

Protection of Children's Right to Child Support After Divorce in the Rulings and Enforcement of the Belopa Religious Court: An Analysis Based on Maqāṣid al-Sharī'ah

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ABSTRAK

Penelitian ini mengkaji kesenjangan antara penetapan kewajiban nafkah anak dalam putusan perceraian dan pelaksanaannya setelah perceraian. Penelitian bertujuan menganalisis perlindungan hak nafkah anak dalam putusan perkara perceraian di Pengadilan Agama Belopa, pelaksanaan dan kendala eksekusi putusan, serta perlindungannya dalam perspektif *maqāṣid syarī'ah*. Penelitian ini menggunakan metode hukum empiris dengan pendekatan kualitatif, yuridis empiris, studi kasus, dan socio-legal. Data diperoleh melalui observasi, wawancara, dan dokumentasi dengan melibatkan ketua pengadilan, panitera, dan hakim Pengadilan Agama Belopa. Analisis data dilakukan berdasarkan perspektif hukum Islam dan *maqāṣid syarī'ah* serta diperkuat melalui triangulasi sumber, teknik,

dan teori. Hasil penelitian menunjukkan bahwa perlindungan hak nafkah anak diwujudkan melalui penetapan kewajiban nafkah dalam amar putusan dengan mempertimbangkan kebutuhan anak dan kemampuan ekonomi pihak yang berkewajiban. Pelaksanaan dapat dilakukan secara sukarela maupun melalui mekanisme eksekusi apabila kewajiban tidak dipenuhi. Namun, selama periode penelitian belum terdapat permohonan eksekusi nafkah anak yang secara khusus diajukan dan diproses di Pengadilan Agama Belopa. Kendala pelaksanaan meliputi ketidakpatuhan, keterbatasan ekonomi, perubahan pekerjaan atau tempat tinggal, dan sulitnya menemukan objek eksekusi. Dalam perspektif *maqāṣid syarī'ah*, perlindungan nafkah anak sejalan dengan *ḥifẓ al-naḥs*, *ḥifẓ al-'aql*, dan *ḥifẓ al-nasl*. Dengan demikian, putusan memberikan kepastian hukum, sedangkan pelaksanaannya menjadi unsur penting dalam mewujudkan pemenuhan hak nafkah anak secara nyata.

ABSTRACT

This study examines the gap between the determination of child support obligations in divorce rulings and their implementation following divorce. The study aims to analyze the protection of children's rights to child support in divorce rulings at the Belopa Religious Court, the implementation and obstacles to the enforcement of these rulings, as well as their protection from the perspective of maqāṣid syarī'ah. This study employs an empirical legal method using qualitative, juridical-empirical, case study, and socio-legal approaches. Data were collected through observation, interviews, and documentation,

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involving the court president, court clerk, and judges of the Belopa Religious Court. Data analysis was conducted based on the perspectives of Islamic law and maqāṣid syarī'ah and was reinforced through the triangulation of sources, techniques, and theories. The results of the study indicate that the protection of children's maintenance rights is realized through the establishment of maintenance obligations in court rulings, taking into account the children's needs and the financial capacity of the obligated party. Enforcement can be carried out voluntarily or through execution mechanisms if the obligation is not fulfilled. However, during the research period, there were no child support enforcement petitions specifically filed and processed at the Belopa Religious Court. Obstacles to enforcement include non-compliance, financial constraints, changes in employment or residence, and difficulty in locating assets subject to execution. From the perspective of maqāṣid syarī'ah, the protection of child support aligns with ḥifẓ al-nafs, ḥifẓ al-aql, and ḥifẓ al-nasl. Thus, the court decision provides legal certainty, while its enforcement is a crucial element in ensuring the actual fulfillment of the child's right to support.

INTRODUCTION

Marriage in Islam is a sacred bond intended to form a family characterized by sakinah, mawaddah, and rahmah. However, not all marriages can be sustained, so divorce becomes one possible solution when a marriage can no longer be maintained (Siska et al., 2025). The impact of divorce is felt not only by the husband and wife but also by the children, particularly regarding the fulfillment of their right to child support as a basic need (Mahmudah, 2018). Under both Islamic law and Indonesian positive law, parents' obligations toward their children remain in effect even after the marriage has ended. Divorce in Religious Courts consists of "cerai talak," filed by the husband, and "cerai gugat," filed by the wife (Hasan et al., 2019).

The phenomenon of divorce in Indonesia indicates that the issue of family stability remains a serious social problem (Barsihannor, 2014). Data from the Central Statistics Agency (BPS) recorded 516,334 divorces in 2022, decreasing to 463,654 in 2023 and 394,608 in 2024, but rising again to 438,168 cases in 2025. In Luwu Regency, the Belopa Religious Court recorded 652 registered divorce cases, with 602 cases adjudicated throughout 2025. These high figures indicate that post-divorce issues particularly the fulfillment of children's rights require more serious legal attention.

The main issue is not only the occurrence of divorce, but also the fulfillment of child support obligations after divorce. In practice, court rulings establishing child support obligations are not always followed by actual compliance (Aini & Abdurrahman, 2021). These obstacles include low compliance rates, weak enforcement mechanisms, and limited public legal awareness. This situation leaves children in a vulnerable position because their needs for education, health care, food, and other basic necessities must still be met even after their parents have separated (Dalimunthe, 2023).

The obligation to provide financial support for children has a strong basis in Islamic law. The Qur'an, Surah al-Baqarah/2:233, emphasizes the father's responsibility to meet his children's needs in a ma'ruf manner (Fahimah, 2019). This principle is reinforced by the

hadith of the Prophet (peace be upon him) regarding Hindun bint Utbah, who complained about the inadequacy of financial support from Abu Sufyan. The Prophet (peace be upon him) granted her permission to take as much of her husband's wealth as necessary, in a manner that is "ma'ruf" for both herself and her child (Narrated by al-Bukhari, No. 5364). This provision demonstrates that the fulfillment of child support is a responsibility that must be guaranteed and should not be neglected as a result of divorce (Sutabri, 2025).

In Indonesian positive law, this obligation is also affirmed in Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law, and Law No. 35 of 2014 on Child Protection. Although this normative framework provides a fairly clear basis for protection, problems arise at the implementation level, particularly when the father fails to fulfill the child support obligation established in a court ruling. Consequently, there is a gap between the legal norms guaranteeing a child's right to support and the reality of its implementation following a divorce (Chaer, 2016).

To understand this issue more comprehensively, this study employs the maqashid al-sharia perspective. This concept prioritizes the protection of human welfare as the primary objective of Islamic law. Al-Ghazali identified five fundamental elements that must be safeguarded: religion (*hifzh al-din*), life (*hifzh al-nafs*), intellect (*hifzh al-'aql*), lineage (*hifzh al-nasl*), and property (*hifzh al-mal*). In the context of child support following divorce, *hifzh al-nasl* and *hifzh al-mal* are highly relevant because the fulfillment of child support obligations is directly linked to the child's survival, well-being, and the protection of the child's rights. The maqashid al-sharia approach, therefore, considers not only whether the obligation to provide child support has been legally established, but also whether the court's decision and its implementation truly serve the best interests of the child (Amalia & Romli, 2025).

A number of studies have addressed child support following divorce, both from the perspectives of family law and child protection. However, studies that specifically link child support rulings and their enforcement at the Belopa Religious Court to the perspective of maqashid syariah remain limited. In fact, the existence of a legal ruling does not automatically guarantee the fulfillment of a child's rights if it is not supported by effective enforcement mechanisms. This research gap is significant for assessing the extent to which the Religious Court's rulings are able to ensure the protection of children's rights to child support not only formally but also substantively.

Based on these issues, this study aims to analyze the protection of children's rights to child support following divorce in the rulings and their enforcement at the Belopa Religious Court and to examine them from the perspective of maqashid syariah. This study is expected to clarify the relationship between legal provisions, judicial practices and their enforcement, and the objectives of sharia in ensuring the best interests of the child after

divorce.

METHOD

This study employs an empirical legal method with a qualitative approach. This approach is used to understand the implementation of child support rights following divorce in practice at the Belopa Religious Court, specifically the alignment between legal provisions in court decisions and their implementation. The study also utilizes juridical-empirical and socio-legal approaches to examine the relationship between legal rules and the practical implementation of court decisions in the field. Furthermore, the *maqāṣid syarī'ah* perspective is used as an analytical framework to assess the fulfillment of children's maintenance rights from the perspective of public interest, particularly *ḥifẓ al-nafs*, *ḥifẓ al-'aql*, and *ḥifẓ al-nasl*.

The study was conducted at the Belopa Religious Court in Luwu Regency, South Sulawesi. Primary data were obtained through interviews with the Chief Judge of the Belopa Religious Court, judges, and court clerks regarding divorce and child support cases (Widiatmika, 2015). Secondary data were obtained from the rulings of the Belopa Religious Court, laws and regulations, the Compilation of Islamic Law, the Qur'an, hadiths, as well as relevant books and scholarly articles (Kusumastuti & Khoiron, 2019). Data collection was carried out through observation, interviews, and documentation. Observation was used to gain an understanding of judicial processes and services; semi-structured interviews were conducted to gather information regarding the determination and enforcement of child support; and documentation involved analyzing court decisions and legal documents related to the research subject (Sugiyono, 2017).

The data were analyzed using a descriptive-analytical approach through three stages: data reduction, data presentation, and drawing conclusions (Fadli, 2021). Data obtained from interviews, observations, and documentation were selected and grouped based on the research focus, then presented systematically to identify patterns and issues in the implementation of child support. Subsequently, the findings were analyzed based on the provisions of Islamic law, positive law, and the *maqāṣid syarī'ah* perspective (Elia & Dkk, 2023). Data validity was ensured through source and method triangulation, which involved comparing information from various informants and cross-checking interview results with observations and documents obtained during the study.

RESULTS AND DISCUSSION

Descriptive Analysis of the Forms of Protection for Children's Right to Child Support in Divorce Rulings at the Belopa Religious Court.

Protecting a child's right to child support after divorce remains the responsibility of the parents. Divorce ends the marital relationship between husband and wife, but it does

not eliminate the legal relationship between parents and children. Therefore, the child's needs such as living expenses, education, healthcare, and other basic needs must still be met after divorce (Ja'far, 2021).

Research findings at the Belopa Religious Court indicate that the protection of children's right to child support is realized through the establishment of child support obligations in court orders. These orders provide certainty regarding which party is obligated to pay child support, the amount to be provided, and the duration of that obligation in accordance with legal provisions (Adam Dwiky, Hakim Pengadilan Agama Belopa, interview, April 27, 2026). With the court's ruling, the child's right to child support has a clear legal basis and can be used as grounds to enforce compliance if the obligation is not fulfilled voluntarily.

In determining child support, the judge considers the child's needs and the financial capacity of the party obligated to pay (Irham Riad, Ketua Pengadilan Agama Belopa, interview, April 21, 2026). This consideration indicates that the determination of child support is not only focused on resolving the relationship between the former husband and wife, but also on the child's best interests. Thus, a divorce decree serves a protective function, as it ensures that the dissolution of the marriage does not result in the child's needs being neglected (Cahyani, 2020).

This protection is further supported by enforcement mechanisms in place should the obligations established in the judgment not be voluntarily fulfilled. However, the effectiveness of this protection depends not only on the existence of the judgment but also on its enforcement. A judgment that provides legal certainty does not fully guarantee the fulfillment of child support obligations if the obligated party fails to fulfill their obligations and enforcement mechanisms are not utilized (Heriyanti, 2021).

Thus, the protection of children's rights to child support in divorce cases at the Belopa Religious Court is realized through the determination of child support obligations, consideration of the children's needs and the parents' financial capacity, and the availability of mechanisms for implementation and enforcement. These findings indicate that legal protection for children cannot stop at a ruling in a court decision but must be realized through the actual and sustained fulfillment of these obligations.

Analysis of the Implementation and Challenges in Enforcing Post-Divorce Child Support Rulings at the Belopa Religious Court

The enforcement of child support orders is a crucial part of ensuring the protection of children's rights following a divorce. A final and binding court order not only provides certainty regarding parental obligations but must also be enforceable in practice. Child support may be paid voluntarily in accordance with the terms of the order. If this obligation

is not fulfilled, the entitled party may file a petition for enforcement with the court (Nuroniya et al., 2019).

Research findings at the Belopa Religious Court indicate that, during the study period, no petitions for the enforcement of child support had been specifically filed or processed. Thus, while the legal mechanism for enforcement is in place, no specific enforcement of child support was observed at that court during the study period. This situation highlights a discrepancy between the availability of legal mechanisms and their actual implementation (Riad. Ketua Pengadilan Agama Belopa, interview, April, 21, 2026).

Legally, if the child support obligation stipulated in a court decision is not fulfilled voluntarily, the interested party may file a petition for enforcement. The court then reviews the decision for which enforcement is sought and ensures that the legal requirements are met. This mechanism serves as a means to encourage compliance with the decision when the obligated party does not fulfill their obligation voluntarily. However, the effectiveness of this mechanism depends heavily on the filing of a petition by the entitled party as well as the circumstances of the party subject to the obligation.

Research findings also reveal several obstacles that can affect the enforcement of child support. Non-compliance by the obligated party is a major issue, as court orders are not always followed by regular child support payments. In addition, limited financial capacity can result in the obligation not being fulfilled. Changes in employment, residence, and economic circumstances can also make it difficult to monitor the obligated party. Another obstacle is the difficulty in locating assets or sources of income that can be subject to enforcement (Fuaddi, 2020).

This situation indicates that the existence of a court ruling does not automatically guarantee the fulfillment of a child's right to child support. The ruling provides a legal basis and certainty regarding parental obligations, whereas their fulfillment requires compliance and effective enforcement mechanisms. This is important because child support is an ongoing necessity, particularly for a child's basic needs, education, health, and well-being (Awaluddin Panitera Pengadilan Agama Belopa, interview, April 21, 2026.).

From the perspective of *maqāṣid al-sharī'ah*, the fulfillment of child support is related to efforts to ensure the child's best interests. Meeting basic living and health needs relates to *ḥifẓ al-nafs*, fulfilling educational needs relates to *ḥifẓ al-'aql*, while the continuity of parental responsibility toward the child relates to *ḥifẓ al-nasl*. Therefore, the enforcement of child support rulings is not only important from the perspective of legal certainty but also serves the purpose of protecting children and ensuring their best interests (Musyafah, 2020).

Thus, the enforcement of child support at the Belopa Religious Court indicates that enforcement mechanisms are in place in principle but were not utilized through specific enforcement petitions during the study period. The obstacles identified were related to

noncompliance, financial constraints, changes in employment or residence, and difficulties in locating assets or sources of income subject to enforcement (Asman et al., 2023). These findings underscore that protecting children's rights to child support requires not only court decisions that provide legal certainty but also effective enforcement so that children's rights can be fulfilled in a tangible and sustainable manner.

An Analysis of Child Support Protection and Enforcement from the Perspective of the *Maqāṣid al-Sharī'ah*

Protecting a child's right to child support after divorce is part of the effort to ensure the child's best interests. Divorce ends the marital relationship between husband and wife, but it does not sever the parental relationship with the child or eliminate the parents' obligation to provide for the child's needs. In this context, a Religious Court ruling establishing child support not only provides legal certainty but also serves as an instrument to safeguard the child's well-being after divorce (Riad Ketua Pengadilan Agama Belopa, interview, April 21, 2026.)

From the perspective of the *maqāṣid al-sharī'ah*, the fulfillment of child support can be understood as an effort to promote the common good (*jalb al-maṣāliḥ*) and prevent harm (*dar' al-mafāṣid*). Child support is not limited to the needs for food and shelter but also encompasses health, education, and other necessities that support the child's life. Therefore, the protection of child support is linked to several fundamental objectives of Sharia, particularly *ḥifẓ al-naḥs*, *ḥifẓ al-'aql*, and *ḥifẓ al-nasl* (Mubarok & Hidayati, 2022).

First, *ḥifẓ al-naḥs*, or the protection of life, relates to the fulfillment of a child's basic needs. Food, clothing, shelter, and health are needs that support a child's survival. In the context of the study at the Belopa Religious Court, the determination of maintenance obligations in court decisions constitutes a form of legal protection for these needs (Manshur, 2017). However, such protection only provides tangible benefits if the maintenance is actually paid by the obligated party.

Second, *ḥifẓ al-'aql*, or the protection of the mind, relates to ensuring a child's education. Child support can be used to cover school expenses, educational supplies, and other needs that support a child's intellectual development (Makmur et al., 2025). Thus, the obligation to provide child support not only serves to meet physical needs but also supports a child's opportunity to receive an education and develop to their full potential.

Third, *ḥifẓ al-nasl*, or the protection of the lineage, relates to the ongoing care and parental responsibility toward children. Divorce does not sever the blood relationship or the parents' obligations toward their children (Munawar, 2015). The fulfillment of child support obligations after divorce is one form of that responsibility. In this regard, child protection is not only about current needs but also about the continuity of the child's growth and development and the quality of the child's life.

Research findings indicate that the primary issue lies not only in the existence of child support obligations in court rulings but also in their enforcement. During the study period, no specific petitions for the enforcement of child support were filed or processed at the Belopa Religious Court (Dwiky Hakim Pengadilan Agama Belopa, interview, April 21, 2026). This situation indicates that, in theory, mechanisms exist to enforce the right to child support; however, in practice, these mechanisms were not utilized through specific enforcement petitions during the study period.

This situation is significant from the perspective of the *maqāṣid al-sharī'ah* because the existence of a court ruling does not fully indicate the achievement of the public interest if the child does not actually receive child support. The ruling provides a legal basis, whereas its enforcement is the stage that determines whether that right truly yields benefits. Noncompliance, limited financial means, changes in employment or residence, and difficulties in identifying assets or sources of income subject to enforcement can hinder the realization of such protection (Rohman, 20211).

Thus, the *maqāṣid al-sharī'ah* provide a perspective that the protection of a child's right to child support must be assessed not only by the existence of a court order but also by the tangible benefits received by the child. The determination of child support in a court ruling is consistent with *ḥifẓ al-naḥs*, *ḥifẓ al-'aql*, and *ḥifẓ al-nasl*; however, the achievement of these objectives depends heavily on the actual fulfillment of the obligation. The more fully child support is provided in accordance with the ruling, the greater the benefit that can be realized for the child following the divorce.

Based on the above discussion, the protection of children's right to child support at the Belopa Religious Court has, in theory, a legal basis through court rulings and enforcement mechanisms. However, in terms of implementation, there remains a gap between legal certainty and the actual fulfillment of these rights. Therefore, protection that aligns with the objectives of *maqāṣid syarī'ah* must not stop at merely establishing obligations but must be directed toward the actual and sustainable fulfillment of the child's basic needs, education, and ongoing care.

CONCLUSION

This study shows that the protection of children's right to child support following divorce at the Belopa Religious Court has been realized through the determination of child support obligations in court rulings, taking into account the children's needs and the financial capacity of the obligated party. Enforcement may occur voluntarily or through enforcement mechanisms when obligations are not fulfilled. However, during the research period, there were no child support enforcement petitions specifically filed and processed at the Belopa Religious Court. This situation indicates that the legal certainty provided by the court decisions has not yet fully guaranteed the actual fulfillment of child support

obligations. Obstacles to enforcement include noncompliance by the obligated party, financial constraints, changes in employment or residence, and difficulties in locating assets subject to enforcement.

From the perspective of *maqāṣid al-sharī'ah*, the fulfillment of child support obligations is part of the effort to promote the public interest and protect *ḥifẓ al-naḥs*, *ḥifẓ al-'aql*, and *ḥifẓ al-nasl*. Thus, the protection of a child's right to child support cannot stop at merely establishing the obligation in a court decision; it must be supported by effective enforcement so that the child's rights can be fulfilled on an ongoing basis. These findings underscore the importance of strengthening mechanisms for enforcing court decisions and raising awareness among obligated parties so that legal protection for children following divorce is not merely normative but is realized in real life.

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DECLARATION OF INTEREST

The author declares that the publication of this article involves no conflict of interest. The research, writing, and publication of this article are purely the result of an independent academic study, free from any financial interests, institutional affiliations, or personal relationships that could influence the objectivity of the research process or its results.

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