



Reconstructing the Enforcement Model of Child Maintenance Rights After Divorce in Indonesia

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Abstract

This study examines the dynamics of enforcing child maintenance rights after divorce in Muslim families in Indonesia from the perspective of Islamic family law, with a focus on developing an enforcement model that is effective, just, and responsive to child protection. Normatively, the obligation of child maintenance has been regulated in Islamic legal sources and the Compilation of Islamic Law (KHI); however, in practice, its implementation still encounters various social, institutional, and legal obstacles. This research employs both normative and empirical juridical approaches through the analysis of legal documents, religious court decisions, and in-depth interviews with judges, divorced mothers, and other relevant stakeholders in several major cities in Indonesia. The findings identify three patterns of post-divorce child maintenance fulfillment: regular fulfillment, irregular fulfillment, and complete non-fulfillment. The main challenges include weak enforcement mechanisms, low legal awareness, and social and economic disparities. This study formulates an ideal model for enforcing child maintenance rights that integrates regulatory strengthening, the establishment of a specialized child maintenance enforcement body, and the empowerment of legal literacy within society. The proposed model not only affirms the father's normative obligation but also ensures the actual sustainability of the child's rights, grounded in the *maqāsid al-sharī'ah* and the principle of substantive justice. The contribution of this model is expected to encourage reform in the Islamic family law system in Indonesia, making it more responsive, inclusive, and just for children from divorced families.

Keywords: Child Maintenance, Divorce, Islamic Family Law, Rights Enforcement, Child Protection

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INTRODUCTION

Divorce in Islamic family law in Indonesia carries legal implications that extend not only to the relationship between husband and wife but also to the rights of children, particularly regarding maintenance (Husna, 2024). The Compilation of Islamic Law (KHI), Article 156 letter (c), explicitly stipulates that one of the legal consequences of divorce is the father's obligation to provide maintenance for his children. However, despite this clear legal norm, practical realities reveal a significant gap between law and implementation (Fadah dkk., 2025). Data from

several Religious Courts, including South Jakarta, Bandung, and Yogyakarta, show that more than 60% of fathers fail to fulfill their child maintenance obligations even after a court ruling has been issued. This indicates that, although child maintenance rights are normatively protected, their enforcement in practice remains weak due to the absence of effective sanctions or enforcement mechanisms (Ismail & Ja'far, 2024).

As a result, the economic burden after divorce often shifts to the mother. Various studies and interviews reveal that many mothers receive little or no maintenance, forcing them to bear the entire cost of raising their children, including education and healthcare (Arrasyid dkk., 2024). This situation not only reflects gender inequality in caregiving responsibilities but also highlights the failure of the legal system to ensure children's welfare (Dharmayani dkk., 2025). The problem is exacerbated by the absence of a specialized enforcement body such as a Child Support Enforcement Agency found in other countries. In Indonesia, Religious Courts merely adjudicate cases without having the authority to supervise or enforce compliance effectively, while filing a new lawsuit or execution request is often time-consuming and costly (Ihsanuddin, 2024).

Another contributing factor is the lack of legal awareness among both mothers and fathers. Many mothers do not file maintenance claims due to limited knowledge of their legal rights, while many fathers assume their obligations end once the child no longer lives with them (Fitriyani, 2022). This situation underscores both weak legal education and the limited advocacy of child protection in divorce contexts. Reports from LBH APIK, Komnas Perempuan, and several NGOs confirm that weak enforcement of child maintenance rights has a direct negative impact on children's quality of life, particularly in divorced families where the father neglects financial support.

Previous studies—such as Nurliah's (2019) thesis at UIN Syarif Hidayatullah Jakarta and research by Lathifah & Suryani (2021) in *Jurnal Al-Ahwal*—have revealed that the implementation of child maintenance rulings largely depends on the father's willingness due to the absence of an effective enforcement mechanism. Consequently, many mothers abandon the legal process because it is costly and ineffective (Wahyuni & Yuni, 2024).

To address these gaps, this study focuses on the enforcement of child maintenance rights after divorce in the Religious Courts of Metro, Lampung, analyzed from the perspective of Islamic family law using a socio-legal approach. The novelty of this research lies in its attempt to reconstruct an effective enforcement model that integrates Islamic legal principles with practical mechanisms inspired by comparative models in other Muslim-majority countries. This approach is expected to offer a more just, applicable, and sustainable solution for protecting children's post-divorce rights.

RESEARCH METHOD

This study employs an integrated normative juridical and empirical juridical approach (Bahder Johan Nasution, 2008), applied sequentially to connect Islamic

legal norms with real practices in society. The normative juridical approach is used to analyze the legal construction of child maintenance enforcement after divorce from the perspective of Islamic family law in Indonesia. This includes a critical examination of primary legal sources such as the Qur'an, Hadith, classical and modern fiqh literature, as well as national regulations including the Compilation of Islamic Law (KHI), the Marriage Law, and Religious Court decisions related to child maintenance. The study also applies Islamic legal theory and the principles of *maqāṣid al-sharī'ah* as the normative framework for developing a fair and applicable enforcement model.

The empirical juridical approach is then utilized to explore how child maintenance rights are enforced in practice and to identify obstacles faced after divorce. Field research is conducted in the Religious Courts of Metro and Central Lampung, chosen purposively to represent the social and institutional dynamics of child maintenance enforcement in regional contexts. Data are gathered through in-depth interviews with judges, divorced mothers, lawyers, and officials from the Ministry of Religious Affairs and local legal aid organizations. Respondents are selected using purposive and snowball sampling techniques to ensure the inclusion of participants with relevant experience and perspectives.

All collected data—both normative and empirical—are analyzed using Miles and Huberman's qualitative analysis model, which involves data reduction, data display, and conclusion drawing. The integration between the two approaches occurs in the analytical phase, where Islamic legal principles are compared with empirical realities to construct an ideal enforcement model that is normatively strong and practically implementable. Thus, this research is both descriptive-analytical and prescriptive, aiming not only to describe existing conditions but also to propose a new model of child maintenance enforcement consistent with Islamic legal principles and responsive to Indonesia's socio-legal challenges.

RESULT AND DISCUSSION

The Dynamics of Child Maintenance After Divorce in Muslim Families

The fulfillment of child maintenance rights after divorce in Muslim families in Indonesia constitutes a complex issue situated at the intersection of legal norms, social structures, and economic realities. Normatively, the father's obligation to provide maintenance for his children is explicitly regulated in Islamic legal sources and national legislation, including Article 156 letter (c) of the Compilation of Islamic Law (KHI) (Lubis, 2021). However, field findings in the Religious Courts of Metro and Central Lampung show that the implementation of this obligation remains weak, revealing a persistent gap between *law in the books* and *law in action* (Jahar & Subhan, t.t.). This condition reflects the systemic failure of enforcement mechanisms to guarantee the sustainability of children's rights after divorce.

Empirical data from several Religious Courts indicate three main patterns of post-divorce child maintenance fulfillment. First, regular payment according to

court rulings—occurring mostly among families with high legal awareness. Second, irregular or partial payments, where fathers contribute only occasionally without legal consistency. Third, and most dominantly, the complete neglect of maintenance obligations despite court decisions mandating them. This phenomenon highlights the weak enforceability of Religious Court rulings, especially in smaller regional courts such as Metro and Central Lampung, where institutional capacity and compliance monitoring are limited (Nafiah & Kuncoro, 2023). Compared to civil cases like debt disputes that have clearer execution mechanisms, family law rulings lack structured enforcement support.

At the social level, various structural and cultural barriers hinder optimal fulfillment of child maintenance rights. The economic burden after divorce often shifts entirely to the mother, who must bear expenses for education, healthcare, and basic needs without support from her ex-husband. Misconceptions also persist among fathers who assume that maintenance obligations end once custody is granted to the mother. This misunderstanding deviates from Islamic legal principles, which clearly place maintenance responsibility on the father regardless of custody. Additionally, patriarchal culture reinforces gender bias, marginalizing women and children's rights in post-divorce settings (Malik, 2021). Strengthening legal literacy and gender-sensitive education in family law therefore becomes crucial.

From a formal-legal perspective, several systemic weaknesses contribute to the poor enforcement of maintenance rulings. The absence of a specialized child support enforcement body, as found in some other countries, leaves enforcement entirely to the mother, who must navigate a lengthy and costly process (Daiko, 2024). Moreover, the lack of firm sanctions for noncompliance and the difficulty in tracing financial data of fathers—especially those working in informal sectors—further obstruct the realization of justice (Izzah, 2023). This reflects regulatory inadequacy: existing provisions under KHI and the Marriage Law do not yet provide coercive mechanisms to compel compliance or ensure automatic deduction of income for maintenance payments.

From a normative-theoretical standpoint, these weaknesses contradict the principle of *maslahah* and the objectives of *maqāṣid al-sharī'ah*, particularly the protection of life (*ḥifẓ al-nafs*), property (*ḥifẓ al-māl*), and progeny (*ḥifẓ al-nasl*) (Juwanti, 2018). When the legal system fails to secure maintenance for children, it fails to uphold these fundamental objectives. From a socio-legal perspective, the situation illustrates a form of legal dysfunction—where norms exist but do not function effectively due to the lack of institutional backing and public legal awareness (Islamiyah dkk., 2025). Thus, the gap between normative ideals and empirical realities demonstrates the urgent need for a new legal construction.

Accordingly, this study contributes by proposing a reconstructed model of child maintenance enforcement rooted in Islamic legal principles while integrating

practical mechanisms derived from comparative experiences in Muslim-majority countries. This model emphasizes three pillars: (1) establishing a specialized enforcement unit under the Religious Court, (2) introducing automatic income deduction mechanisms through cooperation with financial institutions, and (3) strengthening community-based monitoring through local religious authorities. These recommendations are expected to make the enforcement of child maintenance rights more effective, just, and contextually relevant within the framework of Islamic family law in Indonesia.

The Ideal Model of Child Maintenance Rights Enforcement After Divorce in the Perspective of Islamic Family Law in Indonesia

The ideal model for enforcing child maintenance rights after divorce within the framework of Islamic family law in Indonesia should be systemic, integrative, and oriented toward the principles of substantive justice and the protection of the best interests of the child. In Islamic legal construction, the obligation to provide child maintenance is not merely a moral and religious command of the shari'ah, but also a binding legal duty inherent in the responsibility of a father, as emphasized in various works of fiqh and reinforced in Article 156 letter (c) of the Compilation of Islamic Law (KHI). Nevertheless, such normative provisions will remain ineffective without the support of institutional mechanisms capable of ensuring that these rights are genuinely delivered to the child. Therefore, the ideal model of child maintenance enforcement must integrate three essential dimensions: normative clarity, institutional effectiveness, and social responsiveness (Rahman, 2024).

Empirically, the enforcement of child maintenance rulings in Indonesia remains weak. According to data from the Directorate General of Religious Courts (2023), only around 30% of court decisions regarding child maintenance are effectively executed, with the rest remaining unenforced due to the absence of clear follow-up mechanisms and low legal awareness among ex-husbands and mothers. This reality highlights the urgent need for a reformative model that bridges the gap between legal norms and social practice. Currently, the Religious Courts' authority ends at the point of ruling issuance, without an effective execution mechanism comparable to that in civil enforcement systems. Consequently, children's economic rights after divorce often remain unfulfilled despite favorable judgments.

First, from the normative perspective, regulatory reinforcement is required not only to provide a general stipulation of child maintenance obligations but also to establish a minimum standard of support that reflects children's basic needs while taking into account the father's economic capacity. Such a standard ought to be formalized in the form of technical regulations (for instance, a Supreme Court Regulation or a Decree of the Directorate General of the Religious Courts), similar to measures already adopted in countries such as Malaysia and Egypt. Within the

framework of *maqāṣid al-sharī'ah*, this step constitutes the realization of the protection of *nafs* (life), *māl* (property), and *nasl* (lineage), thereby safeguarding the continuity of children's rights as a divine trust that must be fulfilled by both the state and the parents (Anggraini dkk., 2025). In line with al-Shāṭibī's classification, the protection of *nafs*, *māl*, and *nasl* belongs to the *darūriyyāt* level, thus making child maintenance a matter of legal necessity (*ḍarūrah*).

Second, at the institutional level, the ideal model requires the establishment or revitalization of a specialized body for the enforcement of child maintenance rulings, such as a Child Support Enforcement Unit under the authority of the Religious Courts or the Ministry of Religious Affairs (Dairobi & Akbar, 2024). This body would be tasked with monitoring, recording, and executing child maintenance payments after divorce, equipped with sufficient administrative and legal authority. It could also be authorized to conduct renewed mediation, implement wage garnishment, freeze bank accounts, or impose administrative sanctions on non-compliant fathers, similar to enforcement models applied in several countries with mixed legal systems. In the Indonesian context, such an institution could be established through cooperation among the Supreme Court, the Ministry of Religious Affairs, and the Ministry of Women's Empowerment and Child Protection, supported by an integrated information technology system.

Third, from a social dimension, the ideal model must include efforts in legal empowerment and public education, particularly for mothers, to ensure they possess adequate legal awareness to claim their children's rights. Low levels of legal literacy among women have been proven to be a crucial factor contributing to the failure of child maintenance enforcement. Therefore, strategies for community-based legal advocacy should be designed, involving religious organizations, NGOs, and legal aid institutions focused on women's and children's issues. This underscores the importance of a bottom-up approach in shaping policies, rather than relying solely on top-down and formalistic mechanisms (Djuli, 2025).

Within the framework of Islamic family law in Indonesia, this ideal model must also take into account the principles of *ta'āwun* (mutual assistance) and *mas'ūliyyah* (social responsibility), thereby ensuring that the court is not the only channel for resolution. It should also encourage the activation of religious-social mechanisms such as *bait al-māl*, *zakāt*, and organized charitable funds as temporary support in cases where fathers neglect their obligations. However, this mechanism requires a clear regulatory linkage between religious charitable institutions and state apparatuses to prevent overlap and ensure accountability. In this regard, Islamic family law can operate not merely as a normative-legalistic system but as a social system that ensures holistic protection for children.

Accordingly, the ideal model for enforcing child maintenance rights after divorce within the perspective of Islamic family law in Indonesia is one that is normatively progressive, institutionally robust, and socially participatory. This

model positions the child as a legal subject entitled to protection and a decent livelihood, grounded not only in legal texts but also in moral, social, and substantive justice considerations that embody the core spirit of *maqāṣid al-sharī'ah*. The implementation of this model requires strong political will, structural reform, and socio-religious consensus to ensure that divorce is never used as a justification for neglecting the rights of children as prescribed by both Islamic law and state law (Syamwati, 2024).

The Contribution of the Model for Enforcing Child Support Rights After Divorce in Muslim Families to the Development of Islamic Family Law in Indonesia

The model for enforcing child support rights after divorce in Muslim families makes a significant contribution to the development of Islamic family law in Indonesia, both in terms of Islamic legal theory, normative formulation, and institutional reform. First, from a theoretical perspective, this model reaffirms the importance of the *maqāṣid al-sharī'ah* approach in developing family law that is more responsive to contemporary social realities. By positioning the fulfillment of child support rights as part of the protection of *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-māl*, this model expands the paradigm of Islamic law from a textualistic approach to a more contextual, dynamic, and child-centered approach that prioritizes the protection of vulnerable groups. According to al-Shāṭibī's classification, these objectives belong to the *darūriyyāt* (essential necessities), affirming that the protection of children's welfare is a legal necessity rather than a moral recommendation. In practice, many post-divorce child support rulings in Indonesia remain unexecuted, revealing the structural gap between legal rulings and enforcement mechanisms. This empirical gap underscores the relevance of the proposed model. Unlike existing models that rely primarily on judicial enforcement, this approach introduces a multi-dimensional framework that integrates legal, institutional, and social mechanisms under the *maqāṣid* paradigm. This shifts *fiqh* from a formal orientation to a legal approach based on substantive justice and the best interest of the child as the primary concern.

Second, from a normative perspective, the model for enforcing child support encourages the harmonization and elaboration of Islamic family law norms, particularly within the Compilation of Islamic Law (KHI), so that they become more explicit and operational in regulating the mechanisms of child support implementation. Up to now, provisions regarding child support in the KHI have been largely declarative and not accompanied by strong enforcement mechanisms. By promoting a more comprehensive and prescriptive codification—such as through the creation of national guidelines on child support standards or revisions to the technical regulations of the Religious Courts—this model contributes to the renewal of Islamic legal structures in accordance with the principles of legal certainty, justice, and benefit. At the same time, it demonstrates

that Islamic law can be developed responsively through the approach of *tadwīn al-fiqh al-mu'āṣir* (contemporary *fiqh* codification) that is adaptive to the context of the modern nation-state (Ghofur, 2021).

Third, at the institutional level, the model for enforcing children's financial rights encourages the establishment of a dedicated implementing body tasked with monitoring and enforcing child support obligations. The establishment of such an institution not only strengthens the authority of the Religious Court as a judicial body but also fosters cross-sectoral synergy between the courts, technical ministries, and socio-religious institutions in ensuring the rights of children after divorce (Romi & Munir, 2025). This represents a crucial step in transforming the Islamic family law system from a merely adjudicative-defensive mechanism into a proactive-protective system, in which the state acts as a holistic guarantor of family and children's rights.

Fourth, the most significant contribution of this model is positioning Islamic family law as an instrument of social justice. In the context of Indonesia as the world's largest Muslim-majority country, reform in enforcing children's financial rights reflects a commitment to sharia-based justice that does not stop at the normative-ideal level but strives to be realized in the concrete lives of the people. This model also opens space for the development of *institutional ijtihād*, meaning that *ijtihād* is carried out not only by individual scholars but also through processes of legislation, judiciary, and state institutions (Arifin dkk., 2025). *Institutional ijtihād* refers to collective legal reasoning undertaken through formal state institutions such as the judiciary, legislature, and religious authorities, thereby transforming *ijtihād* from an individual scholarly effort into a systemic process of legal reform. Thus, strengthening the system for enforcing child support becomes part of the broader agenda of Islamic legal reform that is more inclusive, rights-based, and contributive to the development of national law.

With all these aspects, the model for enforcing child support rights after divorce not only addresses practical problems in the field but also directly contributes to the development of a more modern, humanistic, and just paradigm of Islamic family law in Indonesia. This framework aligns with Indonesia's ongoing efforts to harmonize Islamic family law with national legal development, particularly in the context of the National Law Development Agency's (BPHN) initiatives toward plural legal integration. It serves as a bridge between legal texts and social reality, between religious norms and humanitarian needs, and between private law and public policy—an immensely important contribution to building a transformative and sustainable Islamic family law system.

CONCLUSION

The fulfillment of child support rights after divorce in Muslim families in Indonesia is a complex and multidimensional phenomenon, involving the interaction between Islamic legal norms, institutional systems, socio-cultural

conditions, and the economic realities of society. Although normatively the father's obligation to provide child support has been explicitly regulated in Islamic family law and national legislation, its implementation in practice remains far from ideal. There is a significant gap between the written legal norms and their actual implementation in society, marked by the low compliance of fathers with court decisions and the absence of effective enforcement mechanisms. Structural, cultural, and institutional obstacles such as the transfer of the financial burden to mothers, low legal awareness, and weak enforcement institutions are the main factors hindering the optimal enforcement of children's rights to support.

From the perspective of Islamic family law, the ideal model for enforcing child support rights after divorce must be systemic, integrative, and responsive to the principles of substantive justice and the best interests of the child. Such a model requires the strengthening of more operational regulations, the establishment of a specialized enforcement body with adequate executive authority, and the empowerment of society through legal education and advocacy. This approach not only reinforces the father's normative obligation but also creates concrete mechanisms to ensure that children's rights are sustainably protected. The contribution of this model to the development of Islamic family law in Indonesia is highly significant, as it strengthens the position of Islamic family law as an instrument of social justice that is adaptive to the needs of modern society, while also bridging the gap between legal texts and social realities. Thus, this model has the potential to serve as the foundation for an inclusive, humanistic, and sustainable reform of Islamic family law in Indonesia.

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