

Custody Challenges in Dual-Income Post-Divorce Families under Indonesian Islamic Law

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Abstract

This study aims to examine the legal and religious perspectives governing child custody arrangements in post-divorce dual-income families in Indonesia, with a particular focus on the integration of statutory law and Islamic legal principles. Divorce, while discovered under Law No. 1 of 1974 on Marriage, remains a prevalent phenomenon influenced by socio-economic and relational factors, and it directly impacts the welfare of children when parental responsibilities are divided. Using a qualitative library research method, this study analyzes relevant statutory provisions, including Articles 41 and 45 of the Marriage Law and Article 105 of the Compilation of Islamic Law (KHI), as well as scholarly interpretations framed by the Maqashid Syariah principle of *hifz al-nasl* (protection of lineage). The findings reveal that Indonesian law maintains both parents' obligations toward the maintenance, education, and welfare of their children after divorce, with primary custody for children under 12 generally granted to the mother unless specific disqualifying conditions arise. In dual-income post-divorce families, however, practical custody arrangements require adaptive strategies to reconcile employment demands with the best interests of the child.

Penelitian ini bertujuan untuk mengkaji perspektif hukum dan agama yang mengatur pengasuhan anak dalam keluarga pasca perceraian dengan kedua orang tua bekerja di Indonesia, dengan fokus khusus pada integrasi hukum positif dan prinsip-prinsip hukum Islam. Perceraian, meskipun tertuang dalam Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, tetap menjadi fenomena yang lazim terjadi akibat faktor sosial-ekonomi dan hubungan interpersonal, yang secara langsung memengaruhi kesejahteraan anak ketika tanggung jawab orang tua terbagi. Dengan menggunakan metode penelitian kualitatif berbasis studi pustaka, penelitian ini menganalisis ketentuan perundang-undangan yang relevan, termasuk Pasal 41 dan 45 Undang-Undang Perkawinan dan Pasal 105 Kompilasi Hukum Islam (KHI), serta interpretasi akademik yang dibingkai oleh prinsip Maqashid Syariah khususnya hifz al-nasl (perlindungan keturunan). Temuan penelitian menunjukkan bahwa hukum Indonesia menetapkan kewajiban kedua orang tua terhadap pemeliharaan, pendidikan, dan kesejahteraan anak setelah perceraian, dengan hak asuh utama bagi anak di bawah usia 12 tahun umumnya diberikan kepada ibu kecuali terdapat kondisi tertentu yang mendiskualifikasikan. Namun, dalam keluarga pasca perceraian dengan kedua orang tua bekerja, pengaturan hak asuh memerlukan strategi adaptif untuk menyesuaikan tuntutan pekerjaan dengan kepentingan terbaik anak. Penelitian ini menyimpulkan bahwa penerapan yang selaras antara hukum positif dan hukum Islam memberikan kerangka yang seimbang dalam menyelesaikan sengketa hak asuh anak di masyarakat Indonesia kontemporer.

INTRODUCTION

Marriage is one of the fundamental social institutions in society, creating an emotional bond between husband and wife and establishing a structure of responsibilities, including child-rearing, as part of their roles as parents (Anjani et al., 2024; Vrdoljak et al., 2021). In this context, child-rearing is crucial in determining the child's future and overall quality of family life. According to the Compilation of Islamic Law (KHI) Articles 2 and 3, marriage in Islam is to create a family life filled with peace, love, and mutual respect. This principle aligns with the universal values expressed in Q.S. Ar-Rum, verse 21, which emphasizes that marriage is about fulfilling personal rights and creating tranquility for the family. However, in reality, the role in child-rearing does not always align with the ideal expectations, especially in families that experience divorce (Asgharpour & Kashani, 2022; Dwinandita, 2024; Ko & Hwang, 2021).

Divorce is a phenomenon that cannot be avoided in some families, often leading to new challenges in child-rearing. According to Q.S. Al-Baqarah, verse 233, although a couple divorces, parents retain significant responsibility for their children, including their upbringing. However, in many cases, both parents often share the responsibility of raising children, especially when both must work to meet their economic needs (Nurjanah et al., 2025; Zartler, 2021). This phenomenon can be found in divorced families, where child-rearing becomes a shared duty, particularly when both parents have jobs that demand substantial time and commitment.

Several previous studies have focused on the roles of fathers and mothers in child-rearing after divorce. For instance, Zakaria et al. (2023) studied transferring Maternal-Paternal Education Level and Parenting Styles. Angraini et al. (2024) studied the Gender of Roles, Family Interaction, and Family Well-being in Single-Earner and Dual-Earner Families. Similarly, Putri et al. (2025) found that fathers could assume child custody in cases where the mother is unable to care for the child, based on Islamic law. However, their study mainly emphasizes cases where the mother works abroad, while the present study focuses on divorced families. Abdullah et al. (2023) examined paternal involvement in child-rearing, highlighting the positive impact on child development. Still, the study primarily uses Western child-rearing theories, whereas this research integrates Islamic law to study post-divorce child-rearing. Cable (2017) and Shorey & Pereira (2023) explored the role of single fathers in child-rearing, which is relevant to this research, particularly in understanding the post-divorce role of fathers. However, their study focuses on single fathers, while this research examines the shared responsibility of ex-spouses after divorce.

From these previous studies, it is evident that there is a gap in the literature regarding child-rearing by ex-spouses who both work after divorce. While some research focuses on child-rearing by fathers or husbands, there is limited research examining how divorced couples, who both work to meet their financial needs, share the responsibility of raising children post-divorce and how this arrangement affects child development. This gap highlights the need for further investigation into the dynamics of shared child-rearing responsibility in divorced families where both parents are employed. The goal of this study is to analyze how ex-spouses share child-rearing responsibilities post-divorce, particularly through the lens of Islamic law, with a focus on the Maqashid Syariah principle of *hifz al-nasl* (preserving lineage) within

the context of divorced families. This research aims to contribute to the understanding of how Islamic law addresses post-divorce child-rearing and the impact on the development of children in such family structures.

METHODS

This study employs a qualitative approach with a library research method to analyze literature and written sources on post-divorce child custody from an Islamic law perspective (Budianto, 2020). This library research studies Islamic legal texts, books, scholarly articles, and other relevant works pertinent to ex-spouses' roles in child-rearing after divorce. In this research, the author adopts a normative-empirical approach, using normative research that refers to Islamic legal sources such as the Qur'an, Hadith, and the Compilation of Islamic Law (KHI) to examine the legal principles concerning child custody after divorce. Meanwhile, the empirical approach is applied to understand how the law is implemented in practice and to evaluate the effectiveness and impact of the application of Islamic law in the post-divorce family context.

The data used in this study are sourced from both primary and secondary sources (Miles et al., 2018). Primary data consists of relevant Islamic legal sources, such as the Qur'an, Hadith, and the Compilation of Islamic Law (KHI), which are utilized to explore Islamic legal principles related to post-divorce child custody (Bowen, 2003). Secondary data includes literature in books, articles, academic journals, and other scholarly works that examine related topics. These secondary sources enrich the understanding and perspective regarding the role of ex-spouses in child-rearing after divorce within the context of Islamic law.

Data collection is conducted through an in-depth literature review of books, articles, and previous research relevant to this topic (Rijali, 2019). The data analysis technique employed in this study is descriptive qualitative analysis, where the author reviews, organizes, and synthesizes the information gathered from written sources to better understand the dynamics of post-divorce child custody by ex-spouses in light of Islamic law. This process involves identifying key themes, such as parental rights and joint responsibilities in child-rearing, and applying the Maqashid Syariah principles to the context of divorced families (Auda, 2022).

RESULT AND DISCUSSION

Divorce and Child Custody in Indonesian Law

In civil and religious traditions, marriage is regarded as a solemn and enduring covenant intended to last for the spouses' lifetime. It is deeply embedded in social and cultural norms as the foundation for building family integrity, social stability, and intergenerational continuity. Ideally, the only factor that terminates this bond is the death of one partner. However, empirical evidence reveals that the lived realities of marriage are often marked by challenges arising from incompatible values, communication breakdowns, economic pressures, and differing expectations. When left unresolved, these challenges frequently escalate into persistent marital disputes, increasing the probability of divorce (Azizah & Isroani, 2023; Rika, 2021).

In the Indonesian legal framework, the dissolution of marriage is regulated under Law No. 16 of 2019, which amends Law No. 1 of 1974 on Marriage. Although this

statute does not provide an explicit conceptual definition of divorce, Article 38 identifies three lawful causes of marital dissolution: death, divorce, and a court ruling. Article 39 further requires that divorce proceedings occur in court, following unsuccessful reconciliation efforts, and must be supported by sufficient legal grounds to conclude that marital harmony can no longer be maintained. These provisions are reinforced by Government Regulation No. 9 of 1975, which enumerates specific grounds for divorce, including adultery, habitual intoxication or substance abuse, prolonged abandonment without consent, criminal sentences of five years or more, domestic violence, incurable physical disability, or ongoing irreconcilable conflict (Kharlie, 2022; Subeitan *et al.*, 2025). This codification reflects a restrictive divorce principle, which aims to limit divorce to exceptional circumstances, reinforcing the legislator's aspiration to preserve the stability of family life.

From an Islamic jurisprudential standpoint, divorce (*talāq*) is permissible but considered the most disliked of lawful acts (*abghad al-halal*) in the sight of Allah, as narrated in hadith literature. The Qur'anic framework, particularly in Surah An-Nisa (4:35), mandates that disputes between spouses be mediated through arbitration, involving representatives from both families, before divorce is finalized. This principle converges with the Indonesian state's legal objective to discourage hasty dissolution and promote reconciliation where possible (Ahsin & Fathonih, 2024; Safii & Kaur, 2025). The coexistence of these two systems—state law and Islamic law—forms a pluralistic legal environment in which formal judicial mechanisms and religious norms must be harmonized in the adjudication of divorce.

Nevertheless, when reconciliation fails and divorce is legally granted, the implications extend far beyond the severance of the marital bond, particularly regarding child welfare. Articles 41 and 45 of Law No. 16 of 2019 stipulate that both parents are obligated to provide care, education, and moral guidance to their children, guided solely by the principle of the child's best interests. These statutory mandates are further supported by the Compilation of Islamic Law (KHI) in Article 105, which grants custodial rights for children under twelve years old (*non-mumayyiz*) to the mother. In contrast, children who have reached the age of discernment (*mumayyiz*) may choose their custodial parent. In both cases, the father generally bears primary responsibility for financial maintenance, unless otherwise determined by the court due to incapacity.

In practice, these legal provisions are frequently challenged by post-divorce realities. Custodial disputes may arise when the custodial parent remarries, prompting concerns over the adequacy of emotional support, the role of step-parents, and the maintenance of the child's religious upbringing. Courts may be petitioned to reassign custody in such cases, invoking the principle of *hifz al-nasl* (protection of lineage) from Maqashid Syariah, which prioritizes safeguarding the child's welfare, identity, and moral upbringing. This intersection between legal mandates and Islamic ethical imperatives underscores the importance of designing child custody arrangements that address legal formality, socio-emotional stability, cultural compatibility, and religious continuity (Aziz *et al.*, 2023; Firdaus & Iwan, 2024).

Moreover, the post-divorce period in contemporary Indonesian society is influenced by evolving gender roles, increasing female economic participation, and the pervasive role of technology in parenting. Dual-income households and

geographically separated co-parenting arrangements have introduced new dynamics into child-rearing, necessitating updated interpretations of custody laws to reflect present-day realities (Widjaja *et al.*, 2020). However, a noticeable gap remains in the literature. While statutory provisions and Islamic legal doctrines articulate clear structural obligations, less attention has been devoted to integrating socio-economic and technological factors into custody adjudication. Addressing this gap requires interdisciplinary research that merges normative legal analysis with empirical socio-cultural studies, ensuring custody policies remain doctrinally sound and socially responsive in Indonesia's pluralistic legal order.

Child Custody After Divorce in Indonesian Law

Child custody after divorce in Indonesia is a complex legal issue that operates at the intersection of statutory law, religious principles, and judicial discretion, aiming to safeguard the child's best interests (*kepentingan terbaik bagi anak*). Under Law No. 16 of 2019, which amends Law No. 1 of 1974 on Marriage, divorce may only be granted through a court decision after all possible reconciliation efforts have failed (Law No. 16 of 2019, art. 39). This provision reflects a deliberate legislative policy to preserve marital unity and reduce divorce rates, emphasizing that divorce is not merely a legal dissolution of the marriage bond but also a disruption to the family unit with potential long-term socio-psychological consequences for children (Halikha & Winanti, 2024; Rika, 2021).

Articles 41 and 45 of the Marriage Law explicitly state that the dissolution of marriage does not terminate the parental obligations of either parent. The father and the mother are legally bound to care for, educate, and support their children until adulthood, marry, or become financially independent (Law No. 16 of 2019, arts. 41, 45). This reflects the principle that parental responsibilities are inalienable, grounded in national law and the moral obligations enshrined in religious teachings (Hermanto, 2021; Mera *et al.*, 2024).

From the perspective of Islamic law as codified in the Compilation of Islamic Law (KHI), Article 105 provides clear guidelines on custody arrangements. Children below the age of 12 (*non-mumayyiz*) are generally placed under the custody of the mother, based on the assumption that maternal care is critical during the formative years (KHI, art. 105[a]). Once a child reaches the age of discernment (*mumayyiz*), they are given the right to choose whether to reside with their mother or father (KHI, art. 105[b]). Regardless of physical custody, the father retains the primary obligation to provide financial support, except where the court finds him incapable of fulfilling this duty, in which case the mother may be required to contribute (KHI, art. 105[c]).

This dual statutory and Islamic family law framework exemplifies Indonesia's plural legal system, where religious norms are integrated into the national legal apparatus (Bowen, 2003). The underlying rationale aligns with the Maqashid Syariah, particularly protecting lineage (*hifz al-nasl*), prioritizing preserving the child's welfare, moral development, and identity within the family unit (Auda, 2022). In practice, however, custody determinations often extend beyond the black-letter law into more nuanced considerations such as the emotional bonds between parent and child, the parent's capacity to provide a stable living environment, and the impact of socio-economic factors (Al-Sharmani, 2021; Firdaus & Iwan, 2024; Husien, 2024).

A growing challenge arises in cases involving dual-income ex-spouses. The demands of modern professional life—long working hours, frequent travel, and the absence of extended family support—may limit a parent's availability for direct caregiving (Nurjanah *et al.*, 2025). These realities necessitate a more contextualized application of the "best interests of the child" standard, requiring judges to evaluate not only legal presumptions but also the practical ability of each parent to provide consistent, holistic care. Furthermore, post-divorce disputes may be reignited when the custodial parent remarries, especially if concerns arise regarding the role of the step-parent in the child's upbringing. In such cases, courts may reassess custody arrangements to protect the child's physical, emotional, and moral well-being (Mursyid *et al.*, 2024; Sofiandi *et al.*, 2024).

Ultimately, the legal regulation of child custody in Indonesia reflects a delicate balance between legal certainty, religious values, and adaptive judicial interpretation. While statutory provisions and KHI guidelines provide a foundational framework, their practical application depends on a judge's ability to harmonize normative principles with the complex realities of modern family life. This adaptive approach is essential to ensuring that custody decisions remain responsive to the evolving socio-economic and cultural context in which Indonesian families exist.

Gender Role Changes in Post-Divorce Families

The roles of men and women, known as *kodrat* (nature), have long been defined by biological and social factors. From a biological perspective, men and women are inherently different due to the natural processes of reproduction, such as menstruation, pregnancy, and childbirth, which are uniquely attributed to women (Angraini *et al.*, 2024). These biological differences are often the basis for assigning specific societal roles, where women are expected to take on domestic tasks like cooking, cleaning, and caring for children. In contrast, men have been traditionally associated with the role of the provider and protector, possessing qualities such as strength, rationality, and assertiveness, which are seen as inherent masculine traits. However, *kodrat* is not limited to these biological functions; it also encompasses evolved social constructs. Social roles, or gender roles, are shaped by the culture and society in which individuals live and can vary significantly from one society to another. These roles are not fixed but are influenced by historical, economic, and cultural changes. As a result, the distinctions between masculinity and femininity have been increasingly questioned. Many men exhibit traits traditionally associated with femininity, such as nurturing and emotional sensitivity, while women can demonstrate traits typically regarded as masculine, such as strength, leadership, and resilience.

The evolution of gender roles is closely tied to societal changes, particularly those related to economic development, education, and the modernization of family structures. Financial necessity is one of the primary factors contributing to the shifting roles of men and women. In contemporary society, the rising cost of living and the need for dual-income households have made it essential for both men and women to share domestic and financial responsibilities. This economic pressure has led to a growing acceptance of role-sharing, even in the context of child-rearing after divorce. The increasing involvement of fathers in the upbringing of their children, often through shared custody or cooperative co-parenting arrangements, reflects the

broader societal shift towards gender equality and the recognition that both parents are equally capable of fulfilling nurturing roles. According to Salma et al. (2025), this shift challenges the traditional norm where women were solely responsible for caregiving, urging a new balance in shared family duties.

Education plays a significant role in this transformation as well. As women achieve higher levels of education, they become more aware of their rights and increasingly demand equality in the domestic and public spheres. Educated women are more likely to challenge traditional gender norms, advocating for a more equitable distribution of responsibilities within the household. Moreover, higher education has allowed women to pursue professional careers, altering family dynamics. Fitria et al., (2024) shared that women with higher education levels are more likely to delay marriage, reduce childbearing, and, in some cases, share equal footing in household and childcare responsibilities. Furthermore, social movements and the media have played crucial roles in challenging traditional gender expectations, encouraging both men and women to embrace a more fluid and flexible approach to their societal roles.

In the context of divorce, the legal system reflects the changing attitudes towards gender roles within marriage and family life. While divorce has historically been stigmatized, modern legal frameworks, such as Indonesia's Marriage Law, recognize the importance of allowing individuals to dissolve a marriage under certain circumstances, such as infidelity, domestic violence, or prolonged separation. However, divorce is not without its challenges, as it must adhere to strict legal and religious guidelines. According to the law, divorce is allowed only after both parties have exhausted efforts to reconcile, and it requires valid grounds to prove that the marriage cannot continue. This process emphasizes fairness and impartiality in divorce proceedings, ensuring that both parties are treated equally under the law, regardless of gender. Cameron et al. (2024) highlights that legal frameworks are critical in supporting gender equality during divorce proceedings, ensuring that custody decisions and asset distribution are fair and unbiased.

In light of these developments, the practice of role reversal in child-rearing after divorce has become more common. This shift can be attributed to the growing recognition that fathers and mothers can contribute equally to their children's emotional and physical well-being. Additionally, factors such as workplace demands, the changing dynamics of modern relationships, and technological advancements have made it easier for divorced couples to share responsibilities and provide support for their children. For instance, digital platforms and communication tools allow for easier coordination between ex-spouses, enabling them to manage their co-parenting arrangements effectively. As stated by Yarosh et al. (2009), technology, including apps for shared custody management, is becoming increasingly instrumental in facilitating smooth communication between divorced parents, enhancing their ability to cooperate in raising children.

Moreover, as society becomes more aware of the need for gender equality, the roles of men and women in family life are increasingly understood as dynamic and interchangeable. Both men and women are now recognized as equally capable of taking on various roles within the home, including caring for children, managing household tasks, and contributing to the family's financial stability. This shift is indicative of broader changes in societal values, where equality, flexibility, and shared

responsibility are becoming the new norms. The divorce process is evolving to reflect these changing values, as legal frameworks and societal attitudes adapt to the growing understanding that both men and women have a right to equal involvement in all aspects of family life, including parenting. Studies by Vrdoljak *et al.* (2021) have shown that children of divorced parents who maintain close relationships with both parents tend to have better emotional and psychological outcomes, highlighting the importance of both parents' involvement.

In conclusion, the evolving concept of *kodrat*, encompassing biological and social aspects, has significant implications for family dynamics, particularly in divorce. The shifting roles of men and women, influenced by economic, educational, and cultural factors, have redefined traditional gender roles within the family unit. As society progresses towards greater gender equality, the expectations surrounding parenting and household responsibilities have become more flexible, allowing for a more equitable distribution of duties between ex-spouses. Legal systems, too, are adapting to these changes, providing a framework that supports the equitable treatment of both parties in divorce proceedings, particularly in matters related to child-rearing and custody. This transformation reflects a broader societal shift towards recognizing men's and women's equal value and contribution in all aspects of family life. This understanding is critical in ensuring that both parents remain engaged in their children's lives, regardless of marital status, ultimately fostering healthier family structures.

Dual-Income Families and Child Custody in Indonesia

The challenge of determining child custody after divorce in Indonesia becomes increasingly complex when both parents are part of the workforce, particularly in urban environments where dual-income households are the norm. The legal framework, anchored in Law No. 1 of 1974 on Marriage as amended by Law No. 16 of 2019 and the Compilation of Islamic Law (KHI), outlines that the best interests of the child (*kepentingan terbaik bagi anak*) must remain the guiding principle in any custody decision (Law No. 16 of 2019, art. 41; KHI, art. 105). This principle reflects the broader Islamic legal objective (*maqasid al-shariah*) of *hifz al-nasl* (preservation of lineage), which emphasizes safeguarding the moral, spiritual, and emotional welfare of children post-divorce (Auda, 2008).

In classical KHI provisions, custody of children under 12 (*non-mumayyiz*) is automatically granted to the mother, while older children may choose between the father and mother (KHI, art. 105). However, in contemporary dual-income families, courts increasingly face cases where these presumptions are challenged due to the practical limitations of parental availability. For example, a mother engaged in a high-demand profession with irregular hours may face objections from the father, who argues that the child's need for consistent supervision cannot be met under such conditions (Handayani *et al.*, 2021). This has prompted Indonesian judges to adopt a more contextualized approach, assessing the biological or gender-based presumption and the holistic living environment each parent can provide (Bowen, 2003).

Economic capability is another contested factor. While fathers generally bear the financial responsibility for child-rearing expenses (Law No. 16 of 2019, art. 41[b]), both parents may possess substantial earning capacity in dual-income households.

This creates a more nuanced custody landscape where financial stability alone does not determine suitability; instead, the emphasis shifts toward the parent's ability to combine economic provision with emotional and moral guidance (Halikha & Winanti, 2024). Such an approach aligns with contemporary interpretations of *maslahah mursalah* (public interest) within Islamic jurisprudence, ensuring that custody arrangements adapt to modern socio-economic realities without deviating from foundational sharia principles (Safii & Kaur, 2025).

The lack of extended family support—a resource traditionally relied upon in Indonesian society—further compounds these challenges. In the past, grandparents or other relatives often acted as secondary caregivers, ensuring children's needs were met even when both parents worked. Today, nuclear family structures in urban centers and high mobility have reduced such support systems (Mahmuddin *et al.*, 2023). As a result, dual-income parents increasingly turn to daycare centers, domestic workers, or digital means of communication to maintain parental presence. While these alternatives address logistical issues, they risk weakening the child's emotional connection to the custodial parent, particularly when technology-mediated interaction replaces physical closeness (Abubakar *et al.*, 2023).

From an Islamic law perspective, the delegation of child-rearing responsibilities is permissible only if it does not compromise the child's moral and religious education (Shorey & Pereira, 2023). This is particularly significant in post-divorce scenarios, as the custodial parent must ensure that spiritual practices and values remain intact despite the physical and emotional disruptions caused by the dissolution of marriage. Here, the judiciary's role becomes essential in adjudicating custody disputes and establishing enforceable parenting plans that guarantee regular visitation rights, equitable parental involvement, and structured moral education (Vrdoljak *et al.*, 2021).

Ultimately, custody disputes in dual-income families under Indonesian Islamic law require carefully balancing normative legal principles, religious obligations, and empirical social realities. Judicial flexibility, guided by *maqasid al-shariah* and informed by child development research, ensures that decisions uphold the law while addressing the evolving needs of children in an era where economic and caregiving roles between parents are increasingly shared. Such an approach does not merely interpret custody in legalistic terms but frames it as an adaptive, welfare-oriented system capable of responding to the complexities of modern family life.

CONCLUSION

Divorce, although legally permissible under Indonesian law and recognized within the framework of Islamic legal principles, remains an exceptional recourse intended to be pursued only when reconciliation is no longer possible. The statutory provisions, particularly those under Law No. 16 of 2019 in conjunction with Government Regulation No. 9 of 1975, establish stringent procedural and substantive requirements to safeguard against the arbitrary dissolution of marriage, thereby protecting the sanctity of the marital institution. However, when divorce occurs, its implications extend beyond the termination of the marriage relationship, particularly in matters of child custody and parental responsibilities. Civil law and the Compilation of Islamic Law (KHI) emphasize that the child's welfare (*maslahah*) must

remain paramount, with custody rights and financial obligations determined to serve the child's best interest. This principle aligns with the Maqashid Syariah objective of *hifz al-nasl* (preservation of lineage), which upholds the continuity of proper upbringing regardless of parental separation. In the context of dual-income post-divorce families, shared responsibilities demand coordinated efforts and mutual commitment to ensure that economic pursuits do not compromise the child's emotional, moral, and religious development. Thus, practical application of Islamic legal principles, combined with judicial oversight, is essential to balance parental duties, protect children's rights, and maintain social stability in post-divorce family structures.

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REFERENCES

- Abdullah, N., Sabri, M. F., Ahmad, S. S., Suhaimi, M. I., & Magli, A. S. (2023). The moderating effect of household income on the determinants of parental contribution to children in Malaysia. *Malaysian Journal of Consumer and Family Economics*, 30, 474–501.
- Abubakar, F., Saadah, M., & Na'mah, U. (2023). The Transformation of the Dilemma of Role Exchange in the Household: Analyzed Gender in Family Resilience Discourse in National Law and Islamic Law. *Jurnal Ilmiah Al-Syir'ah*, 21(1), 1. <https://doi.org/10.30984/jis.v21i1.1864>
- Ahsin, M., & Fathonih, A. (2024). Kajian dan Telaah Kritis Tafsir dan Hadits tentang Perceraian. *Al-Insaf: Jurnal Ahwal Al-Syakhshiyah*, 3, 16–37. <https://doi.org/doi.org/10.61610/ash.v3i2.48>
- Al-Sharmani, M. (2021). *Child Custody in Islamic Law: Theory and Practice in Egypt since the Sixteenth Century*. JSTOR.
- Angraini, S., Puspitawati, H., & Muflikhati, I. (2024). Gender of Roles, Family Interaction, and Family Well-being in Single-Earner and Dual-Earner Families. *Journal of Family Sciences*, 9(2), 151–168. <https://doi.org/10.29244/jfs.v9i2.50778>
- Anjani, R., Mashudi, E. A., & Nuroniah, P. (2024). Literature Review: Early Childhood Parenting Efforts in Dual Earner Family. *Aulad: Journal on Early Childhood*, 7(3), 645–662. <https://doi.org/10.31004/aulad.v7i3.755>
- Asgharpour, H., & Kashani, F. L. (2022). The Father's Role in Parenting: a Comparison of Different Cultures and Psychological Perspectives. *Men's Health Journal*, 6(1), e1--e1. <https://doi.org/https://doi.org/10.22037/mhj.v6i1.36795>
- Auda, J. (2008). *Maqasid al-Shariah as philosophy of Islamic law: a systems approach*. International Institute of Islamic Thought (IIIT).
- Auda, J. (2022). *Maqasid al-Shari'ah as Philosophy of Islamic Law*. International Institute of Islamic Thought (IIIT).
- Aziz, M. A., Shahid, M., Muhammad, A., & Jamshaid, M. K. (2023). Custodial Challenges: Islamic and Pakistani Law in Child Custody Matters. *Current Trends in Law and Society*, 3(1), 88–102. <https://doi.org/10.52131/ctls.2023.0301.0019>
- Azizah, I., & Isroani, F. (2023). Forming a Sakinah Family through Marriage Guidance

- for Brides-to-be during the Pandemic. *Indonesian Journal of Law and Economics Review*, 17(November), 1–11. <https://doi.org/10.21070/ijler.v17i0.900>
- Bowen, J. R. (2003). *Islam, law, and equality in Indonesia: An anthropology of public reasoning*. Cambridge University Press.
- Budianto, A. (2020). Legal research methodology reposition in research on social science. *International Journal of Criminology and Sociology*, 9(1), 1339–1346.
- Cable, G. (2017). *Fathers experiences of single parenting*.
- Cameron, L., Contreras Suarez, D. S., & Setyonaluri, D. (2024). Leveraging Women's Views to Influence Gender Norms around Women Working: Evidence from an Online Intervention in Indonesia. *Leveraging Women's Views to Influence Gender Norms around Women Working: Evidence from an Online Intervention in Indonesia, January*, 1–40. <https://doi.org/10.1596/1813-9450-10681>
- Dwinandita, A. (2024). Islamic Child Parenting Practices and Muslim Family Resilience in Southeast Asia: A Systematic Literature Review. *Al-Athfal: Jurnal Pendidikan Anak*, 10(2), 83–105. <https://doi.org/10.14421/al-athfal.2024.102-01>
- Firdaus, M. A., & Iwan, I. (2024). Custody Determination for a Child Born as a Result of Rape: A Maqashid al-Sharia Perspective. *Al-Ishlah: Jurnal Ilmiah Hukum*, 27(2), 406–426. <https://doi.org/10.56087/aijih.v27i2.512>
- Fitria, M., Laksono, A. D., Syahri, I. M., Wulandari, R. D., Matahari, R., & Astuti, Y. (2024). Education role in early marriage prevention: evidence from Indonesia's rural areas. *BMC Public Health*, 24(1), 3323. <https://doi.org/10.1186/s12889-024-20775-4>
- Halikha, N., & Winanti, A. (2024). Determination of the Best Principles for Children in Divorce Cases: A Legal Analysis of the Cibinong Religious Court Decision Number 1042/Pdt.G/2019. *Jurnal Daulat Hukum*, 7(4), 357. <https://doi.org/10.30659/jdh.v7i4.41110>
- Handayani, S., Nuraini, S., & Agustiya, R. I. (2021). Faktor-Faktor Penyebab Pernikahan Dini di Beberapa Etnis Indonesia. *Buletin Penelitian Sistem Kesehatan*, 24(4), 265–274. <https://doi.org/10.22435/hsr.v24i4.4619>
- Hermanto, A. (2021). *Problematika Hukum Keluarga Islam Di Indonesia*. Literasi Nusantara.
- Husien, S. (2024). Legal Uncertainty Regarding the Status of Children Born Out of Wedlock in the Perspective of Hifdzu al-Nasl. *Jurnal Hukum*, 40(2), 63–74. <https://doi.org/doi.org/10.26532/jh.40.2.63-74>
- Kharlie, A. T. (2022). *Hukum Keluarga Indonesia*. Sinar Grafika.
- Ko, K., & Hwang, W. (2021). Association between Job Demands and Fathers' Involvement between Single-Income and Dual-Income Families: The Mediating Role of Work to Family Conflict. *Journal of Social Service Research*, 47(4), 553–564. <https://doi.org/10.1080/01488376.2020.1850605>
- Mahmuddin, M., Mansari, M., & Melayu, H. A. (2023). Community's role in preventing child marriage: An analysis of models and community compliance with village policies. *Gender Equality: International Journal of Child and Gender Studies*, 9(2), 235. <https://doi.org/10.22373/equality.v9i2.19673>
- Mera, N., Marzuki, M., Taufan B., M., Sapruddin, S., & Cahyani, A. I. (2024). Child Custody Rights for Mothers of Different Religions: Maqāṣid al-Sharī'ah Perspective on Islamic Family Law in Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 8(3), 1645. <https://doi.org/10.22373/sjkh.v8i3.23809>
- Miles, M. B., Huberman, A. M., & Saldana, J. (2018). *Qualitative data analysis: A methods sourcebook*. Sage publications.
- Mursyid, S., Bilalu, N., & Subeitan, S. M. (2024). Navigating Custody: The Impact of Religious Court Judges on Interfaith Family Dynamics. *Al-Mujtahid: Journal of*

- Islamic Family Law*, 4(1), 34. <https://doi.org/10.30984/ajjfl.v4i1.3039>
- Nurjanah, S., Syarifudin, A., Baidhowi, M. M., Mahmudi, E., & Darussalam, H. (2025). Children's Rights in Islamic Law: A Contemporary Study of Family Practices. *MILRev: Metro Islamic Law Review*, 4(2), 933–953. <https://doi.org/10.32332/milrev.v4i2.10077>
- Putri, E. L., Azhari, A., Abdullah, R., & Husni, M. (2025). Power Relations and Structural Inequality in Late-Life Divorce: A Socio-Legal Analysis of the Palembang Islamic Court Decisions in 2022. *Indonesian Journal of Sharia and Socio-Legal Studies*, 1(1), 25–46. <https://doi.org/10.24260/ijssls.1.1.16>
- Rijali, A. (2019). Analisis Data Kualitatif. *Alhadharah: Jurnal Ilmu Dakwah*, 17(33), 81. <https://doi.org/10.18592/alhadharah.v17i33.2374>
- Rika, S. (2021). Accommodating the 'Best Interests of the Child' in Custody Disputes in the Indonesian System/s of Family Law. *International Journal of Law, Policy and the Family*, 35(1). <https://doi.org/10.1093/lawfam/ebab011>
- Safii, N. M., & Kaur, G. (2025). The Role of Islamic Family Law in Modern Child Custody Cases: Balancing Sharia Principles with Contemporary Needs. *Journal of Islamic Family Law*, 1(1), 31–38. <https://doi.org/10.59784/jjfl.v1i1.5>
- Salma, S., Subeitan, S. M., Bilalu, N., Zakariah, A. A., & Muhammad, A. A. (2025). The Authority of Ex Officio Judges in Protecting Women's and Children's Rights Post-Divorce at the Manado Religious Court. *Jurnal Ilmiah Al-Syir'ah*, 23(1), 102–116. <https://doi.org/doi.org/10.30984/jis.v23i1.3318>
- Shorey, S., & Pereira, T. L. (2023). Parenting experiences of single fathers: A meta-synthesis. *Family Process*, 62(3), 1093–1113. <https://doi.org/10.1111/famp.12830>
- Sofiandi, A., Irwansyah, W., Wiranti, W., Irwan, I., & Maulina, N. (2024). Explore the Foundations and Principles of Islamic Family Law. *ANAYASA: Journal of Legal Studies*, 1(2), 168–177. <https://doi.org/10.61397/ay.v1i2.107>
- Subeitan, S. M., Patrajaya, R., Isima, N., Khair, A., Habibie, R. A., Ahmad, S., Angelia, N. M., Suradilaga, A. S., Sukti, S., Norhadi, M., Nurpahsari, Lisnawati, & Bukido, R. (2025). Pengantar Hukum Indonesia. *Penerbit Az-Zahra Media Society*.
- Vrdoljak, G., Livaja Budaić, V., & Brust Nemet, M. (2021). Parenting style and the active involvement of fathers in child-rearing. *JAHHR*, 12(1), 107–125. <https://doi.org/10.21860/j.12.1.6>
- Widjaja, A. M., Sari, I. Y. K., Fadhilah, H. F. I., & Ayuningtyas, D. S. (2020). The Application of the Best Interest of the Child Principle as a Basis for Determining Child Custody. *Unram Law Review*, 4(2), 163–173. <https://doi.org/10.29303/ulrev.v4i2.126>
- Yarosh, S., "Denise" Chew, Y. C., & Abowd, G. D. (2009). Supporting parent-child communication in divorced families. *International Journal of Human-Computer Studies*, 67(2), 192–203. <https://doi.org/10.1016/j.ijhcs.2008.09.005>
- Zakaria, A., Dameaty, F., Sharifah, H., & Mustaffa, M. S. (2023). The Influence of Maternal-Paternal Education Level and Parenting Styles in Children's Reading Skills in an Urban Setting in East Malaysia. *Pacific Early Childhood Education Research Association*, 17(1), 177–198. <https://doi.org/10.17206/apjrece.2023.17.1.177>
- Zartler, U. (2021). Children and parents after separation. In *Research Handbook on the Sociology of the Family*. Edward Elgar Publishing. <https://doi.org/10.4337/9781788975544.00029>