

Analysis of Maqāṣid al-Sharī'ah on the Protection of Children's Rights Following Divorce

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Abstract. *This study aims to analyze the protection of children's rights following divorce by employing the framework of Maqāṣid Sharī'ah as a normative and philosophical foundation within Islamic law. Divorce is a social phenomenon that not only affects the marital relationship between spouses but also generates serious consequences for the fulfillment and protection of children's rights. In many cases, children become the most vulnerable parties, suffering psychological, economic, and social harm as a result of the dissolution of their parents' marriage. Therefore, the protection of children's rights after divorce constitutes a crucial issue that requires comprehensive examination, including from the perspective of Islamic law through the Maqāṣid Sharī'ah approach. This research adopts a qualitative methodology with a normative-juridical approach. Data were collected through library research on primary and secondary sources, including the Qur'an, Hadith, classical fiqh texts, statutory regulations related to child protection, as well as relevant scholarly literature. Data analysis was conducted by linking the concept of post-divorce child rights protection to the fundamental objectives of Maqāṣid al-Sharī'ah, namely the protection of religion (ḥifẓ al-dīn), life (ḥifẓ al-nafs), intellect (ḥifẓ al-'aql), lineage (ḥifẓ al-nasl), and property (ḥifẓ al-māl). The findings indicate that the protection of children's rights after divorce is strongly aligned with the principles of Maqāṣid al-Sharī'ah, particularly in safeguarding children's survival, well-being, and optimal development. The protection of children's rights following divorce constitutes both a al-sharī'ah-based and humanitarian imperative and serves as a key indicator of justice within Islamic family law, as Maqāṣid al-Sharī'ah must be oriented toward human welfare and quality-of-life development (human development).*

Keywords: Children's; Divorce; Protection; Rights.

1. INTRODUCTION

The concept of a child is fundamentally associated with age limits and legal capacity. A child is understood as a legal subject who has not yet reached maturity and therefore requires special protection from the state. Normatively, a child is defined as an individual who has not attained the age of eighteen years, including a child still in the womb, and thus does not yet possess full legal capacity and remains under the responsibility of parents or legal guardians (Science et al., 2025). A child is also understood as an individual who lacks legal capacity (*legally incapacitated person*), and therefore is unable to exercise rights and obligations independently. Consequently, the state has an

obligation to provide legal, social, and moral protection in order to ensure the optimal growth and development of the child. In positive law, the definition of a child is not limited to a biological concept based on age, but also reflects the child's position as a legal subject who requires special protection in order to uphold the best interests of the child (*the best interest of the child*).

According to the perspective of Islamic law, the definition of a child is not determined by age limits as stipulated in positive law, but rather by the status of puberty (*bulūgh*). A child is understood as a human being who has not yet attained puberty and therefore is not fully subject to shari'ah legal responsibility (*ghayr mukallaf*). An individual who has not attained puberty (baligh) is regarded as being in the stage of childhood and having limited legal capacity. Contemporary fiqh studies explain that a child is an individual who is in the stage of *ṣighar* (minority), namely from birth until reaching the signs of puberty (baligh), such as nocturnal emission for males or menstruation for females (Harid & Ashufa, 2025). During this phase, a child does not bear full responsibility for legal actions and acts of worship; consequently, the obligation of protection, nurturing, and education lies with the parents or guardians. Within Islamic law, a child is perceived as an *amānah* that must be preserved, with their rights protected until they reach shar'ī adulthood and are able to assume legal responsibility independently.

The institution of marriage not only governs the legal relationship between spouses but also establishes enduring legal and moral obligations toward children, who are regarded as a trust (*amānah*) whose rights must be safeguarded and protected (Science et al., 2025). Children hold a strategic position as the next generation; therefore, the fulfillment of children's rights constitutes an integral part of the objectives of family formation and the family law system. In certain circumstances, a marriage cannot be sustained and ultimately ends in divorce. Divorce does not merely bring the marital relationship between spouses to an end, but also has legal and factual implications for the psychological, economic, and social stability of the child. In many cases, children occupy the most vulnerable position, as they are required to confront changes in caregiving arrangements, parental conflict, and uncertainty regarding the fulfillment of their rights in the post-divorce context.

Normatively, divorce does not extinguish parental obligations toward children. In Islamic law, responsibilities for care, education, and financial maintenance remain binding upon the parents even after the marital relationship has been dissolved (Kroniko & Mustafa, 2026). In Indonesian positive law, the principle of the best interests of the child (*the best interest of the child*) constitutes the primary foundation in all policies and judicial decisions concerning children, including divorce cases. In practice, various problems are still encountered, including the failure to fulfill child maintenance obligations, prolonged disputes over child custody, and weak supervision over the enforcement of court decisions. These problems indicate that a purely normative-formal legal approach is insufficient to ensure the protection of children's rights in the post-divorce context. A more substantive approach oriented toward the objectives of law is therefore required.

Within the context of Islamic jurisprudence, this approach is articulated through the concept of *Maqāṣid al-Sharī'ah*, which serves as a foundational philosophical framework asserting that all Islamic legal rulings are ultimately aimed at the realization of public welfare (*maṣlaḥah*) and the prevention of harm (*mafsadah*) (Darmawan et al., 2024). The principal objectives of *Maqāṣid al-Sharī'ah* in Islamic law consist of safeguarding religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and

property (*ḥifẓ al-māl*) as essential legal interests to be preserved by the Shari‘ah. In the context of protecting children’s rights following divorce, these five objectives are highly relevant. The protection of a child’s physical safety and psychological well-being corresponds to *ḥifẓ al-nafs*, the fulfillment of the right to education and intellectual development is aligned with *ḥifẓ al-‘aql*, while the continuity of generations and the clarity of lineage (*nasab*) form an integral part of *ḥifẓ al-nasl*. The obligation to provide maintenance and to fulfill a child’s economic needs after divorce constitutes an implementation of *ḥifẓ al-māl*.

The *Maqāṣid al-Shari‘ah* approach offers a more comprehensive perspective in addressing the protection of children’s rights, viewing it not merely as a legal obligation but also as an ethical and moral responsibility of both parents and the state. Through this approach, the law is oriented not only toward legal certainty but also toward substantive justice and the realization of the child’s welfare (*maṣlaḥah*), as the party that must be given priority. The study of the protection of children’s rights following divorce from the perspective of *Maqāṣid al-Shari‘ah* is essential for addressing the challenges of contemporary Islamic family law practice.

Based on this framework, this research aims to analyze the protection of children’s rights in the aftermath of divorce by employing the *Maqāṣid al-Shari‘ah* approach. This study is expected to provide a strong conceptual foundation for the development of Islamic family law that is more responsive to the best interests of the child, and to serve as a reference for judges, academics, and policymakers in formulating legal protection oriented toward the realization of the child’s welfare (*maṣlaḥah*) as the next generation.

2. RESEARCH METHODS

This study employs a qualitative legal research design aimed at analyzing the protection of children’s rights following divorce from the perspective of *Maqāṣid al-Shari‘ah*. A qualitative approach is adopted because it enables an in-depth exploration of the meanings, values, and legal objectives embedded in the norms of Islamic law, particularly those relating to children’s rights in the post-divorce context. The primary focus of this research is not on quantitative measurement, but rather on conceptual and normative analysis of legal provisions and the views of scholars. This study employs a normative–juridical approach that focuses on the analysis of legal norms contained in statutory regulations, legal doctrines, and sources of Islamic law. This approach is employed to examine the legal provisions governing the protection of children’s rights following divorce as regulated under Islamic law, which are subsequently analyzed through the perspective of *Maqāṣid al-Shari‘ah* as the primary philosophical framework and analytical lens. In addition, this study applies a conceptual approach by examining the concept of *Maqāṣid al-Shari‘ah* as developed by contemporary Islamic legal thinkers to elucidate the objectives and substantive values of Islamic law in child protection, thereby ensuring that the law is understood not merely in a textual manner but also contextually and in a manner oriented toward the realization of welfare (*maṣlaḥah*) (Harid & Ashufa, 2025). The data sources of this study consist of primary legal materials, including the Qur’an and ḥadīth relating to parental obligations toward children, as well as classical *fiqh al-munākahāt* texts. Secondary legal materials comprise scholarly books, national and international journal articles published from 2020 onward, and relevant previous studies addressing divorce, children’s rights, and *Maqāṣid al-Shari‘ah*. Tertiary legal materials consist of legal dictionaries, encyclopedias, and other supporting sources that serve to clarify the terms and concepts employed in this study. Data collection is

conducted through a library research method by identifying, collecting, and examining various legal literatures relevant to the research focus. This technique is employed to obtain a comprehensive understanding of the concept of protecting children's rights following divorce, as well as the development of *Maqāṣid al-Sharī'ah* thought within contemporary Islamic family law. All data obtained are subsequently classified and systematized according to their themes and relevance to the formulation of the research problems. Data analysis in this study is conducted using a descriptive-analytical method. The collected data are analyzed by describing legal norms and scholarly views concerning the protection of children's rights following divorce, which are then critically examined through the perspective of *Maqāṣid al-Sharī'ah*. This analysis aims to assess the consistency between the practices of protecting children's rights and the objectives of *Maqāṣid al-Sharī'ah*, as well as to formulate principles that may serve as a foundation for strengthening the protection of children's rights in the post-divorce context. Through this research method, the study seeks to achieve a systematic and comprehensive understanding of the protection of children's rights resulting from divorce from the perspective of *Maqāṣid al-Sharī'ah*, thereby enabling the findings to contribute both theoretically and practically to the development of Islamic family law oriented toward justice and the welfare (*maṣlaḥah*) of children.

3. RESULTS AND DISCUSSION

Divorce constitutes a legal event that signifies the termination of the marital bond between husband and wife, thereby severing the legal relationship that previously gave rise to reciprocal rights and obligations between the parties. Within contemporary family law scholarship, divorce is understood as a measure of last resort, pursued only when the fundamental objectives of marriage namely, the establishment of a family characterized by *sakinah*, *mawaddah*, and *rahmah* can no longer be realized.

Under Indonesian positive law, divorce is regarded as the dissolution of a marital relationship that is legally valid only when carried out through judicial proceedings. The Marriage Law stipulates that divorce must take place before a court hearing, after the court has made genuine efforts and failed to reconcile the parties (Sholehah et al., 2024). Accordingly, divorce is not merely a unilateral act, but a legal event that must satisfy both formal and substantive requirements in order to attain binding legal force.

Divorce has multidimensional consequences, particularly for children, who constitute the most vulnerable parties. Children affected by parental divorce frequently experience psychological, social, and economic disruptions. These psychological impacts may manifest in the form of anxiety, depression, diminished self-esteem, and difficulties in developing healthy social relationships. Research indicates that children from divorced families tend to be more vulnerable to emotional stress and to a decline in the quality of their relationships with their parents.

From an economic perspective, divorce has the potential to undermine children's welfare. Financial maintenance that should be provided on a regular basis is often delayed or inadequately fulfilled, resulting in children facing constraints in meeting basic needs such as food, healthcare, and education (Kroniko & Mustafa, 2026). In certain cases, children are required to adapt to new household arrangements, which often fail to provide conditions conducive to their optimal growth and development.

The social impacts are likewise significant. Children may experience social isolation, negative stigma, and difficulties in establishing interactions with their peers, which can

impede their emotional and social development. Several studies in Indonesia have found that children involved in custody disputes frequently face emotional distress as a result of prolonged parental conflict. This condition underscores the urgency of legal protection that is not merely formal in nature but also substantive and oriented toward the best interests (*maṣlaḥah*) of the child.

Normatively, the protection of children's rights is regulated within two legal domains, namely Islamic law and Indonesian positive law. In Islamic law, the parental obligation to provide care, education, and financial maintenance for children remains binding even after the dissolution of marriage (Darmawan et al., 2024). This principle is firmly established in the Qur'an and the Prophetic traditions (*ḥadīth*), which emphasize parental responsibility toward children as a trust (*amānah*) that must be safeguarded.

Indonesian positive law affirms the principle of the best interests of the child through Law No. 1 of 1974 on Marriage and Law No. 23 of 2002 on Child Protection, as amended by Law No. 35 of 2014. These statutes emphasize that every legal decision concerning children including matters of custody, financial maintenance, education, and psychological protection must place the child's interests as the paramount consideration. Despite the relative clarity of the legal framework, its implementation continues to encounter various obstacles. Several cases reveal parental non-compliance with court decisions, delays in the payment of child maintenance, and insufficient oversight of the fulfillment of children's rights. This situation demonstrates the need for a more substantive approach, such as the application of *Maqāṣid al-Sharī'ah*, to ensure that the protection of children's rights is genuinely and effectively realized.

According to Jasser Auda, *Maqāṣid al-Sharī'ah* represents a reformist approach to understanding the objectives of Islamic law that is no longer confined to the classical classification of safeguarding the five essential elements religion, life, intellect, lineage, and property but is further developed toward the promotion of human development and comprehensive social justice. He conceives *maqāṣid* as legal objectives that are dynamic and contextual in nature, and that are oriented toward the realization of tangible *maṣlaḥah* in the realities of modern human life.

He further expands the scope of *maqāṣid* by emphasizing universal values such as justice, freedom, human dignity, gender equality, the protection of human rights, and child welfare. These values, according to him, constitute the fundamental objectives of the Sharī'ah and are fully consistent with the moral message of the Qur'an and the Sunnah (Kroniko & Mustafa, 2026). *Maqāṣid al-Sharī'ah* is therefore no longer understood merely as the prevention of harm (*jalb al-mafāsīd*), but also as an active endeavor to realize progress and humanity through the promotion of benefit (*jalb al-maṣāliḥ*).

Maqāṣid al-Sharī'ah constitutes a philosophical framework of Islamic law that emphasizes the primary objectives of the Sharī'ah in realizing *maṣlaḥah* (public welfare) and preventing harm. The five principal objectives of *Maqāṣid al-Sharī'ah* are the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). In the context of children following divorce, these five principles demonstrate strong relevance. *Ḥifẓ al-naḥs* (the protection of life) underscores the importance of safeguarding the child's physical and psychological well-being. Children who experience parental divorce are particularly vulnerable to emotional distress; therefore, the fulfillment of custody arrangements and the provision of psychological support become essential.

Hifẓ al-'aql (the protection of intellect) emphasizes the significance of education and intellectual development. Divorce should not constitute a barrier to a child's access to either formal or informal education. In this regard, *Maqāṣid al-Sharī'ah* encourages both parents and the state to ensure that children continue to receive adequate and quality education. *Hifẓ al-nasl* (the protection of lineage) affirms the necessity of safeguarding a child's lineage, inheritance rights, and other family-related rights, even after the dissolution of marriage. This principle encompasses the child's legal identity, social legitimacy, and the attendant social rights. Without such protection, children may lose access to inheritance or be exposed to social discrimination.

Hifẓ al-māl (the protection of property) relates to the parental obligation to provide financial maintenance and to fulfill the economic needs of children following divorce. The perspective of *Maqāṣid al-Sharī'ah*, the fulfillment of children's economic rights is not merely a legal duty, but also an integral part of the parents' moral and ethical responsibility. Overall, *Maqāṣid al-Sharī'ah* offers a normative and philosophical foundation for evaluating practices of child protection, thereby ensuring that legal policies and judicial decisions are oriented toward the realization of the child's best interests (*maṣlaḥah al-ṭifl*).

The *maqāṣid al-Sharī'ah* perspective developed by Jasser Auda, the protection of children's rights in the aftermath of divorce must be understood as an integral component of the overarching objectives of Islamic law, which are oriented toward human welfare and the enhancement of quality of life (*human development*) (Sholehah et al., 2024). Auda emphasizes that *maqāṣid* should not be confined to static classical formulations, but rather interpreted in a dynamic and contextual manner, with the human impact of legal norms serving as the primary معيار for assessing the validity and relevance of the law itself.

Within the context of divorce, children are positioned as the most vulnerable subjects; consequently, the protection of their rights becomes a paramount priority within the *maqāṣid* framework. According to Jasser Auda, *maqāṣid al-Sharī'ah* is not solely concerned with preventing harm (*dar' al-mafāsīd*), but also with actively realizing benefit (*jalb al-maṣāliḥ*). Accordingly, divorce should not be confined to the legal-formal dissolution of the marital bond; rather, it must be accompanied by comprehensive guarantees for the protection of children's rights, including the right to a dignified standard of living, the right to education, the right to psychological protection, as well as the right to parental care, affection, and human dignity. If divorce instead results in prolonged suffering for children, then, within Auda's *maqāṣid* framework, such legal practices may be regarded as having deviated from the fundamental objectives of the Sharī'ah.

In the framework of the systems approach introduced by Jasser Auda, the protection of children's rights following divorce must be understood in a holistic and multidimensional manner. Children are not influenced solely by legal rulings concerning maintenance or custody, but also by psychological conditions, social stability, emotional relationships with both parents, as well as the educational and cultural environments in which they grow and develop. Accordingly, Auda rejects partial and purely textual legal approaches and advocates for divorce rulings to be assessed in light of their systemic impacts on a child's present well-being and future prospects.

The Courts and the state therefore bear both moral and legal responsibility to ensure that divorce decisions genuinely safeguard the best interests of the child. Jasser Auda expands the concept of *ḥifẓ al-nasl* (the protection of lineage) beyond the mere preservation of genealogical clarity toward a comprehensive safeguarding of children's quality of life. In his view, the protection of lineage encompasses guarantees of proper care and upbringing, continuity of education, protection from violence and neglect, as well as the preservation of children's mental and emotional well-being in the aftermath of divorce. Parental obligations toward children do not lapse upon the dissolution of marriage; rather, they remain inherent as *sharʿi* responsibilities that must be upheld and enforced by the legal system.

The protection of children's rights following divorce, as conceptualized by Jasser Auda, represents an embodiment of a progressive, humanistic, and future-oriented understanding of *maqāṣid al-sharīʿah*. Children are placed at the center of legal consideration, and divorce can only be justified insofar as it does not negate children's fundamental rights and continues to guarantee their well-being and human dignity. In the context of modern Islamic family law, Jasser Auda's intellectual framework provides a robust normative foundation for strengthening the protection of children's rights in the aftermath of divorce. All policies, judicial rulings, and social practices related to divorce must be evaluated according to the extent to which they ensure the realization of the child's best interests (*maṣlaḥah*). Where a decision is formally valid yet substantively harmful to a child, Auda's formulation of *maqāṣid al-sharīʿah* necessitates that such a ruling be corrected or reconstructed so as to conform to the objectives of Islamic law oriented toward justice and humanity. The protection of children's rights following divorce, as articulated by Jasser Auda, constitutes a concrete manifestation of a progressive, humanistic, and future-oriented understanding of *maqāṣid al-sharīʿah*. Children are positioned at the center of legal consideration, and divorce can only be justified insofar as it does not negate children's fundamental rights while continuing to safeguard their well-being and human dignity.

In practice, the Religious Courts in Indonesia determine child custody, maintenance obligations, and educational rights on the basis of both Islamic law and positive law. Generally, custody is awarded to the mother for children below a certain age, while the obligation to provide financial support remains vested in the father (Sholehah et al., 2024). Several studies indicate that the implementation of children's rights continues to face significant challenges, such as delays in the payment of child maintenance, parental conflict, and insufficient attention to children's educational and psychological well-being. The *maqāṣid al-sharīʿah* approach emphasizes that the best interests of the child must constitute the primary focus of every intervention, whether undertaken by parents, the courts, or governmental institutions.

When analyzed through the lens of *maqāṣid al-sharīʿah*, most practices of child protection following divorce in Indonesia are broadly consistent with the principles of *ḥifẓ al-nafs* (protection of life) and *ḥifẓ al-māl* (protection of property). The fulfillment of custody and maintenance rights reflects efforts to safeguard children's lives and material well-being. However, the dimensions of *ḥifẓ al-ʿaql* (protection of intellect) and *ḥifẓ al-nasl* (protection of lineage) remain comparatively weak, particularly with regard to education, legal identity, and the monitoring of children's emotional development after divorce. Courts that adopt a *maqāṣid al-sharīʿah*-based approach can place greater emphasis on the child's overall welfare (*maṣlaḥah*), including psychological protection, educational continuity, and healthy social relationships. Such integration has the

potential to reduce parental disputes and enhance compliance with judicial decisions(Darmawan et al., 2024).

Although child protection is regulated under both positive law and Islamic law, its implementation continues to exhibit several shortcomings. First, oversight of the enforcement of judicial decisions concerning child custody and maintenance remains inadequate. Second, the psychological protection of children in the aftermath of divorce is frequently neglected(Harid & Ashufa, 2025). Third, the integration of *maqāsid al-sharī‘ah* principles into the practice of Islamic family law remains limited.

Accordingly, it is recommended that the Religious Courts adopt a *maqāsid al-sharī‘ah*-based approach, including in the determination of custody arrangements, maintenance obligations, and the provision of psychological support for children. In addition, policymakers may formulate clearer regulations concerning education, health care, and social protection for children following divorce. Through this approach, the best interests of the child can be realized in a comprehensive manner, encompassing physical, mental, social, and economic rights.

4. CONCLUSION

Divorce is a social phenomenon that is inseparable from the dynamics of modern family life; however, its impact on children is often highly significant. Children caught in the midst of parental divorce face complex challenges, encompassing psychological, social, and economic dimensions. Psychologically, they may experience anxiety, depression, decreased self-esteem, and difficulties in establishing healthy social relationships. Economically, children may encounter limitations in the fulfillment of basic needs such as food, education, and health care, particularly when parents fail to consistently meet their maintenance obligations. Socially, children may also be exposed to stigma or isolation within their communities, which can directly hinder their emotional and social development. Therefore, the protection of children’s rights following divorce must not be merely formal or normative in nature, but rather substantive and oriented toward *maṣlahah* and the best interests of the child. From a legal perspective, the protection of children’s rights after divorce is firmly grounded in both Indonesian positive law and Islamic law. Indonesian positive law affirms the principle of the best interests of the child through Law No. 1 of 1974 on Marriage and Law No. 23 of 2002 on Child Protection, as amended by Law No. 35 of 2014. These statutes regulate children’s rights relating to custody, maintenance, education, and psychological protection, and emphasize that every legal decision concerning children must prioritize their best interests. Similarly, Islamic law asserts that parental responsibilities toward children persist even after the dissolution of marriage, encompassing obligations of financial support, care, education, and protection. Thus, both positive law and Islamic law recognize children’s rights as fundamental interests that must be safeguarded to ensure their survival, well-being, and optimal development. The *maqāsid al-sharī‘ah* approach provides a deeper philosophical framework for assessing and strengthening the protection of children’s rights following divorce. The five core objectives of *maqāsid al-sharī‘ah* *ḥifẓ al-dīn* (protection of religion), *ḥifẓ al-naḥs* (protection of life), *ḥifẓ al-‘aql* (protection of intellect), *ḥifẓ al-nasl* (protection of lineage), and *ḥifẓ al-māl* (protection of property) systematically offer normative and ethical foundations for placing the child’s best interests at the center of legal decisions and public policies. *Ḥifẓ al-naḥs* ensures the child’s physical and psychological safety; *ḥifẓ al-‘aql* guarantees education and intellectual development; *ḥifẓ al-nasl* safeguards legal identity and lineage rights; and *ḥifẓ al-māl* secures the fulfillment

of children's economic needs. Accordingly, *maqāṣid al-sharī'ah* functions not only as a normative guideline but also as an evaluative instrument to assess whether child protection practices genuinely reflect justice and *maṣlaḥah*. According to Jasser Auda, the protection of children's rights after divorce constitutes both a *shar'ī* and humanitarian imperative and serves as a primary measure of justice in Islamic family law, given that *maqāṣid al-sharī'ah* must be oriented toward human welfare and quality-of-life development (*human development*). Divorce cannot be deemed legitimate solely on the basis of procedural legality; rather, it must be assessed in light of its comprehensive impact on children's well-being, including maintenance, care, education, psychological protection, and the preservation of human dignity. Within Auda's *maqāṣid*-based framework, the concept of *ḥifẓ al-nasl* is expanded beyond the mere preservation of lineage to encompass guarantees of children's quality of life and future prospects. Consequently, the obligations of parents and the state remain binding even after the termination of marriage. Any policy or judicial decision that neglects the best interests of the child is therefore considered inconsistent with the objectives of Islamic law, while the protection of children's rights after divorce becomes a key indicator of legitimacy and justice in contemporary Islamic law. In practice, the Religious Courts in Indonesia have sought to apply these principles through the determination of child custody, maintenance obligations, and attention to education. Nevertheless, several challenges persist, including delays in the payment of maintenance, inadequate supervision of the enforcement of court decisions, and insufficient attention to children's psychological well-being. These conditions highlight the need for a more systematic integration of *maqāṣid al-sharī'ah* principles into judicial practice, so that legal rulings not only satisfy formal requirements but also substantively prioritize the best interests of the child. Effective implementation of these principles is expected to reduce parental disputes, enhance compliance with judicial decisions, and ensure children's holistic development across physical, psychological, social, and economic dimensions. The main conclusion of this study is that the protection of children's rights following divorce must be understood as a multidimensional endeavor. Child protection should extend beyond formal legal aspects to include the fulfillment of psychological, educational, social, and economic needs. While positive law and Islamic law provide a strong foundation for such protection, the integration of *maqāṣid al-sharī'ah* principles is essential to ensure that child protection remains holistic, just, and sustainable. *Maqāṣid al-sharī'ah* places the *maṣlaḥah* of the child at the core of legal reasoning, ensuring that children's interests are never marginalized, even amid parental conflict. These principles can serve as both conceptual and practical foundations for policy formulation, judicial decision-making, and the design of more effective child protection programs. This research affirms that children are the next generation who must be protected to the fullest extent. Parental divorce should never serve as a justification for neglecting children's rights; rather, it should compel the legal system, state institutions, and society at large to uphold principles of justice and *maṣlaḥah* for children. A *maqāṣid al-sharī'ah*-based approach offers a strategic solution for realizing comprehensive child protection, ensuring the optimal fulfillment of children's rights, and building a foundation for healthy, prosperous, and dignified lives. Through such an approach, children can grow into individuals who are physically, mentally, and socially well-developed and prepared to contribute to a just and civilized society. This conclusion underscores the necessity of synergy between law, morality, and ethics in guaranteeing the comprehensive and sustainable protection of children's rights following divorce.

5. REFERENCES

Journals:

- Anwar Fauzi. (2025). Analisis Produk Hukum Mahkamah Agung tentang Hak-Hak Istri dan Anak Pasca Perceraian, *Peradaban Journal of Law and Society*.
- Auda, Jasser. (2021). "Maqasid al-Shariah and Human Development," *Journal of Islamic Ethics*, Vol. 5 No. 1
- Azmi & Khalid (2023). Penetapan Hak Asuh Anak Kepada Ayah Perspektif Maqashid Syari'ah, *UNES Law Review*.
- Dewi Sri Andriani, Patimah & Rahma Amir. (2024). Perlindungan Hukum Terhadap Hak Nafkah Anak Pasca Perceraian, *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam*.
- Ervina & Hidayat. (2025). Studi Komparatif Hak Asuh Anak Dibawah Umur Pasca Perceraian, *Jurnal Ilmu Hukum, Humaniora dan Politik*.
- Fitrian Noor, M. Fahmi Al-Amruzi & Ahmadi Hasan. (2023). Problematika Hak Asuh Anak Pasca Putusan Perceraian di Pengadilan Agama, *Al-Qalam: Jurnal Ilmiah Keagamaan dan Kemasyarakatan*.
- Faizzati S. D. (2024). Hak Asuh Anak (Hadhanah) bagi Ibu yang Menikah Lagi: Perspektif Maqashid Syari'ah, *Afkaruna: International Journal of Islamic Studies*.
- Farida Nurun Nazah et al. (2024). Gender Justice in Child Custody Disputes: The Maqāṣid al-Sharī'ah Approach, *Metro Islamic Law Review*.
- Hidayatul Ulya, Hatul Lisaniyah & Mu'amaroh. (2021). Penguasaan Hak Asuh Anak di Bawah Umur kepada Bapak, *The Indonesian Journal of Islamic Law and Civil Law*.
- Isma Irsul & Laela Safriani. (2025). Tantangan Status Hukum Anak Pasca Perceraian: Perbandingan Maqashid Syariah dan Hukum Nasional, *Jurnal Al-Wasith: Jurnal Studi Hukum Islam*.
- Mustaring, Rokiah Binti. (2023). Analisis Putusan Hakim Terhadap Gugatan Hak Asuh Anak di Pengadilan Agama Manado, *Itisham: Journal of Islamic Law and Economics*.
- Muh. Muhajir. (2023). Abd Halim Talli & Kiljamilawati, Tinjauan Yuridis Terhadap Hak Pemeliharaan Anak Akibat Perceraian di Pengadilan Agama, *Qadauna: Jurnal Hukum Keluarga Islam*.
- Nasaruddin Mera et al. (2024). Child Custody Rights for Mothers of Different Religions: Maqāṣid al-Sharī'ah Perspective, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*.
- Nor Solichin, Jamaluddin & Ramziati. (2022). Perlindungan Hukum Terhadap Anak di Bawah Umur Setelah Putusnya Perkawinan, *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh*.
- Nur Rohim Yunus. (2022). "Pendekatan Maqāṣid al-Syarī'ah Jasser Audā dalam Perlindungan Hak Anak," *Al-Ahwal: Jurnal Hukum Keluarga Islam*, Vol. 15 No. 2.
- Risanna Aulia Adha Lubis. (2025). Perlindungan Hukum Terhadap Hak Istri dan Anak Pasca Cerai Talak, *al-Rasikh: Jurnal Hukum Islam*.
- Siti Maesaroh. (2024). Perlindungan Hukum Terhadap Anak Pasca Perceraian Orang Tua, *AL WASATH Jurnal Ilmu Hukum*.
- Syukri Saleh et al. (2025). Perlindungan Hak Asuh Anak Pasca Perceraian (Hadhanah), *Al-Zayn: Jurnal Ilmu Sosial & Hukum*.

- Safira Nafa Khairina & Farkhani Farkhani. (2024). Pemenuhan Hak Perlindungan dan Pemeliharaan Anak Pascaperceraian Menurut Hukum Islam dan Perundang-Undangan, *Mutawasith: Jurnal Hukum Islam*.
- Syifa Adibah et al. (2025). The Polemic of Child Custody Rights After Divorce Based on Islamic and Gender Justice Perspectives, *Syams: Jurnal Studi Keislaman*.
- Suryantoro, D. D. (2024). Hak Asuh Anak Pasca Perceraian Menurut Kompilasi Hukum Islam, *Legal Studies Journal*.
- Sabila, Musfiroh & Rosyad. (2025). Analisis Hak Asuh Anak Bersama Pasca Perceraian Perspektif Kongres Ulama Perempuan Indonesia, *Wajah Hukum*.

Books:

- Aminah Beverly McCloud. (2022). *Islamic Family Law*, London: Routledge.
- Auda, Jasser. (2020). *Maqasid Al-Shari'ah as Philosophy of Islamic Law*, London: IIIT.
- Auda, Jasser (ed.). (2021). *Maqasid al-Shari'ah: An Introduction*, New York: Routledge.
- Auda, Jasser. (2021). *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*, 2nd Edition, London–Washington: The International Institute of Islamic Thought.
- Auda, Jasser, (2020). *Reforming Islamic Thought: A Critical Historical Analysis*, London: Claritas Books.
- Rofiq, Ahmad. (2021). *Hukum Perdata Islam di Indonesia*, Jakarta: RajaGrafindo Persada.
- Ghazaly, Abd. Rahman. (2022). *Fikih Munakahat*, Jakarta: Kencana.
- H. Mahmudah, Juhriati & Zuhrah. (2021). *Hadhanah Anak Pasca Perceraian*, Jakarta.
- Manan, Abdul. (2023). *Hukum Keluarga Islam Kontemporer*, Jakarta: Kencana.
- Asnawi, M. Natsir. (2022). *Hukum Hak Asuh Anak: Penerapan Hukum dalam Upaya Menindungi Kepentingan Terbaik Anak*, Jakarta: Prenada Media.
- Jalili, I. & Pulungan, K. S. (2024). *Hak Anak Pasca Perceraian Menurut Perspektif Hukum Islam dan Hukum Positif Indonesia*, Jakarta: Al-Ma'lumat.
- Mohammad Hashim Kamali. (2020). *Principles of Islamic Jurisprudence*, Cambridge: Islamic Texts Society.
- Khurshid Ahmad & Abdul Hakim Bank. (2021). *Family Law in Islam*, Islamabad: International Islamic Publishers.
- Qamar, Nurul, et al. (2021). *Hukum Perlindungan Anak di Indonesia*, Makassar: Social Politic Genius.