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# Legal Protection of Children's Right Following Divorce Under Indonesian Law and Regulation ( A Study of Baturaja Religious Court Decision Number 540/Pdt.G/2025/PA.Bta)

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Abstract

Divorce affects not only the relationship between husband and wife but also the fulfilment of children's rights after the marriage ends. Children remain entitled to maintenance, care, education, healthcare, and a decent standard of living from both parents, notwithstanding the dissolution of their parents' marriage. Accordingly, legal protection of children's rights after divorce is essential to safeguarding the best interests of the child. This study aims to examine the forms of legal protection afforded to children after divorce under Indonesian legislation and analyse their implementation in Decision Number 540/Pdt.G/2025/PA.Bta, issued by the Baturaja Religious Court. This research employs a normative legal method using statutory and case approaches. The legal materials were collected through a review of relevant legislation, books, academic journals, and the aforementioned court decision. The findings indicate that several legal instruments regulate the protection of children's rights following divorce, particularly Law Number 1 of 1974 concerning Marriage, as amended, Law Number 35 of 2014 concerning Child Protection, and the Compilation of Islamic Law. In Decision Number 540/Pdt.G/2025/PA.Bta, the Baturaja Religious Court ordered the father to pay monthly child maintenance of IDR 2,000,000 until the child reaches adulthood or becomes independent. This ruling reflects the Court's consideration of the child's interests and continuing needs despite the termination of the parents' marital relationship. The study concludes that parental obligations to fulfil children's rights continue after divorce. It also highlights the Court's significant role in ensuring that the child's best interests are taken into account when determining post-divorce maintenance and protection.

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## INTRODUCTION

Marriage is an inner and outer bond between a man and a woman with the purpose of forming a lasting and happy family based on Belief in the one and only God. Marriage does not only concern the legal relationship between husband and wife , but also the legal relationship between parents and the children born from the marriage. The relationship between parents and children cannot be eliminated even though both parents have divorced. In divorce cases, attention

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also needs to be directed to the continuity of children's rights and their interest after the parents marital relationship ends.

When a marriage is dissolved, several aspects undergo changes, including child-rearing patterns, place of residence, intensity of daily relationship, and the fulfillment of children's needs. The situation after divorce does not eliminate the child's need for affection, guidance, protection, and support to fulfill their living needs. Legally, the end of a marriage does not mean that all previously formed family relationship are also terminated. The legal status of parents towards their children remains valid even though both parents have officially divorced. The condition of parents who no longer live together does not eliminate their responsibility to fulfill the needs and rights of their children.

Efforts to protect children's rights are a shared obligation involving parents, the family environment, society, and the government. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child's Protection guarantees the child's right to live. Grow, develop, and obtain protection from violence and discrimination. The child's rights to obtain protection must still be fulfilled, even if they no longer live with one or both of their parents. The regulation affirms that the end of the parents' marriage does nor reduce the right that should still be received by the child.

Provisions regarding parents obligation after divorce are also contained in Law Number 1 of 1974 concerning Marriage, as Amendment by Law Number 16 of 2019. Article 41 regulates the legal consequences of divorce, including the obligation of the father and mother to continue to provide maintenance and education to their children by prioritizing their interests. The provision also regulates the father's responsibility for the costs of the child maintenance and education. This shows that divorce does not erase the parents responsibility in fulfilling the child's needs.

As stipulated in Islamic Family Law, parents are obliged to be fully responsible for their children even though they have divorce. The Compilation of Islamic Law, Article 105 letter (c) states that the cost of the child maintenance is borne by the father. [1] Meanwhile, Article 156 letter

(d) states that as a result of divorce, all cost of hadhanah and child maintenance become the responsibility of the father according to his ability, at least until the child is an adult and can take care of himself. [2]

These provisions provide a legal basis that fulfilling children's needs remains the responsibility of parents after the dissolution of marriage. The right owned by children after divorce cover various aspects and are not limited to receiving maintenance alone. Children also have the right to obtain care, education, health, protection, affection, and a good relationship with both parents.

Eleanora et al. explain that child protection is an effort to guarantee and protect children and their right so that they can live, grow, develop, and participate optimally in accordance with

[1] Khoiruddin Nasution, "Perlindungan Terhadap Anak Dalam Hukum Keluarga Islam Indonesia," *Al-'Adalah* 13, no. 1 (2016): 1–10, https://doi.org/10.24042/adalah.v13i1.1125.

[2] Heti Kurnaini, "Pemenuhan Hak Nafkah Sebagai Salah Satu Pola Terhadap Perlindungan Anak: Analisis Pemikiran A. Hamid Sarong," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 2, no. 1 (2017): 54–66, https://doi.org/10.22373/petita.v2i1.61.

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human dignity.[3] Thus efforts to protect children after divorce need to cover more comprehensive aspects. Fulfillment of children's rights is not only related to financial needs, but also includes various things that support their growth and development process. In line with Rofiq's explanation, children have an important position in Islamic Family Law. Therefore, their right must be considered under any circumstances, including when their parents divorce. This is because children who are still in the growth stage are not yet able to meet their own needs.[4] Therefore , it is the parents who are responsible for fulfilling their needs, both in the form of maintenance and care. This responsibility cannot be eliminated merely because their parents are divorce.

In practice, there are still circumstance where children's rights have not been fulfilled as stipulated in legal regulation. Many problems arise as a result of divorce, ranging from child care, maintenance, education, health, to the child's relationship with their parents. Sometimes one of the parents cannot carry out their obligations due to financial constraints, so the child's needs are not met. This situation shows the need for legal protection to guarantee the fulfillment of children's rights and parents' obligations after divorce. Fikri and Muchsin explain that children's rights in Islamic family law are closely related to parents obligation in providing maintenance, care, and fulfillment of children's needs.[5] This issues remains a part that must be considered in resolving family cases in the Religious Court. In resolving divorce cases, the issues between husband and wife are not the only things that need to be considered. The rights and interests of the children from the marriage must also be part of the consideration. Arisman et al. also show that various problems in family law are related to social condition developing in society.[6] Family problems can expand to affect the social life of each member, including children, so that the impact is not only related to legal relation. Changes in life experienced by children due to divorce need attention. Protection is needed so that these circumstances do not hinder the fulfillment of the rights they should obtain.

The problem of parental negligence in fulfilling their obligation after divorce has also become a concern in previous research. Research on the legal consequences for parents who neglect their obligations towards children after divorce shows that parents' obligations remain attached after the dissolution of marriage. [7] Failure to fulfill parents' responsibilities towards children has the potential to cause legal consequences, considering that every child has rights that must be maintained and fulfilled. This condition shows the possibility of a gap between the obligations stipulated in legal regulations and their implementation after divorce takes place. Research by Madai, Dantes, Setianto, and Kusuma discusses legal protection for the fulfillment of the rights of children who are victims of divorce based on Law Number 35 of 2014 concerning Child Protection. The research shows that

[3] Husnatul Mahmudah, "Hadhanah Anak Pasca Putusan Perceraian (Studi Komparatif Hukum Islam Dan Hukum Positif Indonesia)," *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum* 2, no. 1 (2018): 57–88, https://doi.org/10.52266/sangaji.v2i1.263.

[4] R Fawsi, "Hak Hadhanah Dalam Perceraian Karena Pindah Agama Perspektif Hukum Islam," *TAHKIM: Jurnal Peradaban Dan Hukum Islam* 1, no. 2 (2018): 94–105, https://doi.org/10.29313/tahkim.v1i2.4106.

[5] M F Said, "Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia," *Jurnal Cendekia Hukum* 4, no. 1 (2018): 141–52, https://doi.org/10.33760/jch.v4i1.97.

[6] Masadah, "Hadhanah Dalam Perspektif Imam Madhab Dan Kompilasi Hukum Islam Serta Pengaruhnya Terhadap Pendidikan Anak," *Dinamika* 5, no. 2 (2020): 69–94, https://doi.org/10.32764/dinamika.v5i2.1030.

[7] Ajeng Astrina Mulia, "Optimalisasi Perlindungan Terhadap Anak Korban Perceraian Dalam Perspektif Hukum," *Gorontalo Law Review* 4, no. 2 (2021): 223–34, https://doi.org/10.32662/golrev.v4i2.1680.

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children who are victims of divorce still have rights that must be fulfilled, including the rights to care, maintenance, education, and protection. [8] The results of the study affirm that children's rights remain attached even though their parents have divorced. Therefore, legal steps are needed to guarantee the fulfillment of these rights.

Aditia and Suhendra also studied the protection of children's rights due to divorce using a normative legal approach. In addition to economic needs, children's rights after divorce also include the opportunity to obtain care, education, health services, and a relationship that remains established with both parents.[9] The study emphasizes that the existence of written rules needs to be accompanied by effective implementation so that children truly obtain protection in their daily lives. The study on child protection due to divorce also places the principle of the best interests of the child as something that needs to be considered in the application of law.[10] This principle has relevance in divorce cases because decisions taken by parents or the court can have a direct impact on children's lives. Determination of custody and division of parental responsibilities after divorce must consider the needs and interests of the child. Protection of children's rights after divorce is one of the issues that has received much attention in research in the field of family law. However, this research has a more specific focus because it examines the application of such protection through a Religious Court decision, namely Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta. Through the study of the Decision, it can be seen how statutory regulations regarding the protection of children's rights are used for resolving cases that occur in court. This research also examines the basis of the judge's considerations when deciding cases related to the fulfillment of children's rights after divorce, in addition to examining the applicable legal provisions. Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta was chosen as the object of research because this case is directly related to divorce and the fulfillment of children's rights after the end of marriage. In this case, both parties have a daughter named Aisyah Almahyra Kurniawan, who was born on 4 October 2022.[11]After the separation between her parents, Aisyah was in her mother's care. This case was filed by the husband as the Petitioner and was decided in verstek because the Respondent did not appear despite having been properly summoned.

In this case, the Petitioner expressed his willingness to pay child maintenance in the amount of Rp. 2,000,000.00 per month until the child reaches adulthood or is able to live independently.[12] The

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[8] Riyan Ramdani and Firda Nisa Syafithri, "Penentuan Besaran Nafkah Madhiyah, Nafkah Iddah Dan Mut'ah Dalam Perkara Perceraian Di Pengadilan Agama," *Adliya: Jurnal Hukum Dan Kemanusiaan* 15, no. 1 (2021): 37–50, https://doi.org/10.15575/adliya.v15i1.11874.

[9] Burhanuddin A Gani and Aja Mughnia, "The Concept of Hadhanah from the Perspective of the Syafi'i Mazhab and Its Implementation in the Decision of the Syar'iyah Court of Banda Aceh City Number 314/Pdt G/2017/MS Bna," *El-Hadhanah: Indonesian Journal of Family Law and Islamic Law* 1, no. 1 (2021): 43–62, https://doi.org/10.22373/hadhanah.v1i1.1615.

[10] M Hafidz Halim, Ahmad Syaifudin, and Moh. Muhibbin, "Lex Favor Reo in Indonesia's Criminal Law Transition," *Indonesian Journal of Innovation Studies* 27, no. 4 (2026), https://doi.org/10.21070/ijins.v27i4.2245.

[11] Gushairi, "Pelaksanaan Pemenuhan Nafkah Anak Pasca Perceraian Di Provinsi Riau," *Hukum Islam* 22, no. 1 (2022): 23–52, https://doi.org/10.24014/jhi.v22i1.17198.

[12] Sariati Sariati, Baso Madiong, and Kamsilaniah Kamsilaniah, "Analisis Hukum Tanggung Jawab Orang Tua Terhadap Anak Setelah Perceraian: Studi Putusan PA Bau-Bau Nomor 0298/Pdt/2019/PA.Bb," *Indonesian Journal of Legality of Law* 5, no. 1 (2022): 75–82, https://doi.org/10.35965/ijlf.v5i1.1912.

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inclusion of the maintenance obligation in the decision is important because the provision of maintenance is part of the parents' responsibility in meeting the child's living

needs. The decision reflects the application of parental responsibility in fulfilling children's rights after divorce as regulated in legal provisions. The decision is worthy of further study because the settlement of the case does not only concern the relationship between the two divorcing parties, but also touches on the interests of the child who still needs care and financial support. In providing considerations, the judge referred to a number of legal provisions regarding parental responsibility, including Article 41 of Law Number 1 of 1974 concerning Marriage, the Child Protection Law, and the Compilation of Islamic Law. The Court also considered the principle of the best interests of the child in determining the maintenance obligation.

Assessment of the protection of children's rights through a court decision needs to include the substance of the decision as well as the basis of considerations used by the judge in making the decision. The judge's considerations can show how norms regarding children's rights and parents' obligations are applied to the facts contained in the case. Through an analysis of Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta, this research seeks to see the suitability between applicable legal rules and their application in the process of resolving cases in the religious court environment. The principle of the best interest of the child is also an important aspect in analyzing the decision. Even though they must face the consequences of their parents' divorce, the child is not the party responsible for the separation. The end of the marital relationship between father and mother must not disregard the interests of the child that must still be considered. Fulfillment of maintenance, care, education, health, and protection are part of the child's rights that must be guaranteed after divorce.[13]

The religious court shows that the determination of child maintenance needs to consider the child's needs and the ability of the parent who has the obligation to provide maintenance. This indicates that legal protection for children is not only related to provisions on parents' obligations, but also related to how those obligations are determined and applied in a case. Therefore, the judge's considerations in determining child maintenance are one of the important aspects to be examined in this research.

The selection of Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta is also based on its relation to the condition of society in the Baturaja area and Ogan Komering Ulu Regency. Discussion of the Baturaja Religious Court decision is expected to provide a more realistic picture of the application of children's rights protection in resolving divorce cases at the religious court level. Such a picture is expected to show how general rules are applied to a case with certain facts and conditions.

Furthermore, this research is important to conduct to see whether the judge's considerations are in line with the provisions of legislation in protecting children's rights. Legislation has indeed regulated parents' obligations towards children, but the application of the rules in real cases in the field still needs to be examined. Research on this decision can show how the judge connects provisions related to children's rights with the legal facts in the divorce case.

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[13] Muhammad Ansori and Iffan Sulaiman, "Implementasi Nafkah Anak Pasca Perceraian Di Kota Jambi (Tinjauan Undang-Undang Nomor 23 Tahun 2002)," *Jurnal Kridatama Sains Dan Teknologi* 4, no. 2 (2022): 206–16, https://doi.org/10.53863/kst.v4i02.593.

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The main issue in this research is not merely about divorce as the end of a marital relationship, but about how children's rights remain guaranteed after their parents divorce. Children remain entitled to maintenance and a decent living even though both parents have separated. This responsibility remains with the parents and can be strengthened through a court decision if a divorce case occurs. Therefore, legal protection of children's rights after divorce is an important issue to be studied from the side of legislation and its application in judicial practice. Based on the description above, the selection of this research topic is based on several considerations. First, divorce can have an impact on children's lives so children's rights need to be protected. Second, legislation in Indonesia has regulated children's rights and parents' obligations after divorce, but in practice problems regarding the fulfillment of children's rights can still be found. Third, Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta provides a concrete picture of the application of parents' obligations in fulfilling child maintenance after divorce. Fourth, analysis of the judge's considerations is needed to find out how legal protection of children's rights is applied in resolving divorce cases.

Based on this background, this research takes the title "Legal Protection of Children's Rights After Divorce Based on Legislation in Indonesia (Study of Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta.)". This research is directed to examine legal provisions that provide protection for children's rights after divorce and the application of the provisions in the considerations and decision of the Baturaja Religious Court. The problem formulations in this research are:

1. How is the Legal Protection of Children's Rights After Divorce Based on Legislation in Indonesia in Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta?
2. How are the Judge's Considerations in Determining Child Maintenance Ex Officio in Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta?

## METHODS

This research uses a normative juridical method or known as doctrinal legal research. Normative legal research is a way of studying laws as a prevailing norm by examining statutes, legal doctrines, legal documents, and case decisions that related to the issue at hand.[14] this method is chosen because this study discusses how children's rights are protected in the current Indonesian positive law after a divorce by examining the judge's reasoning in deciding child support *ex officio* in the ruling made by the Baturaja Religious Court which has Case Number 540/ Pdt.G/2025/PA.Bta. This study uses two approaches. First is statutory approach. This study examines various regulations related to children's rights and parents obligation after a divorce. There are several regulation examined such as a Law Number 16 of 2019, Law Number 34 of 2014 about Child Protection, and Compilation of Islamic Law. Second is the case approach. This study refers ruling made by the Baturaja Religious Court 540/Pdt.G/2025/PA.Bta. This study examines facts from the case, the basis of the law, the judge's reasoning in making the ruling, and how the judge decided to give child support *ex officio.* [15]

[14] Wafda Vivid Izziyana and Rahmat Dwi Putranto, *METODE PENELITIAN SOCIO-LEGAL DI INDONESIA*, n.d.
[15] Ansori and Sulaiman, "Implementasi Nafkah Anak Pasca Perceraian Di Kota Jambi (Tinjauan Undang-Undang Nomor 23 Tahun 2002)."

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This study refers to primary and secondary legal materials. Primary legal materials refer to regulations related to marriage, divorce, child protection, and parents obligations. This study also refers to the Baturaja Religious Court case Number 540/Pdt.G/2025/PA.Bta. whereas, secondary legal materials refer to textbooks, journals, and literature related to children's rights protection. These legal materials have been collected by searching several libraries and archives. The collected legal materials have been analyzed qualitatively by comparing regulation, facts

from the case, and the judge's consideration behind their decision.[18] The result of the analysis will be used to answer the issues related to children's roghts protection and the judge's reasoning in deciding child support *ex officio.*

## RESULTS AND DISCUSSION

### A. Children's Legal Protection in Divorce Cases Based on Indonesian Laws (Case Number 540/Pdt.G/2025/PA.Bta. of Baturaja Religious Court)

Children's legal protection is an important part of the legal system in Indonesia. Even though there is a divorce between parents, the legal relationship between parents will still have to be maintained. Children have rights that must be fulfilled by their parents such as taking care of the children, raising them, giving them education, health care, protection and other needs.

Therefore, divorce cases cannot be seen as a mere end of a relationship between husband and wife but also should be seen as protecting children's rights.

The protection of children's rights is regulated in a variety of laws. Law Number 35 of 2014 which amends Law Number 23 of 2002 on Child Protection states that every child has the right to live, grow, develop and participate in life in a way that shows human dignity. [19]Children also have the right to be protected from violence and discrimination. This shows that children have legal status meaning they have rights and interests that must be protected. The protection of children's rights after a divorce has happened relates to the principle of the best interest of the child. This means that any decision made regarding children must be based on what is needed for them and what their parents want. This is very important to implement because decisions regarding raising a child must be made with their best interests in mind. When deciding on a divorce case, it is important to consider how it will affect the child. This is because children's rights must be protected after their parents divorce. Research done by Mulia shows that children who have been affected by a divorce must be protected by considering four principles. These are the principle of non-discrimination, the principle of the best interest of the child, respecting the child's opinion and the principle of the right to live, grow and develop.[16] Therefore, children's rights must be protected legally when they have been affected by a divorce.

The researchers Madai, Dantes, Setianto and Kusuma state that children's rights include custody, maintenance (financial support), education and civil rights. [17] Their research states that there

[16] Arief Syahrul Alam and Endang Prasetyawati, "Legal Protection Principle of the Fulfillment of Children's Maintenance Rights after Divorce," *Journal of Law, Policy and Globalization* 127 (2022), https://doi.org/10.7176/JLPG/127-02.

[17] M Lira, "Tanggung Jawab Ayah Terhadap Pemenuhan Nafkah Anak Pasca Perceraian," *SIGn Jurnal Hukum* 5, no. 2 (2023): 276–91, https://doi.org/10.37276/sjh.v5i2.291.

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are multiple normative regulations to protect children however there are issues regarding implementing these. Parents may not always follow through with their duties to provide financial support and meet children's needs. Therefore, it is important to look at how the law is being applied in court cases.

Aditia and Suhendra also state that children who have been affected by divorce must be seen holistically[18]. Children have many rights which include receiving maintenance, being raised,

cared for, educated, given health care and protected. Children's rights must be protected after a divorce so they can still receive their basic needs and have the chance to develop.

Law Number 1 of 1974 on Marriage states parents have certain duties to their children after a divorce. It states in Article 41 that after a marriage has been dissolved due to a divorce, the mother and father still have a duty to care for and educate their children, whilst considering what is best for the child. [19] Therefore, fathers still have a duty to care for their children and meet their needs.

This must also be considered as parents must pay for children's needs. Caring for and educating a child has costs which must be met by parents. This is done according to legal regulations and the parents ability to pay. The law does not place the consequences of a parent's divorce onto the child. Children have the right to live a decent life and parents must meet their needs.

The Compilation of Islamic Law also regulates about children's rights after divorce. In article 105 letter [c], it is said that the cost for taking care of the child is borne by the father. Then, Article 156 letter [f] also says that the court can decide how much the cost for maintenance and education is, based on what the father can afford. [20]So, from this, we can see that in Islamic law, the father still has the obligation to meet the child's needs even though he is already divorced.

These provisions become the legal basis for protecting children's rights when their parents get divorce. The three legal instruments regulate various forms of parent's responsibility in ensuring that children's rights are fulfilled. What needs to be studied further is how these rules are applied in solving the case and how the judge guarantees when both parents have separated. This can be seen in the Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta. the case is about a divorce petition between husband and wife who got married on August 16, 2020. From the marriage, they were blessed with a daughter name Aisyah Almahira Kurniawan who was born in Ogan Komering Ulu on October 4, 2022. After both parents separated, the child is now in the care of her mother.[21]

In this case, the parties were having problems in their household until finally they separated. The facts that were considered in the decision show that the separation had lasted for about one year and two months. The respondent did not attend the trial even though he had been properly

[18] Feni Agustina, "Fulfilling Children's Rights through Post-Divorce Relationships: An Investigation from Bima," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 16, no. 1 (2023): 158–79, https://doi.org/10.14421/ahwal.2023.16108.

[19] Yeni Sebriyani, "Perlindungan Hukum Terhadap Anak Dalam Perceraian Menurut Perspektif Hukum Keluarga Islam," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (2023): 1967–76, https://doi.org/10.37680/almanhaj.v5i2.3822.

[20] Arief Hanif, Aulia Nissa Salsabila, and A Hubur, "The Concept of Hadhanah (Child Custody) after Divorce in Islamic Civil Law," *Al Irsyad: Jurnal Studi Islam* 2, no. 2 (2023): 63–72, https://doi.org/10.54150/alirsyad.v2i2.177.

[21] Umar Multazam, "The Concept of Child Custody (Hadhanah) after Divorce in the Perspective of Islamic Law," *Indonesian Journal of Islamic Law* 7, no. 1 (2024): 16–39, https://doi.org/10.35719/ijil.v7i1.1956.

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summoned. Because the respondent was not present, the case was then examined and decided by verstek.

This case shows that the divorce decided by the Baturaja Religious Court is not only about the relationship between petitioner and the respondent. There is a child who is still underage and still needs maintenance and financial support from both parents. Therefore, the settlement of this divorce case also affects the fulfillment of the child's rights.

One form of protection that can be seen in the decision is the determination of child support obligation. In this case, it was decided that the father is obliged to give child support in the amount of IDR 2.000,000,00 every month until the child is an adult or independent. This

determination is important because it gives a legal basis about the father's obligation in fulfilling the child's needs after the divorce.

Through the determination of child support, it can be seen that the court also considered the position and rights of the child in solving the divorced case. The main case is about the divorce between husband and wife. However, the existence of the child was not ignored in the settlement of the case. The child's right to get maintenance and living costs was still considered in the decision. Therefore, the decision is not only about the end of the marriage, but also makes an effort to guarantee one of the rights after divorce, namely the right to get maintenance and support. Legal protection in the decision can be seen from the connection between legal norms and the concrete condition of the child. Therefore, the obligation to give support cannot be seen as a matter between ex-husband and ex-wife only, but as a legal obligation of parents toward the child.

The decision of The Baturaja Religious Court in this case shows an effort to place the child's interests as one of the considerations in settling the case. The judge did not only look at the legal relationship between the petitioner and the respondent, but also paid attention to the parents obligation towards the child. The determination of child support is one concrete form of legal protection given through the Court Decision.[22]

The result of the research on the Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta show that legal protection for children's rights after divorce is realized through the application of provisions regarding parents' obligation, especially the father's obligation to provide maintenance. This protection has a basis in the Marriage Law, the Child Protection Law, and The Compilation of Islamic Law. The Court Decision then becomes an instrument that provides certainly for the implementation of that obligation.

Legal protection does not stop at the existence of a decision. The next problem is about how the obligation that has been decided us really carried out by the parents. Practice in the field shows that the existence of a decision does not always guarantee that all maintenance obligation will be carried out consistently. Parents' awareness and compliance with the decision are also an important part in fulfilling children's rights after divorce.

This condition is in line with the research by Madai and colleagues which shows that one of the problems in fulfilling the rights of children of divorce is non-compliance with the maintenance

[22] Ahmad Masyhadi and Muhammad Aly Mahmudi, "Hak Asuh Anak Pasca Perceraian Dalam Perspektif Hukum Islam Dan Hukum Positif Indonesia," *Al-Faruq: Jurnal Hukum Ekonomi Syariah Dan Hukum Islam* 3, no. 2 (2024): 99–115, https://doi.org/10.58518/al-faruq.v3i2.3011.

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obligation. [23]So, legal protection needs to be understood as a series of efforts that are not only about determining rights in the decision but also ensuring that those right can be implemented. In this research, the determination of maintenance by the Baturaja Religious Court is a legal step that gives certainly about the father's responsibility towards the child.

Based on that explanation, it can be concluded that legal protection for children's rights after divorce in the Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta is realized through recognition of the existence of the children's rights and determination of the parents' obligation to fulfill the child's needs. The decision shows that divorce does bot erase the parents' responsibility towards the child, and the child's interest must still be considered in settling the divorce case.

**B. The Judge's Consideration in Determining Child Support *Ex Officio* in the Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta.**

A more specific matter in the Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta is the determination of the child support *ex officio.* The term *ex officio* basically refers to the authority that a judge has because of his position to take action or to decide something based on the legal authority attached to his position. In a child support case, that authority has a close connection with the legal obligation of parents and the protection of the child's interests.

Through the formulation of it's Religious Chamber, the Supreme Court has stipulated that the Religious Court may *ex officio* order the father to pay child support when it is evident that the child is under the mother's care. [24]As provide in Article 156 letter [f] of the Compilation of Islamic Law. Accordingly, the *ex officio* power to determine child support is grounded in Religious Court practice, rather than being a mere freedom for judges to rule on matters outside the dispute.

In this context, *ex officio* authority must be distinguished from a judge deciding a case without a legal basis. Judges must still be guided by the applicable legal the best interests of the child. This authority is granted to ensure that the child's rights are not neglected merely because the claim, for child support was not fully formulated by the parties.

The Decision of the Baturaja religious Court Number 540/Pdt.G/2025/PA.Bta affirms that the existence of the child and condition of her upbringing constitute one of the important facts in the case. The child, Aisyah Almahira Kurniawan, was under her Mother's care following the separation of her parents. This circumstance is relevant to the provision concerning the father's obligation to provide child maintenance costs.

In that case, the judge considered the parents' obligations toward the child based on the applicable legal provisions. The legal basis for such consideration included Article 41 letter [b] of Law Number 1 of 1974 on Marriage, the provisions of the Child Protection Law, and The Compilation of Islamic Law. These provisions essentially establish that parental obligations toward children remain

[23] Yovan Endik Irawanto, M Hidayat, and Handyka Prayogi Lesmono, "Fulfillment of Child Custody Rights after Divorce According to Law Number 35 of 2014 Concerning Child Protection," *Yurisdiksi: Jurnal Wacana Hukum Dan Sains* 20, no. 1 (2024): 143–54, https://doi.org/10.55173/yurisdiksi.v20i1.236.

[24] Muhammad Ariful Fahmi and Dzulkifli Hadi Imawan, "Perlindungan Hukum Terhadap Pemenuhan Nafkah Anak Murtad Pasca Perceraian: Kajian Putusan 428/Pdt.G/2021/PA.Sgta," *Jurnal Yudisial* 17, no. 2 (2024): 209–24, https://doi.org/10.29123/jy.v17i2.618.

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in effect even after divorce.[25]

The judge also took into account the condition of the child who still required maintenance costs. A young child is certainly unable to meet his or her own living needs, so such needs must be fulfilled by the parents. When the child is under the mother's care, the father is obliged to provide maintenance costs. Therefore, the determination of child support constitutes an important part of protecting the best interest of the child.

Another important point is that the *ex officio* determination of child support is not solely based on the interests of the mother as caregiver. The child is the interested party in such determination. The maintenance awarded is used to meet the child's needs, and this obligation constitutes a form of legal relationship between parents and children. Thus, *ex officio* in the content of child support can be understood as an effort to prevent the child from being neglected due to the limitations of the parties' claims.

This authority is also connected to the principle of the best interests of the child. In divorce cases, the child is not the party who determines the occurrence of the divorce, but rather the party affected by it. Therefore, judges must ensure that decision taken truly protects the child's interests. The *ex officio* determination of child support constitutes one form of applying this principle where the requirements and legal basis are fulfilled.

In accordance with the decision used as the object of this research, the respondent did not appear at trial despite having been duly summoned. Due to the respondent's absence, the case was decide verstek (in absentia). The respondent's absence does not mean that the child's rights become irrelevant for consideration. On the contrary, the existence of the child and the parents' obligations must still be taken into account under the applicable law. This shows that the examination of a case verstek does not eliminate the judge's obligation to consider the legal consequences of divorce for the child.

The determination of maintenance in the amount of IDR 2.000,000,00 per month until the child reaches adulthood or becomes independent demonstrates a concrete form of obligation. Such amount provides certainty regarding the nominal value of maintenance to be paid each month. The determination until the reaches adulthood or becomes independent also indicates that the obligation is related to the child's needs as long as the child is unable to meet his or her own living needs.

The analysis of such determination needs to be distinguished between the basis of the maintenance obligation and the amount of maintenance. The basis of the obligation derives from the legal relationship between parents and children as well as the provisions of statutory regulations. On the other hand, the amount of maintenance is a matter relating to the child's needs and the parents ability. Therefore, it is not sufficient for the judge merely to state that the father is obliged to provide maintenance. The judge must also consider the relevant conditions in determining its amount.

In the practice of Religious Court, the supreme court has also given ad guideline about child maintenance so that it can be accompanied by a certain addition every year, outside education and health costs. [26]This guideline shows that there is attention to the change of the child's needs and the

[25] Solihandracem, Muhammad Hasbi, and Yasniwati, "Pelaksanaan Pemberian Nafkah Anak Berdasarkan Putusan Perceraian Di Pengadilan Agama Padang," *Unes Journal of Swara Justisia* 7, no. 3 (2023): 925–37, https://doi.org/10.31933/ujsj.v7i3.390.

[26] Harvin Harvin and Liza Priandhini, "Pengaturan Hukum Pemberian Nafkah Anak Setelah Perceraian Orang

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cost of living. However, its application still has to be seen based on the construction and the amar of each decision.

If it is related to the Decision of Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta, the *ex officio* determination of child maintenance can be understood as a form of applying the judge's authority to protect the child's interest. [27]The judge does not only settle the divorce petition, but also makes sure that there is responsibility toward the child. So, the decision has a dimension of child protection, besides the dimension of settling the marital relationship.

That consideration is also linked to the Supreme Court Jurisprudence Number 38 K/AG/1990 which shows that there is an imposition of child costs until the child is adult in

family cases. [28] That jurisprudence shows that obligation to provide costs to the child is a consequence that can be imposed on parents in the settlement of divorce cases. So, that obligation has a basis in the development of Religious Court practice.

If viewed from the perspective of procedural law, the *ex officio* authority must be exercised carefully so as not to cause problems related to the principle of ultra petita. Basically, the judge must decide the case based n the scope of the case being examined. However, in the context of child maintenance, there id a legal interest that directly arises from the parent-child relationship as well as binding legal provisions. The determination of child maintenance *ex officio* is a form of implementation of legal obligations and an effort to protect children's rights, so it cannot be interpreted merely as granting something that was not requested.

The Supreme Court explains that the judge can determine child maintenance *ex officio* if the child is indeed in the mother's care. [29]That statement clarifies the condition the condition that becomes the judge's consideration in the trial. From there, it can be seen that there is a connection between the child who is cared for by the mother, the father's obligation to still provide maintenance costs, and the court's authority to determine child maintenance *ex officio.* Based on that, the Judge's consideration in the decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta can be analyzed through three aspects. First, in terms of regulation there is indeed a provision that requires parents to maintain their children. Second, factually the child is still young and lives with his/her mother. Third, there is an interest to protect the child so that his/her rights remain guaranteed after the divorce. These three things

are interrelated and become the basis for the judge's consideration.

Therefore, the determination of children *ex officio* in the decision cannot be separated from the purpose of legal protection for children. The judge uses his authority to ensure that the divorce

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Tua Dalam Undang-Undang Perkawinan," *Kertha Semaya: Journal Ilmu Hukum* 9, no. 12 (2021), https://doi.org/10.24843/KS.2021.v09.i12.p17.

[27] Budi Prasetyo and Haitham Abdulwahhab Mohammed B., "The Legal Protection of Children's Rights Due to Parental Divorce in Islamic Family Law in Predominantly Muslim Countries," *Jurnal Akta* 10, no. 1 (2023), https://doi.org/10.30659/akta.v10i1.29822.

[28] Nadhila Tsabita Fathurrahman and Heri Hartanto, "Nafkah Anak Pasca Perceraian: Studi Kasus Di Pengadilan Agama Sukoharjo," *Verstek* 13, no. 3 (2025): 535–44, https://doi.org/10.20961/jv.v13i3.103877.

[29] Rani Oslina Nainggolan, Alvi Syahrin, and Mahmud Mulyadi, "The Position of the Principle of Legality in Law No. 1 of 2023 for the Development of Criminal Law in Indonesia," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 16, no. 2 (2024): 408–19, https://doi.org/10.32505/jurisprudensi.v16i2.8765.

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between parents does not simply cause the child's right to maintenance costs to disappear. This is in line with the principle that children's rights remain even though their parents' marriage has ended.

According to the author, the application of *ex officio* in this case is important because the child is not present at the trial and cannot fight for his/her own rights. If the child's rights only depend on the parents' ability to formulate the claims, there is a possibility that the child's rights will not be properly included in the decision. Therefore, the judge's authority becomes important to protect the child's interests. Of course, still within the limits given by law.

However, the application of *ex officio* must also be accompanied by clear and measurable considerations. The judge needs to explain the legal basis used, the condition of the child, who is caring for the child, and the reasons for determining the amount of maintenance. [30]Such explanation is important so that the parties obtain legal certainty and to show that the determination of maintenance is not an arbitrary act. With clear considerations, the use of such authority can be accounted for legally.

Based on the Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta, the determination of child maintenance of IDR 2.000,000,00 per month shows an effort to provide certainly regarding the father's obligation. The maintenance is determined until thr child reaches adulthood or becomes independent. So, that the obligation does not stop when the divorce decision is rendered. This shows that the legal consequences of divorce for the child are continuous until the child reaches the condition to be able to meet his/her own living.

This research finding also shows a relationship between previous research and the research object. Mulia's research emphasizes the importance of optimizing the protection of children who are victims of divorce, while the research by Madai et al. and Aditia with Suhendra continues that study by giving a more specific focus on the application of the protection of children's rights. [31]In a concrete decision at the Baturaja Religious Court, as well as analyzing the Judge's considerations in determining child maintenance *ex officio.*

So, the contribution of this research lies in the analysis of the relationship between child protection norms, parental obligations after divorce and application of the judge's *ex officio* authority in a concrete decision. The Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta shows that child protection can be realized through a court decision that determines maintenance obligation concretely. It also shows that the court has an important role in ensuring that divorce does not eliminate children's rights.

Based on the overall analysis, it can be stated that the judge's consideration in determining child maintenance *ex officio* in the Baturaja Religious Court Decision Number 540/Pdt.G/2025/PA.Bta is based on the existence of a legal obligation of parents towards their children, the condition of the child who is in the child. The determination of maintenance is a form of application of the judge's authority in ensuring the fulfillment of the child's right after divorce.

Ultimately, legal protection of children's rights after divorce is not enough with only written

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[30] Fairuza 'Alima Fardindaputri and Fuat Hasanudin, "Legal Protection of Children's Rights Post-Divorce: A Study of Single Mothers in Malang Regency," *Prophetic Law Review* 7, no. 1 (2025): 70–94, https://doi.org/10.20885/PLR.vol7.iss1.art4.

[31] Ahmad Nafhani et al., "Ensuring Justice in Child Support after Divorce: A Jurimetric Review of a Religious Court of Demak Decision," *Jurnal Hukum Dan Peradilan* 14, no. 3 (2025): 531–48, https://doi.org/10.25216/jhp.14.3.2025.531-548.

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rules. That protection must be realized through thr application of law in every case involving the interests of the child. The Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta illustrates that the judge can use *ex officio* authority to determine child maintenance as part of efforts to guarantee children's rights. Therefore, the existence of that authority has important meaning in realizing legal protection for children after divorce.[32]

## CONCLUSION

Based on the result of the research and discussion regarding legal protection of children's rights after divorce based on statutory regulation in Indonesia in the Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta, it can be concluded that legal protection of children's rights after divorce remains attached even though the marital relationship between the parents has ended. Parents still have an obligation to care for, educate, and meet the needs of their children in accordance with applicable legal provisions.

In that decision, such protection was realized through the determination of the father's obligation to provide maintenance to the child in the amount of IDR 2.000,000,00 every month until the child reaches adulthood or becomes independent. That determination shows that divorce does not eliminate parental responsibility towards the child and that the child's interest must still be considered in the settlement of divorce cases.

The judge's consideration in determining child maintenance *ex officio* in that decision were based on the parents legal obligation toward the child, the condition of the child who still needs care, and the fact that the child is in the mother's custody. The determination of maintenance *ex officio* is a form of protection to guarantee the fulfillment of the child's needs even though the interested party did not specifically file a claim for child maintenance. That *ex officio* authority was used by the judge to guarantee the fulfillment of the child's rights and to provide certainly regarding the father's obligation after divorce.

The contribution of this research lies in the analysis of the relationship between child protection norms, parental obligations after divorce, and the application of the judge's *ex officio* authority in a concrete decision. The Decision of the Baturaja Religious Court Number 540/Pdt.G/2025/PA.Bta shows that child protection can be realized through a court decision that determines maintenance obligations concretely, while also affirming that the court has an important role in ensuring that divorce does not eliminate children's rights.

Implication of these findings, divorces parents should continue to carry out their obligations towards their children responsibly, especially in care, education, and fulfillment of the child's living needs. Divorce should not be a reason to reduce or ignore children's rights, because parental responsibility towards children remains even though the marriage has ended. On the other hand, the Religious Court should continue to pay attention to the interests and rights of children's in handling divorce cases involving children, and provide clear considerations regarding parental obligations towards children. The determination of child maintenance *ex officio* can continue to be applied as long

[32] Alamsyah et al., "Islamic Judicial Activism in Determining Child Maintenance: Ex Officio Authority and Peaceful Settlement in Indonesian Religious Courts," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 671–99, https://doi.org/10.29240/jhi.v10i2.12755.

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as it us in line with the legal basis and the circumstances of the case.

This research has a limitation because it only focuses on the decision, so the picture of the practice of determining child maintenance cannot be generalized widely. Therefore, the study on the protection of children's rights after divorce can be further develop for future research by using other Religious Court decisions as comparisons, so as to provide a broader picture of the determination of child maintenance in religious court practice.

## REFERENCES

Agustina, Feni. "Fulfilling Children's Rights through Post-Divorce Relationships: An Investigation from Bima." *Al-Ahwal: Jurnal Hukum Keluarga Islam* 16, no. 1 (2023): 158–79. https://doi.org/10.14421/ahwal.2023.16108.

Alam, Arief Syahrul, and Endang Prasetyawati. "Legal Protection Principle of the Fulfillment of Children's Maintenance Rights after Divorce." *Journal of Law, Policy and Globalization* 127 (2022). https://doi.org/10.7176/JLPG/127-02.

Alamsyah, Asrianti Sukirman, Oyo Sunaryo Mukhlas, and Aden Rosadi. "Islamic Judicial Activism in Determining Child Maintenance: Ex Officio Authority and Peaceful Settlement in Indonesian Religious Courts." *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 671–99. https://doi.org/10.29240/jhi.v10i2.12755.

Ansori, Muhammad, and Iffan Sulaiman. "Implementasi Nafkah Anak Pasca Perceraian Di Kota Jambi (Tinjauan Undang-Undang Nomor 23 Tahun 2002)." *Jurnal Kridatama Sains Dan Teknologi* 4, no. 2 (2022): 206–16. https://doi.org/10.53863/kst.v4i02.593.

Fahmi, Muhammad Ariful, and Dzulkifli Hadi Imawan. "Perlindungan Hukum Terhadap Pemenuhan Nafkah Anak Murtad Pasca Perceraian: Kajian Putusan 428/Pdt.G/2021/PA.Sgta." *Jurnal Yudisial* 17, no. 2 (2024): 209–24. https://doi.org/10.29123/jy.v17i2.618.

Fardindaputri, Fairuza 'Alima, and Fuat Hasanudin. "Legal Protection of Children's Rights Post-Divorce: A Study of Single Mothers in Malang Regency." *Prophetic Law Review* 7, no. 1 (2025): 70–94. https://doi.org/10.20885/PLR.vol7.iss1.art4.

Fathurrahman, Nadhila Tsabita, and Heri Hartanto. "Nafkah Anak Pasca Perceraian: Studi Kasus Di Pengadilan Agama Sukoharjo." *Verstek* 13, no. 3 (2025): 535–44. https://doi.org/10.20961/jv.v13i3.103877.

Fawsi, R. "Hak Hadhanah Dalam Perceraian Karena Pindah Agama Perspektif Hukum Islam." *TAHKIM: Jurnal Peradaban Dan Hukum Islam* 1, no. 2 (2018): 94–105. https://doi.org/10.29313/tahkim.v1i2.4106.

Gani, Burhanuddin A, and Aja Mughnia. "The Concept of Hadhanah from the Perspective of the Syafi'i Mazhab and Its Implementation in the Decision of the Syar'iyah Court of Banda Aceh City Number 314/Pdt G/2017/MS Bna." *El-Hadhanah: Indonesian Journal of Family Law and Islamic Law* 1, no. 1 (2021): 43–62. https://doi.org/10.22373/hadhanah.v1i1.1615.

Gushairi. "Pelaksanaan Pemenuhan Nafkah Anak Pasca Perceraian Di Provinsi Riau." *Hukum Islam* 22, no. 1 (2022): 23–52. https://doi.org/10.24014/jhi.v22i1.17198.

Halim, M Hafidz, Ahmad Syaifudin, and Moh. Muhibbin. "Lex Favor Reo in Indonesia's Criminal Law Transition." *Indonesian Journal of Innovation Studies* 27, no. 4 (2026). https://doi.org/10.21070/ijins.v27i4.2245.

Hanif, Arief, Aulia Nissa Salsabila, and A Hubur. "The Concept of Hadhanah (Child Custody) after Divorce in Islamic Civil Law." *Al Irsyad: Jurnal Studi Islam* 2, no. 2 (2023): 63–72. https://doi.org/10.54150/alirsyad.v2i2.177.

Harvin, Harvin, and Liza Priandhini. "Pengaturan Hukum Pemberian Nafkah Anak Setelah Perceraian Orang Tua Dalam Undang-Undang Perkawinan." *Kertha Semaya: Journal Ilmu Hukum* 9, no. 12 (2021). https://doi.org/10.24843/KS.2021.v09.i12.p17.

Irawanto, Yovan Endik, M Hidayat, and Handyka Prayogi Lesmono. "Fulfillment of Child Custody Rights after Divorce According to Law Number 35 of 2014 Concerning Child Protection." *Yurisdiksi: Jurnal Wacana Hukum Dan Sains* 20, no. 1 (2024): 143–54. https://doi.org/10.55173/yurisdiksi.v20i1.236.

Izziyana, Wafda Vivid, and Rahmat Dwi Putranto. *METODE PENELITIAN SOCIO-LEGAL DI INDONESIA*, n.d.

Journal of Legal Theory and Society
https://journals.usm.ac.id/index.php/jlts

Kurnaini, Heti. "Pemenuhan Hak Nafkah Sebagai Salah Satu Pola Terhadap Perlindungan Anak: Analisis Pemikiran A. Hamid Sarong." *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 2, no. 1 (2017): 54–66. https://doi.org/10.22373/petita.v2i1.61.

Lira, M. "Tanggung Jawab Ayah Terhadap Pemenuhan Nafkah Anak Pasca Perceraian." *SIGn Jurnal Hukum* 5, no. 2 (2023): 276–91. https://doi.org/10.37276/sjh.v5i2.291.

Mahmudah, Husnatul. "Hadhanah Anak Pasca Putusan Perceraian (Studi Komparatif Hukum Islam Dan Hukum Positif Indonesia)." *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum* 2, no. 1 (2018): 57–88. https://doi.org/10.52266/sangaji.v2i1.263.

Masadah. "Hadhanah Dalam Perspektif Imam Madhab Dan Kompilasi Hukum Islam Serta Pengaruhnya Terhadap Pendidikan Anak." *Dinamika* 5, no. 2 (2020): 69–94. https://doi.org/10.32764/dinamika.v5i2.1030.

Masyhadi, Ahmad, and Muhammad Aly Mahmudi. "Hak Asuh Anak Pasca Perceraian Dalam Perspektif Hukum Islam Dan Hukum Positif Indonesia." *Al-Faruq: Jurnal Hukum Ekonomi Syariah Dan Hukum Islam* 3, no. 2 (2024): 99–115. https://doi.org/10.58518/al-faruq.v3i2.3011.

Mulia, Ajeng Astrina. "Optimalisasi Perlindungan Terhadap Anak Korban Perceraian Dalam Perspektif Hukum." *Gorontalo Law Review* 4, no. 2 (2021): 223–34. https://doi.org/10.32662/golrev.v4i2.1680.

Multazam, Umar. "The Concept of Child Custody (Hadhanah) after Divorce in the Perspective of Islamic Law." *Indonesian Journal of Islamic Law* 7, no. 1 (2024): 16–39. https://doi.org/10.35719/ijil.v7i1.1956.

Nafhani, Ahmad, Irma Suriyani, Gusti Fadhil Fithrian Luthfan, and Atik Dina Nasikhah. "Ensuring Justice in Child Support after Divorce: A Jurimetric Review of a Religious Court of Demak Decision." *Jurnal Hukum Dan Peradilan* 14, no. 3 (2025): 531–48. https://doi.org/10.25216/jhp.14.3.2025.531-548.

Nainggolan, Rani Oslina, Alvi Syahrin, and Mahmud Mulyadi. "The Position of the Principle of Legality in Law No. 1 of 2023 for the Development of Criminal Law in Indonesia." *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 16, no. 2 (2024): 408–19. https://doi.org/10.32505/jurisprudensi.v16i2.8765.

Nasution, Khoiruddin. "Perlindungan Terhadap Anak Dalam Hukum Keluarga Islam Indonesia." *Al-'Adalah* 13, no. 1 (2016): 1–10. https://doi.org/10.24042/adalah.v13i1.1125.

Prasetyo, Budi, and Haitham Abdulwahhab Mohammed B. "The Legal Protection of Children's Rights Due to Parental Divorce in Islamic Family Law in Predominantly Muslim Countries." *Jurnal Akta* 10, no. 1 (2023). https://doi.org/10.30659/akta.v10i1.29822.

Ramdani, Riyan, and Firda Nisa Syafithri. "Penentuan Besaran Nafkah Madhiyah, Nafkah Iddah Dan Mut'ah Dalam Perkara Perceraian Di Pengadilan Agama." *Adliya: Jurnal Hukum Dan Kemanusiaan* 15, no. 1 (2021): 37–50. https://doi.org/10.15575/adliya.v15i1.11874.

Said, M F. "Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia." *Jurnal Cendekia Hukum* 4, no. 1 (2018): 141–52. https://doi.org/10.33760/jch.v4i1.97.

Sariati, Sariati, Baso Madiong, and Kamsilaniah Kamsilaniah. "Analisis Hukum Tanggung Jawab Orang Tua Terhadap Anak Setelah Perceraian: Studi Putusan PA Bau-Bau Nomor 0298/Pdt/2019/PA.Bb." *Indonesian Journal of Legality of Law* 5, no. 1 (2022): 75–82. https://doi.org/10.35965/ijlf.v5i1.1912.

Sebriyani, Yeni. "Perlindungan Hukum Terhadap Anak Dalam Perceraian Menurut Perspektif Hukum Keluarga Islam." *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (2023): 1967–76. https://doi.org/10.37680/almanhaj.v5i2.3822.

Solihandracem, Muhammad Hasbi, and Yasniwati. "Pelaksanaan Pemberian Nafkah Anak Berdasarkan Putusan Perceraian Di Pengadilan Agama Padang." *Unes Journal of Swara Justisia* 7, no. 3 (2023): 925–37. https://doi.org/10.31933/ujsj.v7i3.390.

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