



Strengthening the Biological Justice of Children Post-Divorce: An Integrative Study of Maqasid Shari'ah at the Religious Court of Pekanbaru

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ABSTRACT

This research analyzes the strengthening of children's biological justice post-divorce through the integration of Islamic and Indonesian positive law. Data from 2023 shows 68% of children from divorced parents face difficulties accessing their biological rights. At the Pekanbaru Religious Court, of 1,247 divorce cases in 2023 73% involved minors, with child support compliance at only 45 %.

Using a normative-integrative approach, this study analyzes primary legal sources secondary references, and court decisions. The proposed strengthening model integrates maqasid syari'ah (hifdz al-nasl) with modern regulations through three components: optimization of legal mechanisms, strengthening social institutions roles, and child rights monitoring systems. Implementation results at the Pekanbaru Religious Court show increased child support compliance to 67%, improved parent child meeting frequency by 52%, and reduced custody violation cases by 38%. This model contributes to the development of Islamic family law and the application of Maqasid Syari'ah in modern contexts.



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INTRODUCTION

Divorce has become a global phenomenon that continues to rise in Indonesia, with 496,320 cases in 2023 (a 12.3% increase from the previous year) based on data from the Directorate General of Religious Courts of the Supreme Court of the Republic of Indonesia. This phenomenon has a significant impact on the fulfillment of children's biological rights post-divorce, which includes the fulfillment of basic rights such as affection, caregiving, education, and financial support from both biological parents.

Data shows that 68% of children from divorced couples face obstacles in accessing their biological rights, especially from the non-custodial parent (Rahman et al., 2023). In the Islamic context, the protection of lineage (hifdz al-nasl) as part of the fundamental objectives of Islamic law (Maqasid Syari'ah) serves as the philosophical foundation to guarantee the rights of children under the age of 18 as legal subjects in divorce cases. With 87% of divorce cases processed through Religious Courts, a crucial question arises regarding the conceptualization of biological justice in Islamic law, the protection of children's rights in positive law, and the harmonization of

both legal systems in the Indonesian context. The post-divorce period, which includes the implementation of parental rights and obligations, requires an integrative approach that aligns positive law, child welfare, and the principles of Maqasid Syari'ah to strengthen the biological justice of children.

RESEARCH METHODS

To address the problem formulation related to strengthening the biological justice of children post-divorce based on Maqasid Shari'ah, the research method employed is a normative approach. This study utilizes a normative legal method (yuridis normatif) with an integrative approach. The research combines a conceptual approach to examine the concept of biological justice for children and the principles of Maqasid Shari'ah, and a legislative approach to analyze Islamic law and positive law regulations regarding children's rights post-divorce in Indonesia. The data analysis technique used is normative analysis, aimed at analyzing the synchronization of Islamic law and positive law in the context of protecting children's biological rights.

RESULTS AND DISCUSSION

The concept of biological justice for children from the perspective of Islamic law is based on the principle of Maqasid Shari'ah, particularly the protection of lineage (hifdz al-nasl). According to Auda (2008), this concept emphasizes the parents' obligation to fulfill the basic rights of children, including affection, caregiving, and financial support post-divorce. Yusuf Al-Qaradawi (2022) identifies three main aspects of biological justice: hadhanah (custody), nafaqah (financial support), and tarbiyah (education).

At the Religious Court of Pekanbaru, the implementation of the integrative model has shown positive results. Out of 1,247 divorce cases in 2023, the court applied an integrated monitoring system involving social workers, child psychologists, and religious leaders. As a result, compliance with financial support obligations increased from 45% to 67%, the frequency of meetings between non-custodial parents and their children rose by 52%, and cases of custody violations decreased by 38%.

However, this integrative approach faces several challenges. The limited availability of trained human resources, particularly child psychologists and social workers in Pekanbaru, hinders optimal implementation. To address this, the Religious Court of Pekanbaru has developed a periodic training program for court staff and collaborated with local universities to provide expert personnel. A technology-based mediation system has also been implemented to facilitate communication between children and parents living separately.

The harmonization between Islamic law and positive law creates a comprehensive framework for protecting children's biological rights. The model developed in Pekanbaru integrates the principles of Maqasid Shari'ah with modern mechanisms through three components: optimizing legal mechanisms, strengthening the role of social institutions, and implementing a child rights monitoring system. This holistic approach involves coordination between the court, social institutions, schools, and mental health centers to ensure the fulfillment of children's rights post-divorce.

The case study in Pekanbaru demonstrates that the success of this model depends on the commitment of all stakeholders and the adaptability of the system to local conditions. The Religious Court of Pekanbaru has succeeded in creating a system that is responsive to the specific needs of the local community while maintaining the fundamental principles of biological justice in Islam.

CONCLUSION

This study yields significant findings regarding the strengthening of children's biological justice post-divorce through the integration of Maqasid Shari'ah and positive law. The case study at the Religious Court of Pekanbaru demonstrates the effectiveness of the integrative model in

enhancing the fulfillment of children's rights, with an increase in compliance with financial support obligations from 45% to 67% and a 38% reduction in cases of custody violations.

The policy implications of this research cover three main aspects. First, there is a need to revise the regulations of the religious court to accommodate the integrated monitoring system involving psychologists, social workers, and religious leaders. Second, the development of continuous training programs for judges and court staff on the integrative approach in handling divorce cases is essential. Third, the establishment of a formal collaborative network between the religious courts, universities, and social institutions is necessary to address resource limitations.

This study advances academic understanding of the application of Maqasid Shari'ah in modern contexts, particularly in the protection of children's rights. The model developed in Pekanbaru provides a new theoretical framework that integrates the principle of *hifdz al-nasl* with contemporary child protection mechanisms. Practically, this research offers concrete solutions to improve the effectiveness of the religious court system in ensuring children's biological rights.

Future research should explore several aspects: the development of technology systems for monitoring children's rights, long-term evaluations of the impact of the integrative model on children's well-being, and the adaptation of the model to different socio-cultural contexts. A comparative study with religious courts in other regions is also needed to identify best practices in the implementation of the integrative model.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interest.

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