substitute guardian so that the marriage contract can still be validly concluded even when the *wali nasab* is unable to attend. In this way, the regulation positions *Tawkil Wali Bil Kitabah* as a legal solution that ensures the continuity of the marriage contract while also fulfilling the requirements of legal certainty and orderly state administration. Within this framework, the KUA functions as a state institution that verifies, authorizes, and records the delegation of the guardian's authority.

In terms of procedural and technical implementation, limited field information from the Talun Subdistrict KUA in Cirebon Regency provides an illustrative example of how *Tawkil Wali Bil Kitabah* is administered in practice. Based on field notes and an interview with H. Maskum, the *penghulu* of the Talun KUA, the process generally begins with a request submitted by the *wali nasab* who is unable to attend the marriage contract in person. The guardian appears before the KUA in accordance with his domicile to declare his intention to delegate authority to a substitute guardian. This is followed by the collection and verification of the relevant administrative documents, including the identities of the guardian, the prospective bride and groom, supporting family documents, and the identities of two witnesses. Thereafter, the *wali nasab* completes the required form and signs the *ikrar tawkil wali* statement before the authorized KUA official. This description is presented not as the principal empirical basis of the study, but as an illustrative field-based note that helps clarify how the relevant legal and administrative norms are implemented in marriage registration practice.

This practical pattern is also supported by previous studies showing that *Tawkil Wali Bil Kitabah* has been implemented in various KUA settings as an administrative mechanism to accommodate the absence of the *wali nasab* while maintaining the legality of the marriage contract. Ahmad Risky (2024) concludes that when the *wali nasab* resides far from the place of marriage, the procedure is carried out in accordance with Article 12(5) of Ministerial Regulation No. 30 of 2024, namely by issuing the *surat tawkil wali* before the Head of the KUA in the guardian's place of domicile and forwarding it to the KUA where the marriage contract is conducted. Similarly, Rosadi (2023) finds that the implementation of *tawkil wali* at the Bukit Raya Subdistrict KUA has generally followed the requirements of PMA No. 30 of 2024, including the involvement of two witnesses and validation by the Head of the KUA or the *penghulu*. Earlier field-based research by Pani (2012) and Lestari (2022) further shows that although technical opinions among KUA officials may vary in certain situations, *Tawkil Wali Bil Kitabah* remains widely recognized as an important legal-administrative mechanism for ensuring procedural order and safeguarding the validity of marriage registration when the guardian cannot be physically present (Lestari, 2022; Pani, 2012; Risky, 2024; Rosadi, 2023).

The parties involved in this process generally include the *wali nasab*, the substitute guardian, the prospective bride and groom, two witnesses, and the KUA official as the competent authority

responsible for validating the declaration. The *Tawkil Wali Bil Kitabah* is completed prior to the marriage contract so that, at the time of the *akad nikah*, the substitute guardian already possesses lawful authority to act on behalf of the *wali nasab*. After the examination and verification process is completed, the KUA issues a *Surat Keterangan Ikrar Tawkil Wali Bil Kitabah* signed by the relevant parties and validated by the Head of the KUA. This document then serves as the legal basis for the substitute guardian to solemnize the marriage contract on behalf of the *wali nasab* (Irawan & Sholehuddin, 2023; Maskum, 2025). Accordingly, *Tawkil Wali Bil Kitabah* not only satisfies the *fiqh* requirement of delegating guardianship authority, but also fulfills the administrative requirements established by the state, including a written declaration, the presence of witnesses, validation by a competent official, and official registration. Within the framework of Indonesia's Islamic marriage law, this mechanism demonstrates how the state manages religious practice through legal-administrative instruments in order to ensure the validity of the marriage contract, strengthen legal certainty, and protect the rights of the parties involved.

Marriage from the Perspective of Islamic Law in Indonesia

In Islamic law, marriage (*nikāḥ*) is a legal act constituted through a contract (*‘aqd*) that legitimizes the spousal relationship and generates binding rights and obligations for the parties (Benhalim, 2023; Erkoç Baydar, 2023; Shesa et al., 2025). Beyond the contract itself, marriage also functions as a socio-legal institution through which family continuity, order, and the protection of rights—particularly those of the bride—are safeguarded within a recognized legal framework (Kumari, 2025; Saepullah et al., 2025). In this context, the marriage guardian (*wali*) occupies a central position, as guardianship is traditionally understood in *fiqh* as a protective and legitimizing mechanism for the conclusion of the marriage contract on behalf of the bride.

From the perspective of Islamic law, marriage constitutes a legal act that is not only an act of worship but also generates legal consequences for the parties involved. Marriage is understood as a contract (*‘aqd*) aimed at establishing tranquility and ensuring family continuity (Q. al-Rūm: 21), while also carrying social and humanitarian responsibilities within the family structure (Q. al-Nisā': 1). The principle of fulfilling contracts and adhering to legally binding agreements is likewise affirmed as a normative foundation in Islam (Q. al-Mā'idah: 1). Accordingly, the validity of marriage in Islam is determined not only by its spiritual dimension but also by the fulfillment of legal elements that ensure order and the protection of rights.

In the Indonesian state context, the regulation of marriage—including Islamic marriage—has a constitutional basis. The 1945 Constitution of the Republic of Indonesia affirms protection of the right to form a family and to continue lineage through a lawful marriage (Article 28B(1)), and guarantees freedom to practice religious teachings (Article 29(2)). These constitutional provisions serve as the foundation for the state to regulate marriage as a legal event that carries a religious dimension while also affecting social order and legal certainty (Republic of Indonesia, 1945).

Further regulation of marriage is set out in Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019. This legislation stipulates that a marriage is valid when conducted according to the law of each party's religion and belief, and must be registered in accordance with the applicable laws and regulations. This provision indicates that the validity of marriage in Indonesia encompasses two interrelated dimensions: the normative-religious dimension and the administrative-state dimension. In the context of Islamic marriage, *fiqh* norms are not abolished; rather, they are institutionalized through the national legal system to ensure legal certainty and protection (Law, 1974).

As an implementation of the obligation to register marriages for Muslims, the state establishes and assigns the Office of Religious Affairs (*Kantor Urusan Agama*, KUA) as the official institution responsible for marriage registration. The existence of the KUA is rooted in governmental policy in the field of religious affairs, which historically developed since the establishment of the Ministry of Religious Affairs, and is normatively reaffirmed in various subordinate regulations, including those governing marriage registration and technical guidelines for marriage services (Government Regulations, 1975; Law, 1945). The KUA functions not only as an administrative body but also as an extension of the state in ensuring that Islamic marriages are carried out in accordance with both sharia provisions and positive law.

Within this framework, the state plays an active role in managing Islamic marriage practices through mechanisms of legal governance (Rahmi et al., 2025). Regulations concerning the marriage guardian (*wali*), the registration of the marriage contract, and other administrative procedures form part of the state's effort to standardize religious practice in a manner consistent with the principles of legal certainty and rights protection. Similar practices are also found in several other Muslim countries, such as Malaysia and Brunei Darussalam, which regulate marriage guardianship through state religious authorities, as well as Egypt and Jordan, which confer a role upon judges or state officials in certain circumstances when the guardian is unable to perform his function. This indicates that the regulation of Islamic marriage, including guardianship, is a common feature of the legal systems of modern Muslim-majority states.

Accordingly, Islamic marriage in Indonesia may be understood as a legal institution situated at the intersection of religious norms and state authority. The state does not replace Islamic teachings; rather, it manages them through legal and administrative systems to ensure order, certainty, and the validity of marriage. This understanding provides the conceptual foundation for positioning the *Surat Ikrar Tawkil Wali Bil Kitabah* as a state legal instrument that functions to regulate and legitimize the practice of marriage guardianship within Indonesia's Islamic marriage registration system.

The Role of the *Surat Ikrar Tawkil Wali Bil Kitabah* in Ensuring the Legality of Marriage

In Islamic law, the presence of a marriage guardian (*wali*) constitutes an essential element that determines the validity of the marriage contract, particularly as the party responsible for safeguarding the bride's interests and providing legal legitimacy to the conclusion of the contract. However, in certain circumstances, the *wali nasab* is not always able to be physically present at the time of the marriage contract, whether due to geographical distance, health conditions, or other social factors. To ensure that the marriage contract can still be conducted validly and in an orderly manner, the state—through the Ministry of Religious Affairs—provides the mechanism of the *Surat Ikrar Tawkil Wali Bil Kitabah* as a legal instrument that accommodates the written delegation of a guardian's authority (PMA, 2024).

The regulation affirms that the use of *Tawkil Wali Bil Kitabah* is not informal, but must follow strict administrative procedures. Article 12(5) of Ministerial Regulation No. 30 of 2024 explicitly provides that a guardian who is unable to attend must issue a *surat tawkil wali* before the Head of the KUA, a marriage registrar (*penghulu*), or a marriage registration officer, and the declaration must be witnessed by two witnesses. This provision underscores that the transfer of guardianship authority must be conducted transparently, voluntarily, and in an accountable manner, so as to prevent disputes or competing claims in the future.

In Islamic marriage practice, the marriage guardian (*walī*) is widely regarded as an essential pillar that contributes to the validity of the marriage contract, particularly in safeguarding the interests of the bride and providing legal legitimacy to the conclusion of the contract. Ideally, the guardian performs the *ijāb-qabūl* himself. However, under certain circumstances, the guardian may delegate his authority to another person to conclude the contract on his behalf. In *fiqh*, this form of representation is generally understood within the concept of *wakālah*, through which a legally competent party may authorize another to act in matters that are delegable, including the performance of a marriage contract. Within Indonesia's marriage registration system, this delegation is institutionally recognized through the mechanism of *tawkil wali*. Under the current regulatory framework, Article 12 of Minister of Religious Affairs Regulation No. 30 of 2024 provides that, for the purpose of performing the *ijāb-qabūl* at the marriage ceremony, the *walī nasab* may appoint the Marriage Registrar (*PPN*) or another person who satisfies the legal requirements of a guardian. Furthermore, when the marriage guardian is unable to attend the marriage ceremony, the guardian must execute a *surat kuasa wakil wali* or *taukil wali* before the *PPN* in accordance with the guardian's domicile or whereabouts, in the presence of two witnesses, and the format of such *surat taukil wali* is to be determined by the Director General. Accordingly, within the administrative practice of the Office of Religious Affairs (*Kantor Urusan Agama*, KUA), *tawkil wali bil kitabah* functions as the legally recognized mechanism through which delegated guardianship authority is formalized and used as the basis for the lawful performance and registration of marriage in Indonesia (PMA, 2024).

Tawkil wali—particularly *tawkil wali bil kitabah*—does not operate merely as a *fiqh* concept, but also functions as a standardized administrative mechanism within marriage registration services. Within the framework of the governance of Islamic marriage, the mechanism illustrates how the state—through the KUA and marriage registration officials—structures guardianship practice so that it is documented, verified, and accountable, thereby supporting orderly administration and legal certainty regarding the validity of the marriage contract.

As an illustrative field-based note, limited information from the Talun Subdistrict KUA in Cirebon Regency suggests that the *surat taukil wali* plays an important role in local marriage registration practice. Based on an interview with H. Maskum, the *penghulu* of the Talun KUA, the written-delegation mechanism is generally used when the *walī nasab* cannot be physically present, particularly where the guardian resides outside the region or faces other practical impediments (Maskum, 2025). In this context, *tawkil wali bil kitabah* is understood as an administrative safeguard intended to reduce potential disputes, including objections from extended family members or claims that the guardian never granted authorization. At the same time, it reinforces administrative accountability by ensuring that the guardianship element—an essential component of the marriage contract—is documented in a clear and verifiable manner within the official marriage record.

From an administrative standpoint, the *surat taukil wali* functions as written legal evidence that supports both the legality of registration and the integrity of the marriage record. When the *walī nasab* is unable to attend, the document provides the formal basis for recording that the marriage contract is concluded through a valid delegation mechanism recognized within the marriage registration system. In practice, the existence of this document enables the KUA to maintain a clear administrative link between the authority of the guardian and the performance of the marriage contract, thereby facilitating verification and reducing uncertainty regarding the validity of the guardianship element. In this sense, the document strengthens traceability and legal certainty within the official registration process.

Accordingly, *tawkil wali bil kitābah* should not be understood merely as an administrative formality. Rather, it functions as a state-recognized legal-administrative instrument through which the delegation of guardianship authority is documented, verified, and incorporated into the formal system of marriage registration. Within the broader framework of governing Islamic marriage in Indonesia, this mechanism demonstrates how the state does not replace *fiqh* norms, but instead organizes and operationalizes them through administrative procedures in order to ensure the validity of the marriage contract, procedural order, and the protection of the rights of the parties involved.

Governance of Islamic Marriage: Harmonizing Fiqh Munākaḥāt and Administrative Practice in Indonesia

Marriage in Indonesia's legal system is defined as a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy and enduring family based on the belief in the One and Only God. This definition is set out in Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019 (Law, 1974; UU No. 16, 2019). This formulation indicates that marriage is positioned not merely as a private matter, but also as a legal act that carries moral, social, and religious dimensions, thereby requiring regulation by the state.

Historically, the Marriage Law emerged as a response to the plurality of marriage laws that existed prior to 1974, when marriage practices in Indonesia were governed by multiple legal regimes, including customary law, religious law, and colonial law (Kristanto et al., 2025). The enactment of Law No. 1 of 1974 aimed to establish a unified national marriage law, while also providing legal certainty and protecting the rights of the parties within marriage. Although national in scope, the law did not abolish the applicability of religious law; rather, it recognizes religious law and treats it as the basis for the validity of marriage, as affirmed in the provision that a marriage is valid when conducted in accordance with the law of each party's religion and belief.

The Marriage Law applies to all Indonesian citizens regardless of religion; however, its implementation is adjusted to the religious norms adhered to by each legal subject. For Muslims, the provisions of the law are implemented by referring to the principles of Islamic law, particularly *fiqh munākaḥāt*, and are administered through state institutions such as the Office of Religious Affairs (Kantor Urusan Agama, KUA). Accordingly, the Marriage Law functions as a national legal framework that accommodates diverse religious norms within a unified state legal system.

In this context, the Marriage Law may be understood as a form of the positivization of Islamic law—particularly *fiqh munākaḥāt*—within the national legal system. Fundamental principles of *fiqh munākaḥāt*—such as the objectives of marriage, the requirement of a valid contract, and the protection of spouses' rights and obligations—are adopted and institutionalized through state regulation (Caniago et al., 2025). This process of positivization does not eliminate the normative character of Islamic law; rather, it situates it within the framework of state legal governance so that it can be implemented uniformly, in an orderly manner, and with binding legal force.

The dynamics of Islamic marriage in Indonesia demonstrate a close interaction between the norms of *fiqh munākaḥāt* and the state legal system (Nasution, 2020). *Fiqh munākaḥāt* provides the normative framework concerning the pillars, conditions, and objectives of marriage, while the state—through regulation and the marriage registration system—plays a role in ensuring order, legal certainty, and the protection of the parties' rights (Lubis et al., 2023). The adaptation of *fiqh munākaḥāt* to the needs of modern law and administration should not be understood as a reduction of sharia's substance, but rather as a process of adjustment so that *fiqh* norms can be applied effectively in an

increasingly complex and mobile society. Within this framework, the state acts as a governor that bridges religious values with the demands of contemporary legal governance.

Such a legal framework for marriage is concretely reflected in the management of marriage's essential elements, particularly with respect to marriage guardianship. In *fiqh munākahāt*, the guardian (*walī*) occupies a central position as a legal authority that ensures the validity of the marriage contract and protects the interests of the bride. However, in modern social practice—as occurs in many regions of Indonesia—the guardian's physical presence cannot always be ensured due to distance, mobility, or certain social circumstances. In response to this reality, the state has developed administrative mechanisms that allow the delegation of a guardian's authority without negating the fundamental principles of *fiqh*. The *Surat Ikrar Tawkil Wali Bil Kitabah* serves as a concrete example of how *fiqh munākahāt* norms are institutionalized and operationalized within the state's legal-administrative system to ensure the continuity of a valid marriage contract while maintaining legal and administrative order.

Indonesia positions marriage as a legal event that must be registered by state institutions in order to ensure legal certainty and legal protection. This obligation is affirmed in the Marriage Law and implemented through an institutional system under the Ministry of Religious Affairs, extending from the central level to provincial and regency/municipal levels, and finally to the Office of Religious Affairs (*Kantor Urusan Agama*, KUA) at the subdistrict level. This hierarchical structure indicates that marriage registration is not merely an administrative procedure, but part of the state's governance of religious practice so that it proceeds in an orderly manner and can be legally accounted for.

From the perspective of Islamic law, state involvement in marriage affairs also carries normative legitimacy. Obedience to *ulil amri* as holders of governmental authority is affirmed in the Qur'an (Q. al-Nisā': 59), which provides a basis for the state to regulate public affairs, including marriage registration. In this context, marriage registration officials—including *penghulu* and *amil nikah*—may be understood as representatives of authority (*wakīl al-imām* or *wakīl al-sultān*) who exercise the state's mandate to ensure that the marriage contract is both valid and orderly. Accordingly, compliance with marriage registration procedures through the KUA is not only an administrative obligation, but also part of obedience to legitimate authority under both Islamic law and state law.

Within the KUA marriage registration system, the legality of marriage is constructed through a series of administrative documents, including the marriage registration forms, letters of representation or delegation of guardianship authority, administrative documents for the solemnization of the contract, and permits or dispensations in certain circumstances, culminating in the issuance of the marriage certificate as legal proof of marriage. Among these documents, the *Surat Ikrar Tawkil Wali Bil Kitabah* occupies a strategic position because it serves as the legal basis for delegating the guardian's authority when the *walī nasab* is unable to attend, while also functioning as a bridge between *fiqh munākahāt* requirements and the state's administrative governance.

Although *Tawkil Wali Bil Kitabah* is widely accepted as a legal-administrative mechanism for ensuring the continuity of the marriage contract when the *walī nasab* cannot be physically present, its implementation is not entirely free from practical concerns. One potential issue lies in the possibility of misuse of delegated authority, particularly if the delegation is not supported by clear verification of the guardian's identity and genuine consent. Another concern relates to the authenticity and reliability of the *surat tawkil wali* as an official document, since the legal strength of the mechanism depends heavily on proper documentation, witness participation, and validation by the competent KUA authority. In addition, previous studies suggest that practices may vary across KUA offices in responding to particular situations, indicating that administrative interpretation and technical

implementation are not always entirely uniform. These practical issues show that, while *Tawkil Wali Bil Kitabah* strengthens legal certainty, its effectiveness also depends on consistent administrative standards, document verification, and careful institutional oversight in order to prevent procedural irregularities and future disputes (Lestari, 2022; Pani, 2012; Risky, 2024; Rosadi, 2023).

Within the KUA registration system, the *Surat Ikrar Tawkil Wali Bil Kitabah* has clear practical relevance as an administrative instrument for handling delegated guardianship when the *wali nasab* is unable to attend the marriage contract in person. As an illustrative field-based example, limited information from the Talun Subdistrict KUA in Cirebon Regency suggests that this declaration letter has been used in local registration practice as part of the administrative mechanism for ensuring that delegated guardianship is formally documented and legally recognized. Through this mechanism, the KUA is able to maintain procedural order, documentary clarity, and administrative accountability, thereby helping to reduce the risk of future disputes or objections concerning the validity of the marriage contract.

More broadly, the illustrative case from Cirebon provides a useful example of how the governance of Islamic marriage may operate at the local administrative level. In this context, marriage registrars and KUA officials do not function solely as administrative recorders; they also act as institutional actors who interpret and apply *fiqh* norms within the framework of state regulation. From this perspective, the *Surat Ikrar Tawkil Wali Bil Kitabah* functions as an instrument that bridges the normative requirements of *fiqh* with legal-administrative demands, while also reflecting the state's role in organizing religious practice in accordance with the principle of legal certainty.

Harmonization between *fiqh munakahāt*, the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI), and administrative practice may be seen in their shared objectives: safeguarding the validity of the marriage contract, protecting the rights of the parties, and ensuring social order (Anggraini & Putera, 2023). In this framework, the KHI occupies an important position as a codified normative reference that translates classical principles of Islamic family law into a more systematic legal form within the Indonesian state system. Rather than replacing *fiqh*, the KHI provides an intermediate normative layer through which Islamic legal principles are articulated in a manner that is more compatible with the requirements of state recognition, procedural order, and legal certainty (Hafizd, 2021; Nasution, 2020).

From the perspective of the KHI, marriage registration is inseparable from efforts to maintain both the validity and legal certainty of Islamic marriage in Indonesia. The KHI positions marriage not only as a religious event, but also as a legal event that must be carried out under the supervision of the Marriage Registration Officer (*Pegawai Pencatat Nikah*) and registered in accordance with the applicable laws and regulations. These provisions reflect a normative understanding that religious validity should be accompanied by administrative recognition in order to secure legality within the national legal order (KHI, 1991; Law, 1974).

The KHI's emphasis on registration may therefore be understood as a refinement and institutionalization of *fiqh munakahāt* within the context of a modern state. While classical *fiqh* primarily focuses on the fulfillment of pillars and conditions of marriage, the KHI adds an administrative dimension as an instrument of legal protection (Aziz, 2024; Yusup, 2026). Through registration, the law seeks to prevent future disputes, protect the rights of women and children, and provide an authoritative basis for proving marital status within the framework of Islamic civil law (Yusup, 2026). In this sense, registration is not merely an administrative formality, but part of the broader objectives of Islamic law (*maqāṣid al-sharī'ah*) in safeguarding lineage, dignity, and social welfare.

As an illustrative field-based example, limited information from the Talun Subdistrict KUA in Cirebon Regency suggests that these KHI principles have been reflected in local marriage registration practice. Marriage registrars and KUA officials treat registration as a necessary stage in securing the state's recognition of marriage, even where the contract is already religiously valid based on the fulfillment of its pillars and conditions. It is within this setting that mechanisms such as the *Surat Ikrar Tawkil Wali Bil Kitabah* gain particular significance, because they enable the registration process to proceed without disregarding *fiqh* provisions concerning guardianship. In this regard, the KHI may be understood as a normative bridge that connects classical *fiqh munākahāt* with contemporary state administrative practice, while supporting the principles of legal certainty and rights protection.

In sum, the governance of Islamic marriage in Indonesia may be understood as an ongoing process of harmonization between *fiqh munākahāt*, the KHI, and state administrative practice. The illustrative case from Cirebon suggests that mechanisms such as the *Surat Ikrar Tawkil Wali Bil Kitabah* play a strategic role in maintaining a balance between religious norms and administrative legality. Within this framework, the state does not displace *fiqh*; rather, it manages and operationalizes *fiqh* through legal and administrative instruments so that Islamic marriages may be conducted in a valid, orderly, and legally protected manner.

CONCLUSION

Governing Islamic marriage through the mechanism of *Tawkil Wali Bil Kitabah* within Indonesia's marriage registration system demonstrates that the *Surat Ikrar Tawkil Wali Bil Kitabah* should not be understood merely as an administrative formality, but as a state-recognized legal-administrative instrument. The mechanism enables the written delegation of the *wali nasab's* authority when physical presence is not feasible, while preserving the core requirements of *fiqh munākahāt* and supporting legal certainty and procedural order. Normatively, its operation is grounded in the current framework of Minister of Religious Affairs Regulation No. 30 of 2024 on Marriage Registration, which recognizes the appointment of a representative guardian for the performance of the *ijāb-qabūl* and requires the execution of a *surat kuasa wakil wali* or *taukil wali* before the competent marriage registrar in the presence of two witnesses. This framework strengthens transparency, accountability, and documentary certainty in marriage registration.

As an illustrative field-based example, limited information from the Talun Subdistrict KUA in Cirebon Regency suggests that this mechanism has practical relevance in addressing cases where the guardian is absent due to distance or other practical impediments. In this respect, *Tawkil Wali Bil Kitabah* may help reduce future objections or contested claims of authorization by ensuring that delegated guardianship is properly documented and formally recognized within the registration process. Conceptually, these findings contribute to the scholarship on the governance of Islamic marriage by showing how *fiqh*-based norms are translated into legal-administrative procedures without displacing their normative substance. Practically, the study highlights the importance of document verification, procedural consistency, and administrative safeguards in strengthening the integrity of marriage registration. Given the study's limited local scope, further research is needed to examine how this mechanism operates across different regions and institutional settings in Indonesia.

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