

Post-divorce Child Care to Ensure the Children welfare : A Perspective of Islamic Family Law

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ABSTRACT

Child care (*nafaqah*) after divorce often faces implementation challenges despite being a continuous legal and religious obligation. This qualitative study with a normative-empirical approach investigates the essence, implementation, and influencing factors of post-divorce parental responsibility for child maintenance in Palu City. Data were gathered through in-depth interviews with judges, lawyers, religious leaders, and affected families, alongside field observations and documentation. The findings reveal that child maintenance is a divine trust (*amanah*) linked to lineage (*nasab*) that persists regardless of marital dissolution. However, its implementation in Palu City remains suboptimal; maintenance is frequently irregular or discontinued due to post-divorce conflict, economic constraints, low legal awareness, and weak court enforcement. Consequently, the financial burden shifts to mothers, causing economic and psychological vulnerability for the children.

ARTICLE INFORMATION

Child care, child protection, Islamic Family Law, Divorce.

1. Introduction

Parents are not merely figures of authority; they also serve as the first educators and primary caregivers of their children. During the early stages of life, the quality of the parent-child relationship plays a crucial role in fostering a child's sense of security, self-confidence, and ability to cope with future life challenges. Consequently, parental responsibilities extend beyond meeting basic needs such as food, shelter, and clothing, encompassing moral, emotional, and spiritual obligations that significantly influence a child's growth and development. (Basit, 2017)

Parental responsibility is holistic and multidimensional. Psychologically, parents are expected to provide emotional support, warmth, stability, and a nurturing environment that promotes healthy mental

development. Socially, they introduce children to societal norms, guide them in social interactions, and model healthy relationships. Spiritually, parents are responsible for instilling religious values, morality, and ethical principles as the foundation of character development. In the educational sphere, parents are expected to provide guidance, support, and resources that facilitate the development of their children's potential, both academically and non-academically. (Adhy et al., 2023)

Family development and the cultivation of education within the family can foster a generation characterized by noble values, strong character, and moral integrity. (Hidayat, 2021; Ja'far, 2017)

As a result, court decisions concerning child support are often not implemented effectively, due to factors such

as low levels of legal awareness, weak enforcement mechanisms, and the persistence of informal approaches to resolving family disputes. This situation creates unique dynamics within family life, particularly regarding parental responsibilities for child support following divorce. Strong local cultural traditions, diverse religious perspectives, and customary practices in addressing domestic issues frequently interact with the formal legal framework administered by the Religious Courts. (Patadjenu et al., 2024)

2. Literature Review

2.1 Parental Responsibilities from the Perspective of Islamic Family Law

In this context, parental responsibility is not merely an obligation but also a trust (*amanah*) entrusted by Allah SWT. (Nurul Fadilah et al., 2025) Parental responsibility is a multidimensional and dynamic concept that encompasses various aspects of a child's life, ranging from the fulfillment of basic needs to the optimal development of the child's potential and personal capabilities. (Alfi Syahrin et al., 2025)

Parental responsibility is an inherent obligation that accompanies every individual who becomes a parent. This responsibility extends beyond material support to encompass spiritual dimensions, including the fulfillment of a child's physical, emotional, intellectual, and spiritual needs. Moreover, parental responsibility is dynamic in nature, evolving in accordance with the child's age and developmental stages. As stipulated in Article 8 of the Child Protection Law, parents are obligated and responsible for ensuring the well-being of their children in spiritual, physical, and social aspects. More specifically, the scope of parental responsibility includes the following. (Mulyadi, 2008; Sasmita et al., 2021)

Financial support (*nafkah*) constitutes a fundamental parental

responsibility to provide children with their essential needs, including food, clothing, housing, healthcare, and other necessities required for their well-being and development. In Islamic law, *nafkah* refers to expenditures made to meet the basic needs of dependents and is considered an obligation based on kinship, marriage, and legal responsibility. The primary objective of financial support is to ensure the welfare, dignity, and proper development of children in accordance with the family's economic capacity. (Aulia, 2022)

Islamic teachings emphasize that parents, particularly fathers, are responsible for providing adequate maintenance for their children, while family members are also encouraged to support relatives who are unable to meet their basic needs. The Qur'an and Hadith consistently affirm the obligation of financial support as an expression of justice, compassion, and social responsibility. This obligation remains applicable even after divorce, as the welfare of children must continue to be safeguarded. Therefore, financial support in Islamic family law serves not only as an economic duty but also as a moral and religious commitment aimed at preserving family welfare and social harmony. (Malik Adharsyah et al., 2024)

Education is one of the most important responsibilities of parents, encompassing both formal and informal learning processes. Parents serve as the primary educators who guide children's intellectual, moral, social, and spiritual development. Beyond providing access to quality schooling, parents are responsible for creating a supportive environment that nurtures children's talents, critical thinking skills, self-confidence, and character. Islamic educational thought, particularly that of Al-Ghazali, highlights the importance of moral and character education as the foundation of personal development. (Rambe et al., 2025)

From an Islamic perspective, children are regarded as a trust (*amanah*) from Allah,

and parents are entrusted with nurturing them through religious instruction, moral guidance, and positive role modeling. Family education plays a decisive role in shaping children's values, social behavior, and religious commitment. Parents are expected to cultivate faith, ethical conduct, discipline, and social responsibility while supporting children's intellectual growth. Through balanced educational guidance, children can develop into knowledgeable, morally upright, and socially responsible individuals who contribute positively to society. (Aulia, 2022)

Childcare and upbringing involve parental responsibilities to provide protection, affection, supervision, and comprehensive care for children's physical, emotional, social, and spiritual development. Effective parenting creates a safe and nurturing environment that fosters healthy growth, emotional security, and positive personality formation. Parents are also responsible for protecting children from harmful influences, including those arising from modern technology and social environments, while maintaining open communication and emotional support. (Purnama sari et al., 2022)

In Islamic family law, childcare extends beyond meeting physical needs to include the development of faith, morality, character, and social competence. Parents are expected to instill religious values, ethical behavior, discipline, and respect for others through both instruction and exemplary conduct. The family serves as the primary setting for moral and social learning, where children acquire habits, attitudes, and values that shape their future behavior. Consequently, responsible parenting plays a vital role in producing individuals who are emotionally mature, morally grounded, intellectually capable, and socially responsible. (Hidayat, 2021)

2.2 Theory of Justice

One of the grand theories employed in this study is the Theory of Justice. Justice is generally classified into two main forms: distributive justice and corrective justice. Distributive justice concerns the fair allocation of rights, obligations, and benefits according to proportional considerations, while corrective justice focuses on restoring balance when a legal violation has occurred through appropriate sanctions and remedies. In addition to the theory of justice within positive criminal law, this study also adopts the theory of *Maqasid al-Shariah* as a grand theoretical framework in formulating concepts of criminal liability and evidentiary law concerning child commercial sexual exploitation in Indonesia. (Munir, 2023; Rasyid et al., 2024)

Several justice theories serve as analytical frameworks in this research. First, the concept of distributive and corrective justice provides the foundation for the principle of equality before the law, ensuring that all individuals receive fair treatment within the legal system. Second, the theory of justice based on liberty and equal opportunity emphasizes that legal arrangements should particularly protect disadvantaged and vulnerable groups, including child victims of sexual exploitation. This perspective supports a victim-oriented approach that prioritizes recovery and protection alongside the punishment of offenders. Third, the theory that integrates legal certainty, justice, and social utility highlights that criminal law should not only provide clear and enforceable rules but also reflect moral values and generate benefits for society. These principles are particularly relevant in addressing child sexual exploitation, where legal protection must balance certainty, fairness, and the broader goal of safeguarding children's rights and welfare. (Miaw, 2023; Waris et al., 2025)

2.3 *Maqāṣid al-Sharī'ah* Theory (Imam Al-Shatibi)

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Maqāṣid al-Sharī'ah (the objectives of Islamic law) is a fundamental concept in Islamic jurisprudence that emphasizes the underlying purposes and wisdom behind every legal ruling. According to *Imam Al-Shatibi* (d. 790 AH), the primary objective of *Maqāṣid al-Sharī'ah* is to promote *maslahah* (public welfare and universal good) and prevent *maslahah* (harm and corruption) in human life. (Niswatul Malihah & Tapa'ul Habdin, 2023)

The theory of *Maqāṣid al-Sharī'ah* serves as a philosophical framework for analyzing the implementation of parental responsibilities toward children after divorce in Palu. This theory not only evaluates the conformity of legal and social practices with Islamic principles but also provides a comprehensive perspective that integrates normative, sociological, and moral dimensions. (Asriyana et al., 2025)

Each empirical finding concerning child custody practices, the provision of financial support, or the psychological impacts of divorce is examined through the fundamental principles of *Maqāṣid al-Sharī'ah* to achieve a more holistic and comprehensive understanding.

2.4 The Reality of Child Sexual Exploitation in Selected Muslim-Majority Countries

Social Role Theory, developed by Biddle and Thomas, explains that individuals occupy specific social positions that are accompanied by behavioral expectations known as social roles. Originating from sociology, psychology, and anthropology, the theory emphasizes that social interactions are shaped by expectations, norms, actual behavior (performance), and the evaluation or sanctions imposed by society. Expectations and norms define how individuals are expected to behave, while performance reflects the actual enactment of those roles, which may vary across individuals. (Ja'far, 2021)

Evaluations and sanctions function as mechanisms through which society assesses and regulates role performance based on prevailing social standards. (Hutabarat, 2024)

In the context of family dynamics after divorce, Social Role Theory provides a useful framework for understanding the transformation of parental roles. Divorce often creates role conflict, role ambiguity, and role overload as parents adapt to new family structures and responsibilities. Fathers and mothers may be required to renegotiate their roles in relation to child support, caregiving, and decision-making, while simultaneously responding to social and cultural expectations. (Nasution & Meli Fauziah, 2024; Sasmita et al., 2021)

This process of role transition is influenced not only by social norms but also by religious and cultural values, particularly within Muslim communities where parental responsibilities toward children continue despite the dissolution of marriage. Consequently, the theory offers a comprehensive perspective for analyzing how divorced parents reconstruct and perform their parental roles in changing social circumstances. (Harahap, 2024; Nadeak et al., 2019)

3. Methodology

This study employed a qualitative approach with exploratory, interpretive, and constructive characteristics to examine the nature of parental responsibilities toward children after divorce from the perspective of Islamic law in Palu. (Arsyam & M. Yusuf Tahir, 2021; Sugiyono, 2017) The qualitative approach was chosen to gain an in-depth understanding of the experiences, perceptions, and social realities surrounding child support, custody, and parental obligations in post-divorce families. Using an empirical-sociological perspective, the study explored how Islamic family law norms, particularly those relating to child

maintenance and parental responsibilities, are implemented in everyday life and influenced by social, economic, cultural, and religious factors. The research was conducted in Ulujadi District, Palu City, an area characterized by diverse socioeconomic conditions and strong local cultural values, making it a relevant setting for examining the practical implementation of parental responsibilities following divorce.

4. Results and Discussion

4.1 Parental Maintenance Responsibilities Toward Children After Divorce: An Islamic Family Law Perspective

Parental financial support (*nafkah*) after divorce is a fundamental obligation in Islamic family law aimed at ensuring the welfare and best interests of the child. *Nafkah* encompasses the provision of essential needs, including food, clothing, shelter, healthcare, and education, and remains the responsibility of parents, particularly the father, according to his financial capacity. Islamic teachings emphasize that this obligation is rooted not only in legal norms but also in moral and religious responsibilities arising from kinship and parenthood. The Qur'an and Hadith consistently affirm the duty of parents to safeguard the physical and social well-being of their children, even after the dissolution of marriage.

Beyond financial support, parents are responsible for the educational development of their children. This responsibility includes providing access to formal education, nurturing intellectual growth, and cultivating moral, ethical, and religious values. In Islamic thought, children are regarded as a trust (*amanah*) from Allah; therefore, parents are obligated to guide them toward faith, good character, and responsible citizenship. Effective parental involvement creates a supportive environment that fosters self-confidence, personal development, and academic

success while preparing children to contribute positively to society.

Parental responsibility also extends to caregiving and emotional support. Proper parenting involves protecting, nurturing, and guiding children through continuous interaction and affection. A healthy caregiving environment promotes emotional security, psychological well-being, and positive character formation. Following divorce, parents often face challenges in adapting to new family structures; nevertheless, both remain responsible for ensuring that children receive adequate care, supervision, and moral guidance. In the contemporary digital era, this responsibility further includes protecting children from harmful social and technological influences while encouraging healthy social relationships.

From the perspective of Islamic family law, parental responsibilities encompass the holistic development of the child, including physical, intellectual, spiritual, and social dimensions. Parents are expected to instill faith, moral values, discipline, and social responsibility through both instruction and exemplary conduct. Islamic legal sources, including the Qur'an, Hadith, and the Compilation of Islamic Law (KHI), emphasize that parental obligations continue after divorce and must be fulfilled in a manner that promotes justice, child welfare, and family stability. Consequently, the fulfillment of financial support, education, and caregiving responsibilities serves as an essential foundation for protecting children's rights and achieving their overall well-being.

4.2 The Implementation of Parental Child Support Responsibilities After Divorce in Palu City

Pelaksanaan tanggung jawab nafkah anak pasca perceraian di Kota Palu menunjukkan bahwa kewajiban nafkah yang secara hukum keluarga Islam dibebankan kepada ayah belum terlaksana secara

optimal. Hasil wawancara dengan mantan pasangan, anak, advokat, dan pihak terkait menunjukkan bahwa sebagian besar ayah tidak memberikan nafkah secara rutin, bahkan dalam beberapa kasus sama sekali tidak memberikan nafkah setelah perceraian. Kondisi ini menyebabkan seluruh kebutuhan anak, termasuk makanan, pendidikan, dan kesehatan, lebih banyak ditanggung oleh ibu. Ketidapatuhan tersebut dipengaruhi oleh faktor ekonomi, rendahnya kesadaran hukum dan agama, konflik pasca perceraian, serta lemahnya pengawasan terhadap pelaksanaan putusan pengadilan.

Penelitian juga menemukan bahwa nafkah yang tidak terpenuhi tidak hanya berkaitan dengan aspek materi, tetapi juga nafkah non-materi berupa perhatian, kasih sayang, komunikasi, dan keterlibatan ayah dalam kehidupan anak. Banyak anak dari keluarga bercerai di Kota Palu mengalami renggangnya hubungan dengan ayah karena minimnya komunikasi dan perhatian setelah perceraian. Beberapa anak bahkan merasa diabaikan dan kehilangan figur ayah, sehingga menimbulkan dampak psikologis berupa perasaan sedih, kecewa, rendah diri, dan berkurangnya rasa aman dalam keluarga.

Dalam praktiknya, keberlangsungan hidup dan kesejahteraan anak lebih banyak ditopang oleh peran ibu dan keluarga besar. Ketika ayah tidak menjalankan kewajiban nafkah, ibu mengambil peran ganda sebagai pengasuh sekaligus pencari nafkah, sementara keluarga besar memberikan bantuan ekonomi, tempat tinggal, maupun dukungan pengasuhan. Temuan ini menunjukkan adanya pergeseran tanggung jawab secara faktual dari ayah kepada ibu dan jaringan keluarga, meskipun secara normatif kewajiban nafkah tetap berada pada ayah berdasarkan hukum Islam dan peraturan perundang-undangan.

Dampak paling nyata dari tidak optimalnya pelaksanaan nafkah di Kota Palu terlihat pada kondisi ekonomi, psikologis,

sosial, dan pendidikan anak. Keterbatasan nafkah menyebabkan sebagian ibu harus berutang atau mengandalkan bantuan keluarga untuk memenuhi kebutuhan sekolah dan kebutuhan dasar anak. Selain itu, anak menjadi lebih rentan mengalami tekanan emosional, keterbatasan partisipasi sosial, serta hambatan dalam keberlanjutan pendidikan. Temuan ini menunjukkan bahwa pemenuhan nafkah pasca perceraian tidak hanya berkaitan dengan kewajiban hukum, tetapi juga menentukan kualitas kesejahteraan dan masa depan anak secara menyeluruh.

5. Conclusion

From the perspective of Islamic family law, child support after divorce remains the father's ongoing responsibility, covering both financial and non-financial needs. However, in Palu, its implementation remains inadequate, as many fathers fail to provide consistent support, leaving mothers and extended families to bear most of the responsibility. This situation negatively affects children's economic well-being, education, and psychological development. The main contributing factors include economic hardship, poor post-divorce relations, low legal and religious awareness, and weak enforcement of child support obligations.

REFERENCES

- Adhy, A. W., Tamam, A. M., & Rahman, I. K. (2023). Amanah Orang Tua Terhadap Perkembangan dan Pendidikan Anak Prenatal Dalam Perspektif Islam. *TARBAWI: Jurnal Pendidikan Agama Islam*, 8(02). <https://doi.org/10.26618/jtw.v8i02.10057>
- Alfi Syahrin, M., Akbarizan, & Abdul Munir, A. (2025). Hak Asuh Anak (Hadhanah) Dalam Sistem Hukum Keluarga Indonesia Dan Aljazair. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, (3).

- Arsyam, M., & M. Yusuf Tahir. (2021). Ragam Jenis Penelitian dan Perspektif. *Al-Ubudiyah: Jurnal Pendidikan Dan Studi Islam*, 2(1). <https://doi.org/10.55623/au.v2i1.17>
- Asriyana, A., Paramata, A. M., & Wijaya, A. (2025). Tujuan dan Prinsip Konsumsi Dalam Islam. *JAMBURA: Jurnal Ilmiah Manajemen Dan Bisnis*, 8(1). <https://doi.org/10.37479/jimb.v8i1.33058>
- Aulia, M. F. (2022). Analisis Hukum Terhadap Hak Asuh (Hadhanah) Anak Akibat Perceraian. *Jurnal Pro Justicia*, 2(1).
- Basit, A. (2017). Konseling Perkawinan Dalam Perspektif Al-Qur'an. *KONSELING RELIGI Jurnal Bimbingan Konseling Islam*, 7(2), 175. <https://doi.org/10.21043/KR.V7I2.2140>
- Harahap, S. A. (2024). PEMENUHAN HAK ASUH ANAK AKIBAT PERCERAIAN ORANG TUA. *I'tiqadiyah: Jurnal Hukum Dan Ilmu-Ilmu Kesyariahan*, 1(3). <https://doi.org/10.63424/itiqadiyah.v1i3.131>
- Hidayat, R. (2021). Tanggung Jawab dan Peran Orang Tua Terhadap Pendidikan Anak Dalam Pandangan Islam. *Al Hikmah: Journal of Education*, 1(2). <https://doi.org/10.54168/ahje.v1i2.17>
- Hutabarat, S. (2024). Ketidakpastian Hak Asuh Anak Akibat Perceraian Orang Tua. *INNOVATIVE: Journal of Social Science Research*, 4.
- Ja'far, A. K. (2017). Hukum Perkawinan Islam di Indonesia. In *Buku Materi Pokok Hukum Islam*.
- Ja'far, K. (2021). Hukum Perkawinan Islam Di Indonesia. In *Buku Materi Pokok Hukum Islam*.
- Malik Adharsyah, Muhammad Sidqi, & Muhammad Aulia Rizki. (2024). Pernikahan Dalam Perspektif Hukum Islam. *Jurnal Syariah Dan Ekonomi Islam*, 2(1). <https://doi.org/10.71025/2xrmbv96>
- Miaw, M. (2023). Karakteristik Perkembangan Peserta Didik. *EDU-RILIGIA: Jurnal Ilmu Pendidikan Islam Dan Keagamaan*, 6(4). <https://doi.org/10.47006/er.v6i4.5794>
- Mulyadi, L. (2008). Kajian Deskriptif Analisis Tentang Hakikat Ilmu Hukum dikaji dari Aspek Ontologi, Epistemologi dan Aksiologi Ilmu. <https://Badilum.Mahkamahagung.Go.Id.2>.
- Munir, M. (2023). Konsep Keluarga Dalam Islam Tinjauan Maqashid Syariah. *Islamitsch Familierecht Journal*, 4(2). <https://doi.org/10.32923/ifj.v4i2.3956>
- Nadeak, B., Deliviana, E., Sormin, E., Naibaho, L., & Juwita, C. P. (2019). Pembinaan Ketahanan Pernikahan dan Keharmonisan Keluarga Dengan Tema "The Family Relationship and Intimacy." *Jurnal ComunitÃ Servizio : Jurnal Terkait Kegiatan Pengabdian Kepada Masyarakat, Terkhusus Bidang Teknologi, Kewirausahaan Dan Sosial Kemasyarakatan*, 1(2). <https://doi.org/10.33541/cs.v1i2.1287>
- Nasution, M. G. M., & Meli Fauziah. (2024). The Sociological Perspective on the Impact of Family Divorce on Children. *Social Impact Journal*, 3(1). <https://doi.org/10.61391/sij.v3i1.72>
- Niswatul Malihah, & Tapa'ul Habdin. (2023). PERAN IMAM ASY-SYATHIBI DALAM QIRA'AT AL-QUR'AN. *At-Tahfidz: Jurnal Ilmu Al-Qur'an Dan Tafsir*, 3(01). <https://doi.org/10.53649/at-tahfidz.v3i01.325>
- Nurul Fadilah, Najwa Kholida, & Masganti. (2025). Integrasi Nilai-Nilai Tauhid, Rahmah, dan Amanah Dalam Model Parenting Islami Kontemporer: Kajian Literatur Kritis. *PrimEarly: Jurnal Kajian Pendidikan Dasar Dan Anak Usia Dini*, 8(2). <https://doi.org/10.37567/primearly.v8i2.4609>
- Patadjenu, D., Marzuki, M., & Nasaruddin, N. (2024). Hadhanah dan
e-ISSN: 2715-4580
p-ISSN: 2715-8268

- Perwalian/Anak Angkat dan Solusi Hukum. *Kiies*, 3.
- Purnama sari, D., Hadi Saputra, H., & Hamdian Affandi, L. (2022). Kolaborasi Guru dan Orang Tua Dalam Mengatasi Kesulitan Belajar Siswa di SDN 23 Ampenan. *Jurnal Ilmiah Mandala Education*, 8(1).
<https://doi.org/10.58258/jime.v8i1.2678>
- Rambe, R. H., Adly, M. A., & Firmansyah, H. (2025). Teori Dalil Hukum Hadhanah. *Student Research Journal*, 3(1).
- Rasyid, H., Pane, F. A., & Badrudin, B. (2024). The Principle Of Maqashid Sharia In The Recruitment, Selection, and Placement Processes Of Educators At Pesantren Persis 67 Benda. *PROCEEDING OF INTERNATIONAL CONFERENCE ON EDUCATION, SOCIETY AND HUMANITY*, 2(2), 470-482.
<https://ejournal.unuja.ac.id/index.php/icesh/article/view/10214>
- Sasmita, T., Hasanah, I., & Cahyani, T. D. (2021). Pengaruh Kesadaran Hukum tentang Tujuan Perkawinan terhadap Perkara Perceraian Semasa Covid-19 (Kajian Hukum Menurut Fikih Munakahat dan Hukum Positif). *Indonesia Law Reform Journal*, 1(3).
<https://doi.org/10.22219/ilrej.v1i3.17914>
- Sugiyono. (2017). *Metode Penelitian Kualitatif*. Alfabeta.
- Waris, I., Susanti, A., Haryono, D., Ramadhan, B. R., & Akifa, S. N. (2025). Reframing Public Policy on Narcotic Case Dismissals: Integrating Maqasid al-Shari'ah and Restorative Justice in the Contemporary Era. *MILRev : Metro Islamic Law Review*, 4(1).
<https://ejournal.metrouniv.ac.id/milrev/article/view/10579/4515>