

## The Application of The Principles of Justice, Legal Certainty, and Benefit in Regulating Civil Rights of Children After Divorce and Its Contribution to the Indonesian Legal System

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 <https://doi.org/10.56128/jkjh.v5i2.541>

ABSTRAK	ABSTRACT
<p>Tingginya angka perceraian di wilayah yurisdiksi Pengadilan Agama di bawah Pengadilan Tinggi Agama Surabaya menimbulkan keprihatinan serius terhadap hak-hak keperdataan anak pasca perceraian. Dalam banyak kasus, hak anak atas nafkah, pendidikan, kesehatan, dan perwalian sering kali diabaikan. Penelitian ini bertujuan untuk mengevaluasi penerapan asas keadilan, kepastian hukum, dan kemanfaatan dalam putusan hukum yang berkaitan dengan hak-hak keperdataan anak setelah perpisahan orang tua. Penelitian ini menggunakan metode normatif-empiris dengan pendekatan perundang-undangan, pendekatan kasus, dan studi perbandingan. Hasil penelitian menunjukkan adanya disparitas dalam pertimbangan hukum hakim, khususnya pada aspek hadhanah, nafkah, dan perwalian anak, yang mencerminkan lemahnya perlindungan hukum secara substantif. Meskipun beberapa putusan telah memuat perlindungan formal atas hak anak, namun implementasi dan pelaksanaan putusan sering kali tidak efektif. Studi ini merekomendasikan perlunya reformasi kelembagaan untuk memperkuat daya guna norma hukum dalam melindungi hak-hak anak pasca perceraian.</p> <p><b>Kata kunci:</b> Hak keperdataan anak, perlindungan hukum, hukum keluarga, perceraian, hukum Islam.</p>	<p><i>The high number of divorce cases in the jurisdiction of the Religious Courts under the Surabaya High Religious Court raises serious concerns about the civil rights of children post-divorce. In many cases, children's rights to maintenance, education, healthcare, and guardianship are neglected. This study aims to evaluate how the principles of justice, legal certainty, and benefit are implemented in legal decisions related to children's civil rights after parental separation. Using a normative-empirical method with statutory, case, and comparative approaches, this study analyzes court rulings across various types of divorce cases within the Surabaya jurisdiction. The findings reveal a disparity in judicial considerations, particularly in child custody, maintenance, and guardianship rulings, reflecting the lack of consistency in substantive legal protection. While many decisions formally protect children's rights, enforcement remains weak. The study concludes that institutional reform is needed to ensure the effectiveness of legal norms protecting children after divorce.</i></p> <p><b>Keywords:</b> Child civil rights, legal protection, family law, divorce, Islamic law.</p>

### Article History

Received: Juni 22, 2025 --- Revised: Juni 30, 2025 --- Accepted: July 04, 2025

## 1. Introduction

Marriage, in both Islamic and national legal systems in Indonesia, is viewed as not only a private contract between two individuals but also a social institution that serves public and religious functions. Islam defines marriage (*nikāh*) as *mīthāq għalīz*, a solemn

covenant imbued with responsibility, spirituality, and legal consequence. (Syarifuddin, 2003)

Its ultimate purpose is to foster *sakīnah*, mawaddah, and rahmah tranquility, affection, and compassion within the family structure. However, despite this lofty objective, the empirical reality shows a growing trend of marriage breakdowns, with divorce cases increasing steadily across Indonesia. One of the critical consequences of this phenomenon is the legal uncertainty and neglect experienced by children post-divorce, particularly concerning their civil rights. (Harahap, 2017)

The Surabaya High Religious Court (Pengadilan Tinggi Agama Surabaya), which oversees several district religious courts (*Pengadilan Agama*), has reported a significant volume of divorce cases each year. A substantial portion of these cases involve unresolved issues regarding child custody (*hadānah*), financial maintenance (*nafaqah*), and parental responsibilities post-divorce. While both parents are legally and morally obligated to continue their roles as caregivers, educators, and protectors of their children, the dissolution of marriage often disrupts this duty (Fahimah, 2019). In numerous decisions, courts affirm the father's duty to provide for the child; however, in practice, these decisions frequently go unenforced due to a lack of implementation mechanisms, uncooperative parties, or procedural barriers. (M. Khusnul Khuluq, 2018)

Statistical data and legal case reviews in the Surabaya jurisdiction reveal that many post-divorce children are left vulnerable to educational discontinuity, emotional instability, economic hardship, and even social marginalization (Moch, 1999). These conditions are exacerbated by the lack of standardized procedures in determining the amount and timing of *nafaqah*, insufficient judicial follow-up, and the general absence of mediation mechanisms to ensure compliance. From a legal perspective, this highlights the fragmentation between normative frameworks such as the Law No. 1 of 1974, the Compilation of Islamic Law, and the Child Protection Law and their real-world application in courtrooms and households.

Furthermore, judges in the religious courts sometimes hesitate to use their *ex officio* authority to ensure the best interests of the child are served, even in situations where one party does not explicitly demand such protection. This judicial restraint stems in part from the doctrine of *ultra petita partium*, which prohibits judges from granting more than what is requested by the litigants (Harahap, 2017). However, this doctrine must be carefully balanced with the higher principle of *maṣlahah al-ṭifl* (the best interests of the child), as promoted by both Islamic legal theory and international instruments such as the Convention on the Rights of the Child, which Indonesia has ratified.

The issue becomes even more complex when considering disparities in judicial reasoning across similar cases. Some judges take a progressive, child-centered approach, invoking principles of *maṣlahah* and *'adālah* to justify decisions that go beyond the mere letter of the law. Others remain rigidly bound to procedural constraints, resulting in verdicts that are legally valid but socially and morally insufficient. This inconsistency

undermines the public's trust in the legal system and threatens the legitimacy of Islamic family law in addressing modern family crises.

Moreover, from a broader theoretical standpoint, the challenge of protecting children's civil rights post-divorce represents a critical test for the integration of Islamic jurisprudence (*fiqh al-usrah*) with the modern constitutional principles of legal certainty (*kepastian hukum*), justice (*keadilan*), and benefit (*kemanfaatan*). These three pillars enshrined in the Indonesian legal system and deeply rooted in classical Islamic jurisprudence must be harmonized in judicial practice to ensure that family law evolves in line with societal needs. (Auda, 2008)

Accordingly, this research seeks to analyze to what extent judicial decisions within the jurisdiction of the Surabaya High Religious Court reflect a consistent and principled application of these foundational values, especially when dealing with child-related matters in divorce cases. The issue at hand is not merely technical but structural and ideological: it concerns the capacity of the legal system to uphold children's rights amid the breakdown of the family unit.

The urgency of examining the civil rights of children after divorce lies in the intersection between the vulnerability of children and the fragility of the post-divorce legal environment. Children, unlike adults, do not possess legal agency to represent or defend their own interests in court. As a result, the fulfillment of their rights is entirely dependent upon the awareness, goodwill, and responsibility of their parents, as well as the effectiveness of the legal system in ensuring protection (Fahimah, 2019). In practice, however, divorce often marks the beginning of prolonged neglect, especially by fathers who remarry or become economically disengaged from their previous families. The children are frequently left under the sole care of their mothers, who may lack the financial capacity to provide adequately for their welfare. (Khuluq, 2018)

This situation not only contradicts the ideals set forth in both Islamic jurisprudence and Indonesian law but also threatens the developmental and psychological stability of the child (Auda, 2008). The post-divorce period should ideally be regulated by clear, binding, and enforceable judicial decisions that prioritize the *best interests of the child* a principle echoed in both Islamic legal theory (*maslahah al-tifl*) and international law. However, the lack of clear guidelines and strong institutional frameworks has led to a condition where children's rights become residual and conditional, instead of being primary and non-negotiable.

Moreover, from a broader jurisprudential perspective, the issue highlights a significant contradiction between normative legal ideals and their empirical manifestations. While the legal framework comprising Law No. 1 of 1974, the Compilation of Islamic Law, and the Child Protection Act emphasizes joint parental responsibility, courtrooms often function as battlegrounds of blame, deflection, and avoidance. The legal system is expected to act as a proactive and rehabilitative force, yet in many cases, it merely codifies separation without enforcing real accountability. (Moch, 1999)

This becomes particularly critical in cases where mothers, as custodians, are compelled to pursue repeated litigation or even execution processes (*eksekusi putusan*) just to secure what has already been legally granted (Harahap, 2017). In such conditions, justice delayed becomes justice denied, and the child becomes a silent casualty of institutional inaction. The most important issue, therefore, is whether the principles of justice ('adālah), legal certainty (*al-yaqīn al-qānūnī*), and benefit (*maṣlahah*) are being meaningfully translated into judicial practice particularly within the decisions rendered by judges in the Surabaya High Religious Court and its subordinate courts.

Furthermore, this research also emerges in response to the lack of comprehensive studies that evaluate the dynamics of court decisions on children's rights in Indonesia from both normative and empirical perspectives. The absence of systematic analysis on how judges use their *ex officio* authority to enforce *nafaqah* or *haḍānah*, and how they weigh between legal textualism and *maqāṣid al-shari‘ah*, constitutes a serious gap in the development of Islamic family law reform in Indonesia. Given the strategic role of the judiciary in shaping normative behavior in family disputes, it is essential to study their decisions not only as legal texts but as instruments of social transformation. (Zein & Aripin, 2004)

Ultimately, the issue is not just about individual rights, but about how the Indonesian Islamic legal system perceives and treats children in moments of parental conflict. The importance of this study lies in its potential to contribute to legal reform efforts, especially in developing a more child-centered and justice-oriented approach to post-divorce adjudication.

To address the complexity of children's civil rights post-divorce, this study employs a normative-empirical legal method, combining doctrinal legal analysis with case-based empirical investigation (Marzuki, 2013). The normative aspect involves a critical examination of statutory regulations such as Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law (KHI), and the Child Protection Law, viewed through the lens of Islamic legal theory, particularly the principles of '*adālah* (justice), *al-yaqīn al-qānūnī* (legal certainty), and *maṣlahah* (benefit). (Auda, 2008)

The empirical aspect focuses on an in-depth analysis of selected court decisions from religious courts within the jurisdiction of the Surabaya High Religious Court, particularly in cases involving *haḍānah* (custody), *nafaqah* (maintenance), and judicial use of *ex officio* authority. These decisions are analyzed using a comparative approach, identifying both congruence and disparity in legal reasoning among judges, as well as the practical outcomes for the parties involved especially children.

Legal documents such as case verdicts, judicial considerations, and procedural notes form the core data of this study. These are interpreted contextually, with reference to classical Islamic jurisprudence and contemporary family law doctrines. The study also employs qualitative content analysis to identify patterns in legal argumentation and the consistency (or lack thereof) in applying child-centered principles. (Al-Zuhayli, 1997)

## 2. Method

This methodological framework is chosen to bridge the gap between law in the books and law in action. By combining statutory interpretation with empirical judicial behavior, this study aims to present a holistic understanding of how children's civil rights are constructed, interpreted, and enforced within the Islamic family law system in Indonesia.

## 3. Result & Discussion

### a. The Civil Rights of Children after Divorce in Islamic and Indonesian Legal Perspectives

The civil rights of children after the dissolution of marriage are not merely residual entitlements but essential, protected interests embedded within both Islamic legal tradition and Indonesia's national legal framework. From the standpoint of Islamic law (*shari'ah*), a child holds intrinsic rights (*huquq al-tifl*) that must be honored regardless of the marital status of the parents. Among these rights are *hadānah* (custody), *nafaqah* (maintenance), *radā'ah* (breastfeeding), *nasab* (lineage), education, and emotional care (Fahimah, 2019). These rights are framed not as optional acts of parental kindness, but as religious and legal obligations (*taklīf*) imposed by God. (Al-Zuhayli, 1997)

The Qur'an provides normative guidance regarding the treatment of children post-divorce, particularly in Surah al-Baqarah [2]: 233, where Allah commands that mothers may nurse their children for two full years and that fathers must bear the cost of maintenance and clothing "according to what is reasonable." This verse affirms that parental obligations do not cease with the termination of the marital bond; rather, they persist as long as the child remains dependent. Similarly, the Hadith literature contains explicit instructions from the Prophet Muhammad (peace be upon him) regarding custody and the prioritization of the child's welfare over the interests of either parent. (Sābiq, 1983)

In the Indonesian legal system, these Islamic values are institutionalized through Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law (KHI), and Law No. 23 of 2002 on Child Protection. Article 41 of Law No. 1 of 1974 stipulates that upon divorce, the father is responsible for the child's living and educational expenses, and that the mother may assume these duties if the father is unable. The KHI reinforces this by assigning custodial preference to the mother for young children, unless circumstances dictate otherwise. Yet despite the clarity of these provisions, numerous court cases reveal inconsistencies in interpretation and implementation.

Empirical observations from religious court verdicts in the Surabaya jurisdiction demonstrate variation in the use of judicial discretion, particularly regarding *ex officio* rulings related to child support. While some judges actively protect children's rights even when such claims are not formally requested, others refrain from doing so, citing procedural limitations and the doctrine of *ultra petita partium* (Harahap, 2017). These inconsistencies illustrate a structural challenge within Indonesia's dual legal system, in which substantive justice is often subordinated to procedural formality.

Furthermore, the absence of a unified formula for calculating the amount of *nafaqah* leads to inequality between cases. In some rulings, child support is set according to the father's income; in others, it is fixed arbitrarily or left vague (Moch, 1999). This disparity violates the principle of legal certainty (*al-yaqīn al-qānūnī*) and undermines the child's right to a predictable, stable standard of living. Consequently, judicial reasoning must move beyond literalism and incorporate the principle of *maṣlahah* the pursuit of public interest as a living tool of interpretation, particularly in cases involving vulnerable populations such as children (Auda, 2008).

In conclusion, both Islamic law and Indonesian national law provide a normative basis for the protection of children's civil rights post-divorce. However, these norms often falter in application due to uneven jurisprudence, limited judicial activism, and weak enforcement. A rights-based, child-centered approach firmly grounded in both *fiqh* and human rights standards is essential to ensure that children do not become collateral damage in the wake of broken marriages.

### **b. The Judicial Use of *Ex Officio* Authority in Protecting Children's Rights**

One of the central debates in the adjudication of post-divorce family matters in Indonesia is the extent to which judges in religious courts may exercise their *ex officio* authority to ensure the protection of children's civil rights. In principle, *ex officio* powers rooted in the judge's obligation to deliver substantive justice allow judicial actors to issue decisions on matters not explicitly requested in the litigation, particularly when vulnerable parties such as children are involved. In the context of Islamic law, this aligns with the principle of *al-hukm bi al-maṣlahah* (rulings based on public benefit), especially when the best interests of the child (*maṣlahah al-ṭifl*) are at stake. (Al-Zuhayli, 1997)

Indonesia's judicial system permits the application of *ex officio* authority in family law through various doctrines and legal interpretations. For example, the Supreme Court's Circular Letter No. 3 of 2015 (SEMA 3/2015) states that judges are allowed to make determinations in the interest of children, even without explicit claims from the parties, as long as the matter falls within the scope of the case. However, the practical application of this authority remains inconsistent across different cases in the Surabaya High Religious Court jurisdiction.

Empirical analysis of court verdicts reveals stark contrasts. In several cases such as decision No. 3145/Pdt.G/2023/PA Sby and No. 5466/Pdt.G/2023/PA Sby the judges exercised *ex officio* authority to order child support payments even though the mother had not formally included such a claim. In these cases, the court prioritized the child's welfare over the limitations of the plaintiff's *petitum*, invoking *maṣlahah* and Islamic legal ethics as justification. Conversely, in other cases, judges strictly adhered to proceduralism and refrained from making any ruling beyond the claims presented, citing the doctrine of *ultra petita partium*.

This inconsistency raises critical concerns. On one hand, it indicates judicial caution to avoid accusations of legal overreach or procedural impropriety. On the other, it reveals a missed opportunity to affirm the protective role of the judiciary in family law. More troublingly, the reluctance to act *ex officio* disproportionately affects children, who lack legal standing and depend entirely on adult litigants often mothers with limited legal literacy to advocate for their rights. (Khuluq, 2018)

The challenge lies in balancing the principle of procedural justice with the substantive imperative to protect the vulnerable. Islamic jurisprudence offers a solution through the doctrine of *wilāyah al-qādī*, whereby the judge assumes guardianship over those who cannot defend their own rights (Al-Shatibi, 2003). This classical doctrine can be interpreted as a theological and legal mandate for judges to act *ex officio* in cases involving children, the disabled, or the absent. Moreover, modern interpretations of *maqāṣid al-shārī‘ah* support the view that judicial authority should be exercised flexibly when necessary to uphold the higher objectives of Islamic law particularly the protection of lineage (*hifz al-nasl*) and intellect (*hifz al-‘aql*) in the child-rearing process. (Auda, 2008)

Institutionally, greater support for *ex officio* action must also come from clearer procedural rules and standardized training for judges. The development of bench books, national guidelines, and performance indicators related to child protection in the courtroom can provide judges with the confidence and framework to act proactively. Without such guidance, the exercise of *ex officio* authority will continue to depend on the individual conviction of the judge rather than a shared institutional ethos.

In sum, the judicial use of *ex officio* authority represents a critical instrument in closing the protection gap for children in post-divorce scenarios. Rather than being seen as an overreach, it should be framed as an ethical and jurisprudential obligation, rooted in both Islamic legal heritage and the constitutional promise of justice for all citizens, especially the most vulnerable.

### c. The Gap Between Legal Norms and Enforcement in Child Support Cases

Despite the existence of a comprehensive legal framework regulating child maintenance obligations after divorce in Indonesia, a significant gap persists between normative expectations and practical enforcement. This disconnect undermines not only the child's right to welfare but also the credibility of the judicial system as a guardian of justice for vulnerable groups. Although Law No. 1 of 1974, the Compilation of Islamic Law (KHI), and Law No. 23 of 2002 on Child Protection affirm the father's obligation to provide *nafaqah* for children following divorce, empirical evidence suggests that these legal mandates are frequently neglected or only partially implemented.

One common manifestation of this gap is the failure of fathers to fulfill child support obligations as determined by the court. In some cases, fathers simply ignore judicial rulings; in others, they pay amounts far below what has been mandated (Moch, 1999). The mother, often the custodial parent, is then left with the burden of filing execution requests (*permohonan eksekusi*), which are procedurally complex, time-consuming, and costly. As a

result, many mothers choose not to pursue enforcement, and the child's right to maintenance is effectively denied in practice. (Khuluq, 2018)

The costs associated with execution procedures are often disproportionate to the value of the claim. For instance, initiating a court-ordered execution may involve legal fees, administrative charges, and multiple hearings. In cases where the support amount is relatively small (as it often is), these costs render execution economically unviable. This reality contradicts the principle of *access to justice* and represents a structural failure to realize substantive equality for children in post-divorce situations. (Khuluq, 2018)

Furthermore, there is no standard national formula for calculating child support based on the father's income, the number of children, or regional living costs. As a result, judges across different regions apply highly subjective standards, leading to inconsistency and unpredictability in verdicts. This lack of uniformity not only disadvantages children in poorer families or less progressive jurisdictions but also conflicts with the principle of legal certainty (*kepastian hukum*) enshrined in both Islamic and national legal doctrine.

The implications of this normative-enforcement gap are profound. Children may suffer from interrupted education, lack of access to healthcare, poor nutrition, and emotional distress due to the absence of basic material support. In the long term, this failure contributes to intergenerational poverty, social exclusion, and even juvenile delinquency outcomes that directly oppose the objectives of Islamic family law (*maqāṣid al-sharī‘ah*), which prioritizes the protection of progeny (*hifz al-nasl*) and human dignity. (Auda, 2008)

To address this gap, institutional reforms are necessary. These may include the development of automatic income withholding systems for civil servants and salaried workers, enforcement support units in family courts, and accessible legal aid for mothers seeking to execute child support claims. Moreover, public education campaigns can help raise awareness among divorced parents particularly fathers about their continuing responsibilities under Islamic and state law.

In summary, the existence of strong legal norms is insufficient if not supported by robust, accessible, and child-centered enforcement mechanisms. Bridging this enforcement gap is essential to ensure that children are not deprived of their basic rights due to the legal system's structural shortcomings.

#### **d. Harmonizing *Maqāṣid al-Sharī‘ah* with the National Legal Framework in Child Protection**

The concept of *maqāṣid al-sharī‘ah* the higher objectives of Islamic law offers a transformative framework for strengthening the protection of children's civil rights within Indonesia's pluralistic legal system. Traditionally articulated by classical jurists such as al-Ghazālī, al-Shāṭibī, and Ibn ‘Āshūr, the core objectives of Islamic law include the preservation of religion (*hifz al-dīn*), life (*hifz al-nafs*), intellect (*hifz al-‘aql*), lineage (*hifz al-nasl*), and property (*hifz al-māl*). Within the context of post-divorce child welfare, two

of these objectives *hifz al-nasl* and *hifz al-‘aql* are particularly relevant. They underscore the moral and legal duty to ensure that children are raised in conditions that nurture their physical, emotional, and intellectual well-being. (Al-Shatibi, 2003)

Maqāṣid-oriented jurisprudence provides a broader lens through which judges and legislators can interpret legal norms not merely by their textual prescriptions, but through the outcomes they are intended to achieve (Auda, 2008). In the case of divorced families, this interpretive lens mandates a child-centered approach in custody (*haḍānah*), maintenance (*nafaqah*), and identity (*nasab*) rulings. Judges, therefore, are not only empowered but arguably obligated to consider these objectives when interpreting the Compilation of Islamic Law, Law No. 1 of 1974, and other relevant statutes.

At present, however, the Indonesian legal system often emphasizes procedural technicalities over substantive justice (Harahap, 2009). This is evident in the reluctance of some judges to act *ex officio* in determining child support or custody when not explicitly requested by the parties. Such a rigid adherence to proceduralism undermines the maqāṣid imperative to protect the vulnerable. As Jasser Auda argues, the maqāṣid approach must be dynamic, systemic, and outcome-focused, particularly when legal formalism obstructs ethical outcomes. (Auda, 2008)

Integrating maqāṣid into the Indonesian legal context does not require the wholesale replacement of statutory law with Islamic norms. Instead, it involves a reinterpretation of existing legal provisions in light of higher values shared across both legal traditions. For instance, the child protection mandates in Law No. 23 of 2002 and the constitutional promise of justice and equality align closely with the maqāṣid goal of ensuring social welfare and human dignity. This opens the door for harmonization between religious jurisprudence and state law through interpretive strategies, judicial training, and legal reform.

Moreover, the adoption of maqāṣid as a guiding principle can strengthen the constitutional role of the judiciary as an agent of justice rather than a passive interpreter of rules. Courts can invoke maqāṣid explicitly in their legal reasoning to justify proactive measures for child welfare, including adjusting the amount of child support based on inflation, ordering psychological assessments in custody disputes, or obligating parents to attend counseling. These approaches are not only legally valid but normatively consistent with both Islamic ethics and contemporary human rights standards.

To institutionalize this harmonization, it is crucial that legal education and judicial training in Indonesia incorporate maqāṣid-based reasoning. Bench books, judicial guidelines, and certification programs should equip judges to interpret family law cases not just textually, but also purposively, with an eye toward the outcomes that the law should achieve in practice.<sup>1</sup> This shift from rule-bound jurisprudence to goal-oriented adjudication

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<sup>1</sup> Zainal Abidin, “Penguatan Maqāṣid al-Shari‘ah sebagai Paradigma Pendidikan Hukum Islam,” *Tashwirul Afkar* 39 (2016): 77–80.

represents not a departure from tradition, but a return to the ethical foundations of Islamic law.

In conclusion, the harmonization of *maqāṣid al-shari‘ah* with Indonesia’s national legal framework holds significant promise for enhancing child protection after divorce. It fosters a holistic, value-based approach to legal interpretation that bridges the normative strengths of Islamic jurisprudence with the institutional legitimacy of state law. This integration is not merely desirable it is necessary for the realization of justice, especially for children whose lives are most disrupted by the collapse of the family unit.

#### **4. Conclusion**

This study has examined the application of the principles of justice, legal certainty, and utility in post-divorce child civil rights within the Indonesian legal system, specifically through the lens of Islamic family law and national jurisprudence. Through a doctrinal and empirical analysis of court decisions in the Surabaya Religious Court jurisdiction, the study has revealed that, although legal norms exist to protect children’s welfare after divorce, significant inconsistencies and enforcement gaps persist.

The discussion highlighted how the inconsistent exercise of *ex officio* authority by judges reflects deeper tensions between proceduralism and substantive justice. In some cases, judges proactively used their legal discretion to protect children’s rights, while in others, strict adherence to procedural limitations led to outcomes detrimental to children’s welfare. This disparity indicates the need for judicial orientation that balances legal formalism with a child-centered approach rooted in Islamic jurisprudence.

The study also found that even where favorable verdicts were issued, enforcement mechanisms remained weak, placing an undue burden on custodial mothers and leaving many children without effective remedies. Structural deficiencies such as the lack of standardized child support formulas and costly execution procedures have hindered the realization of justice, particularly for economically disadvantaged families.

To address these challenges, the study proposes a harmonization strategy between *maqāṣid al-shari‘ah* and the national legal framework. By adopting *maqāṣid*-based reasoning in judicial interpretation and lawmaking, judges and legislators can advance a more ethical, purposive, and child-centered system of family law. Such an approach does not conflict with Indonesia’s constitutional and statutory mandates but complements them by infusing legal practice with values of human dignity, social responsibility, and long-term welfare.

Ultimately, the article argues that the realization of justice, legal certainty, and utility in post-divorce child protection depends not only on the availability of laws but also on their meaningful application. Islamic legal theory especially when understood through the framework of *maqāṣid al-shari‘ah* provides both the ethical justification and practical tools to develop a more responsive and equitable system. A judiciary that is empowered, guided

by higher legal objectives, and supported by institutional reforms can better fulfill its role as a protector of vulnerable populations, particularly children affected by family breakdowns.

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