

Protection of the Rights of Children and Women in Islamic Family Law: A Study of Hadhanah, Guardianship, and Marriage Breakdown in the Perspective of Fiqh and a Compilation of Islamic Law in Indonesia

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Abstract

The protection of children's and women's rights is a central issue in Islamic family law and remains highly relevant in the contemporary Indonesian context. This article aims to analyze the protection of children's and women's rights through three main instruments, namely child custody (hadhanah), guardianship (wilayah), and marriage dissolution regulations. This study employs a normative juridical method using statutory and conceptual approaches by examining the Qur'an, Hadith, classical fiqh literature, and the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI) as the applicable legal framework in Indonesia. The discussion shows that hadhanah represents a parental responsibility that continues after divorce based on the best interests of the child. Guardianship serves as a legal protection mechanism for minors in personal, property, and marital matters. Meanwhile, marriage dissolution regulations under the KHI combine Islamic legal principles with modern legal certainty to protect women and children from its legal consequences. These instruments collectively reflect the objectives of maqashid al-shariah, particularly hifzh al-nasl and hifzh al-nafs, in Indonesian Islamic family law.

Keywords: Child Protection; Hadhanah; Guardianship; Marriage Dissolution; Maqashid Al-Shariah

Abstract

Perlindungan hak anak dan perempuan merupakan isu penting dalam hukum keluarga Islam yang tetap relevan dalam konteks Indonesia kontemporer. Artikel ini bertujuan untuk menganalisis perlindungan hak anak dan perempuan melalui tiga instrumen utama, yaitu pemeliharaan anak (hadhanah), perwalian (wilayah), dan regulasi putusnya perkawinan. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan dan konseptual melalui kajian terhadap Al-Qur'an, Hadis, literatur fikih klasik, serta Kompilasi Hukum Islam (KHI) sebagai kerangka hukum yang berlaku di Indonesia. Hasil penelitian menunjukkan bahwa hadhanah merupakan tanggung jawab orang tua yang tetap berlangsung setelah perceraian berdasarkan prinsip kepentingan terbaik bagi anak. Perwalian berfungsi sebagai mekanisme perlindungan hukum bagi anak yang belum cakap hukum dalam aspek pribadi, harta, dan perkawinan. Sementara itu, aturan putusnya perkawinan dalam KHI menggabungkan prinsip hukum Islam dengan kepastian hukum modern untuk memberikan perlindungan bagi perempuan dan anak dari berbagai akibat hukumnya. Ketiga instrumen tersebut secara bersama-sama mencerminkan tujuan maqashid al-shariah, khususnya hifzh al-nasl dan hifzh al-nafs, dalam hukum keluarga Islam di Indonesia.

Kata Kunci: Perlindungan Anak; Hadhanah; Perwalian; Putusnya Perkawinan; Maqashid Syariah

INTRODUCTION

Protecting the rights of children and women is a key issue in Islamic family law, possessing strong relevance within the context of modern society. From its inception, Islam has positioned the family as a social institution whose continuity must be preserved, while simultaneously providing for the protection of family members in vulnerable positions, especially children and women, when marital problems arise or when a marital relationship ends (Atmoko & Baihaki, 2022: 79).

In practice, the increasing divorce rate in Indonesia is one of the issues affecting the fulfillment of family rights. Data from the Supreme Court of the Republic of Indonesia shows that divorce cases entering Religious Courts reach hundreds of thousands annually. This condition impacts the sustainability of children's rights—particularly in aspects of custody, maintenance (nafkah), and education—as well as women's rights, such as iddah maintenance and mut'ah (RI, 2011).

Beyond the issue of divorce, the aspect of guardianship (perwalian) also constitutes an important part of Islamic family law protection (Sari, Sjaifurrachman, & Rofiqi, 2024). Issues such as the abuse of a guardian's authority over a child's property, ambiguity regarding the party responsible for a child, and problems with guardians in marriage indicate that legal protection mechanisms for those lacking legal capacity still require serious attention (Neman, 2021). In the Indonesian context, this issue is increasingly complex due to the relationship between Islamic law—derived from the Qur'an, Hadith, and the juristic thought (fiqh) of scholars—and the positive law of the state, regulated in Law Number 1 of 1974 concerning Marriage and the Compilation of

Islamic Law (KHI/Presidential Instruction Number 1 of 1991). The interaction between these two legal systems creates a need to understand how Islamic legal principles are applied in providing protection for children and women (Jamaluddin & Amalia, 2016).

The Compilation of Islamic Law (KHI) was established as an effort to accommodate the principles of Islamic family law into the Indonesian national legal system. However, its implementation still faces various challenges, particularly in ensuring the fulfillment of children's and women's rights after a divorce. Various issues still exist, such as the negligence of former husbands in providing child maintenance, conflicts regarding child custody, and the abuse of guardianship authority, all of which can harm parties who should be receiving protection (Khairina & Farkhani, 2023).

Based on this background, this article aims to: (1) analyze the concept of *hadhanah* (custody) as an instrument for the protection of children's rights in Islamic law and the KHI; (2) examine the mechanism of guardianship as a form of legal protection for children who lack legal capacity; (3) analyze regulations concerning the dissolution of marriage and its legal consequences from the perspective of protecting women and children; and (4) explain the connection between these three instruments in realizing the goals of *maqashid syariah*.

Studies on the protection of children and women in Islamic family law have been conducted extensively by previous researchers. Atmoko & Baihaki (2022: 79) discuss the importance of protecting family rights from the perspective of Islamic law, particularly in facing issues arising from divorce. Neman (2021) examines aspects of guardianship and protection for parties without legal capacity. Meanwhile, Sari et al. (2024) explain various implementation issues regarding the legal protection of children in Islamic family practice. Other research also shows that the KHI plays an important role in providing legal certainty regarding marriage, divorce, and family rights (Jamaluddin & Amalia, 2016).

Although previous research has contributed to explaining certain aspects of Islamic family law, most studies still focus on one protection instrument in isolation, such as *hadhanah* or guardianship. Therefore, this research seeks to examine *hadhanah*, guardianship, and the dissolution of marriage as a unified legal instrument that is interconnected in providing protection for children and women based on Islamic law and the KHI.

In Islamic family law, *hadhanah* is understood as the obligation of maintenance and upbringing for children who are not yet capable of caring for themselves. This concept relates not only to fulfilling the child's physical needs but also includes protection regarding development, education, and the child's best interests. Meanwhile, *wilayah* (guardianship) is a person's legal

authority to act in safeguarding the interests of those under their protection, whether in personal, property, or marital aspects.

Both concepts are closely related to *maqashid syariah*, which is the primary goal of Islamic law in realizing human well-being (*maslahah*). In the context of family protection, *maqashid syariah* is primarily reflected through the principles of *hifzh al-nasl* (protection of lineage) and *hifzh al-nafs* (protection of life). Thus, regulations concerning *hadhanah*, guardianship, and the dissolution of marriage are not only oriented toward resolving legal issues but also aim to safeguard the rights and interests of children and women within the family.

METHODS

This research is a normative legal research study that aims to examine and analyze law as a set of norms or rules applicable in society. The selection of this method is based on the research focus, which discusses the concepts and regulations of Islamic family law, particularly regarding the protection of children's and women's rights through the instruments of *hadhanah* (custody), guardianship, and the dissolution of marriage. Normative legal research is employed to understand the consistency between Islamic legal principles and the positive law provisions currently in effect in Indonesia.

The research approach consists of the statute approach and the conceptual approach. The statute approach is used to analyze various legal regulations related to Islamic family law, while the conceptual approach is used to examine Islamic legal concepts derived from both classical *fiqh* (jurisprudence) doctrines and contemporary legal thought (Atmoko & Baihaki, 2022: 79). Both approaches are used concurrently so that the research can provide a comprehensive understanding of the relationship between religious norms and family law regulations in Indonesia.

The data sources for this research consist of legal materials comprising primary, secondary, and tertiary legal sources. Primary legal materials include the Qur'an, the Hadith of the Prophet SAW, Law Number 1 of 1974 concerning Marriage, Government Regulation Number 9 of 1975, Law Number 7 of 1989 concerning Religious Courts and its amendments, and the Compilation of Islamic Law (Presidential Instruction Number 1 of 1991). Secondary legal materials include classical *fiqh* books, specifically *Kitab At-Tadzhib*, books on Islamic family law, and scientific articles relevant to the research theme. Tertiary legal materials are used as supporting sources in the form of legal dictionaries and Islamic encyclopedias (RI, 2011; Sriono, 2023).

The collection of legal materials was conducted through library research by identifying, gathering, and reviewing various legal sources related to the research object. Subsequently, the legal

materials were analyzed using a qualitative-descriptive method through stages of interpretation, systematization, and the construction of legal arguments. This analysis aims to explain how provisions of Islamic law and Indonesian positive law provide protection for the rights of children and women within Islamic family law. The results of the analysis are then presented prescriptively to provide an overview of the implementation and relevance of these protection instruments in the context of Islamic family law in Indonesia..

RESULT AND DISCUSSION

Hadhanah as an Instrument for the Protection of Children's Rights

1. The Concept and Normative Basis of Hadhanah

Etymologically, hadhanah is derived from the word hadhana-yahdhunu, which means to embrace or hold, depicting the physical and emotional closeness between a mother and her child. Terminologically, hadhanah is defined as the obligation to nurture, care for, educate, and protect a child who has not yet reached the age of mumayyiz (discernment), ensuring they grow and develop optimally in physical, mental, and spiritual aspects (Prihatini Purwaningsih, 2014).

The obligation of hadhanah has a strong normative basis from several legal sources. The Qur'an, through Surah Al-Baqarah: 233, affirms a clear division of roles: the mother is obliged to breastfeed and care for the child in the early stages of life, while the father is responsible for providing appropriate maintenance (nafkah). Surah At-Tahrim: 6 expands this obligation by commanding parents to protect their entire family from harm—not only physical but also moral and spiritual (Tarmizi, Yulia Pradiba, 2023).

The Hadith of the Prophet SAW reinforces the precedence of the mother in early childhood care. In a hadith narrated by Abu Daud (no. 2276) and authenticated by Al-Hakim, the Messenger of Allah SAW stated to a mother who was contesting the custody of her child: "You have more right to the child as long as you do not remarry." This hadith demonstrates that a mother's right to hadhanah is prioritized, yet not absolute, as it can be forfeited under certain conditions (Purwaningsih, 2014).

In Indonesian positive law, the Compilation of Islamic Law (KHI) explicitly codifies the provisions of hadhanah. Article 105 of the KHI stipulates that children under the age of 12 are under the care of their mother, while Article 156 affirms that all hadhanah costs are the responsibility of the father according to his means, at least until the child reaches 21 years of age. These provisions reflect the principle of distributive justice in Islam, where the mother bears the

burden of caregiving and the father bears the financial burden (Supreme Court of the Republic of Indonesia, 2011).

2. Rights and Obligations of Parents: A Normative Analysis

Islam builds the parent-child relationship upon the principles of binding moral and legal responsibility. Unlike other legal systems that may view parental obligations merely as administrative provisions, Islam positions them as a divine trust (*amanah*) that will be accounted for before Allah SWT. Surah Al-Isra': 23-24 illustrates how the child's duty to be dutiful to their parents arises as a consequence of the parental obligations that have been fulfilled well (Pebriani Lubis, 2024).

Parental obligations are divided into five complementary dimensions. The obligation of maintenance (*nafkah*) is the primary responsibility of the father in fulfilling a child's basic needs—food, clothing, and shelter—which is explicitly stated not to be forfeited even in the event of divorce (Article 41 letter b of the Marriage Law). The obligation of education encompasses two dimensions that must run in balance: formal education for intellectual development, and religious education for the formation of faith and character (Tarmizi, Yulia Pradiba, 2023).

The obligation of protection requires parents to safeguard the child from various physical, moral, and social threats, including supervising their social environment. The obligation to maintain health includes attention to both the child's physical and spiritual aspects (Burhanudin & Anak, 1974). Furthermore, the obligation of moral and religious guidance is the most important dimension in shaping the character of children as a successor generation with noble character (*akhlak mulia*). These entire obligations are morally and legally binding, and they do not cease even if the parents' marital relationship has ended (Efendy & Rahmah, 2024).

3. Order of Custody and the Principle of the Best Interest of the Child

The determination of the *hadhanah* rights holder in Islamic law is not based solely on biological relationships, but rather on the actual capacity to provide the best care for the child (Ulya, Lisaniyah, & Mu'amaroh, 2021). Islam establishes comprehensive conditions for a caregiver: being a Muslim, having reached puberty (*baligh*) and being of sound mind, possessing adequate physical, mental, and economic capacity, having good character and being trustworthy, not having conditions that endanger the child, and possessing a decent and stable place of residence (Efendy & Rahmah, 2024).

The order of parties entitled to care for a child, based on classical *fiqh* reinforced by the KHI, places the biological mother in the first position, followed by the maternal grandmother, the biological father, the paternal grandmother, biological sisters, other female relatives, and finally

male relatives. This order reflects a deep psychological consideration: the emotional closeness of the mother to the child, especially in the early stages of life, serves as the primary basis for this designation (Purwaningsih, 2014).

What is interesting about the hadhanah system in Islam is its flexibility. This order is not rigid and can be adjusted based on actual conditions for the sake of the child's best interests. The principle of the best interests of the child, which is now recognized in international law, has in fact long been the essence of hadhanah provisions in Islamic law. Religious courts have the authority to set aside this order if it is proven that the party who is entitled by order is actually unable or unfit to provide care (Aulia, 2022).

Guardianship as a Legal Protection Mechanism

1. The Concept of Guardianship and Its Distinction from Hadhanah

Guardianship (*wilayah*) is the legal authority granted to a person (a guardian) to represent and manage the interests of a party who is not yet or is no longer legally competent. From a *fiqh* perspective, *wilayah* encompasses a broader dimension than mere physical care; it is a legal authority that allows a guardian to make important decisions on behalf of the party they represent (Enjellina, Permana, & Mustafa, 2025).

The fundamental difference between hadhanah and guardianship lies in their objects and nature. Hadhanah is about caretaking, focusing on the fulfillment of daily needs and emotional closeness. Guardianship is about legal representation, focusing on the authority to take legal action on behalf of the child. In practice, the two can be held by different people: a mother may hold the hadhanah (custody), while the father remains the child's legal guardian (Syahrizan & Nelli, 2025).

2. Typology of Guardianship in Islamic Law

Islam classifies guardianship into three typologies based on their object. Guardianship over the person (*wilayah 'ala al-nafs*) covers the protection and personal maintenance of the child, including education, health, and moral and spiritual development. Guardianship over property (*wilayah 'ala al-mal*) relates to the authority to manage the assets of a child who lacks legal capacity in a trustworthy manner; the guardian must use such assets solely for the child's benefit and must not commingle them with personal property (QS. An-Nisa: 2, 6). Guardianship in marriage (*wilayah al-nikah*) is the authority to marry off a woman under one's guardianship; the majority of scholars consider the guardian to be one of the essential pillars (*rukun*) of a valid marriage (Baidowi, 2004).

Based on the source of authority, guardianship is categorized into three types. The *wali nasab* (lineal guardian) is a guardian based on blood relations, with the order being: father, paternal grandfather, paternal brother, and so on; this is considered the most ideal due to the strong

emotional bond and moral responsibility involved. The wali hakim (judge guardian) is a guardian appointed by the religious court when no wali nasab is available or when they fail to meet the requirements; this represents a form of state intervention to protect parties who lack a natural legal protector (Lubis & Hsb, 2026). The wali wasiat (testamentary guardian) is a guardian appointed by parents through a will before their death, reflecting the parents' trust while remaining under the court's supervision (Harahap, 2018).

3. Eligibility Standards and Guardian Accountability

Islam establishes strict eligibility standards for guardians, reflecting the magnitude of the responsibility they undertake. These requirements include: being Muslim, having reached puberty (baligh) and being of sound mind, being just and of good character, being trustworthy (amanah), being physically and mentally capable, having no conflict of interest with the child, and being able to provide effective legal protection (Khairina & Farkhani, 2023).

The aspect of accountability is a hallmark of the Islamic guardianship system that distinguishes it from mere power relations. The Qur'an explicitly commands guardians to provide witnesses when handing over assets to a child who has reached maturity (QS. An-Nisa: 6)—an accountability mechanism that long predates modern audit concepts. In the Indonesian context, this accountability is strengthened through the supervision of religious courts; if a guardian is proven to be negligent or to have abused their authority, their rights can be revoked (Merchiano, Syafariansyah, Ichandri, & Sadli, 2023).

A guardian's duties cover a broad spectrum: protecting the child's physical, mental, and social safety; managing the child's personal interests; managing assets transparently; representing the child in legal and administrative matters; marrying off daughters in accordance with sharia; providing moral and religious guidance; and acting fairly without abusing their position. This responsibility is continuous and comprehensive, including preparing the child for future independence.

Regulation of Marriage Dissolution: Protection for Women and Children

1. Conceptual Foundation: Divorce as a Last Resort

Islam builds divorce regulations upon a foundation that is both paradoxical and wise: it is permitted, yet detested. A Hadith of the Prophet SAW narrated by Abu Daud from Ibn Umar states: "The most detestable of lawful things to Allah Azza wa Jalla is divorce." This paradox reflects the realism of Islamic law, which acknowledges that there are conditions where a marriage is more damaging than divorce, while simultaneously affirming that divorce must always be a last resort (Basri, 2020).

This principle is consistently translated into Indonesian positive law. Article 39 of the Marriage Law and Article 115 of the Compilation of Islamic Law (KHI) require that a divorce can only be performed before a Religious Court hearing after reconciliation efforts have failed. The necessity of going through a judicial process is not merely a formality; it is a protection mechanism ensuring that the decision to divorce has been carefully considered and will not result in harm to the vulnerable party.

2. Forms of Marriage Dissolution and Their Implications

Islam recognizes a broad spectrum of marriage dissolution forms, each with distinct mechanisms and legal consequences. Death is the most natural form; for a wife left widowed, an iddah (waiting period) of four months and ten days applies (QS. Al-Baqarah: 234; Article 153 paragraph (2) letter a of the KHI) (Atmoko & Baihaki, 2022: 79).

Talak (divorce initiated by the husband) is the husband's right, exercised through a declaration before a Religious Court hearing (Article 117 of the KHI). Its legal status is dynamic depending on the context: mandatory when disputes are irreconcilable and divorce is more beneficial; sunnat (recommended) when the wife neglects religious obligations; mubah (permissible) when there is incompatibility; makruh (disliked) without a strong reason; and haram (forbidden) when pronounced while the wife is menstruating. Based on the possibility of reconciliation (rujuk), talak is divided into talak raj'i (first/second, revocable during iddah), ba'in sughra (irrevocable, but a new marriage contract is possible), and ba'in kubra (the third talak, which prevents remarriage unless the wife first marries another person) (RI, 2011).

Khul' is an Islamic innovation that provides a way out for a wife who can no longer sustain the marriage—a divorce at the wife's request by providing compensation (iwadl) to the husband. It is prescribed based on QS. Al-Baqarah: 229 and serves as an Islamic solution to accommodate the interests of women, who in the jahiliyah era had no rights whatsoever regarding divorce. Article 161 of the KHI confirms that khuluk reduces the number of talak counts and is irrevocable.

Fasakh is the annulment of a marriage contract by a judge based on reasons stipulated in Articles 70 and 71 of the KHI, including polygamy without permission, marriage without a valid guardian, and forced marriage. Li'an (oath of accusation of adultery) results in the permanent dissolution of the marriage with a prohibition on remarrying; a child born from this union is only attributed to the mother (Articles 125, 162 of the KHI). Ila' (oath of abstinence from marital relations) and zihar (likening one's wife to one's mother) are forms that are more concerned with regulating intimate relations rather than directly dissolving the marital bond (Basri, 2020).

3. Legal Consequences: Post-Divorce Protection

The post-divorce regulatory system in Islam and the KHI (Compilation of Islamic Law) is designed comprehensively to ensure that no party is neglected, especially wives and children, who are structurally in a more vulnerable position (Atmoko & Baihaki, 2022: 79). Protection for the wife is realized through several mechanisms. *Nafkah iddah* (maintenance during the waiting period) provides economic security during the waiting period; for *iddah raj'iyah*, the wife is entitled to maintenance, housing (*maskan*), and clothing (*kiswah*) (Article 149 letter b of the KHI). *Mut'ah* (consolatory gift) is a mandatory gift from the ex-husband as appreciation for the wife's devotion during the marriage; the amount is adjusted based on propriety and the husband's financial capacity (Articles 158-160 of the KHI). The obligation to settle any outstanding *mahar* (dowry) ensures that the wife's right to the promised dowry is fulfilled.

Protection for the child post-divorce is realized through three layers of provisions. First, custody (*hadhanah*) is regulated by Article 156 of the KHI: a child who has not reached the age of discernment (*mumayyiz*) is entitled to *hadhanah* from the mother; a child who has reached the age of discernment is entitled to choose. Second, all *hadhanah* costs and child support are the father's responsibility, at least until the child reaches the age of 21—an obligation that does not lapse even if the child is in the mother's care. Third, the child's lineage (*nasab*) remains preserved despite the divorce, ensuring that the child retains a clear legal identity from both parents (Ulya et al., 2021).

Regarding joint property (*harta bersama*), Article 97 of the KHI stipulates a fair division: each party is entitled to one-half of the property acquired during the marriage. This provision provides legal certainty and protects the economic rights of women who, during the marriage, may have played a greater role in the domestic sphere and lacked independent income (Jamaluddin & Amalia, 2016)

Iddah: A Multi-Functional Protection Instrument

Iddah is one of the provisions in Islamic law that is most rich in protective dimensions. Technically, *iddah* is the waiting period for a woman after the dissolution of a marriage before she is permitted to remarry. However, its function extends far beyond a mere biological waiting period (Basri, 2020). Article 153 of the KHI regulates the duration of *iddah*: 130 days due to the death of the husband; three menstrual cycles (at least 90 days) for those who still menstruate; 90 days for those who do not menstruate; and until delivery for those who are pregnant. From a protection perspective, *iddah* functions as:

- a. biological instrument: ensuring the clarity of the child's lineage (*nasab*) who may have been conceived;

- b. psychological instrument: providing a space for emotional recovery for women after the end of the marital bond;
- c. Reconciliation instrument: during iddah raj'iyyah (revocable divorce), it gives the husband an opportunity to reconsider his decision;
- d. Financial instrument: during iddah, the ex-wife is entitled to maintenance from the ex-husband, providing transitional economic security.

1. Analysis: The Synergy of Hadhanah, Guardianship, and Divorce Regulations within Maqashid Sharia

An analysis of the three legal protection instruments—hadhanah (custody), guardianship, and divorce regulation—reveals that they are not isolated provisions, but rather form an integrated system of legal protection. This system is anchored in and flows toward the principles of Maqashid Sharia (Lino, 2021). Hifzh al-nasl (preservation of lineage/offspring) serves as the common thread connecting these three instruments. Hadhanah ensures that children receive quality care to grow into an excellent generation. Guardianship ensures that a child's legal and economic rights are protected even when parents are absent or incapable. Divorce regulation—through provisions on custody, child support, and lineage—ensures that the bond between a child and their parents is not severed even though the marital bond has ended (Tarmizi & Yulia Pradiba, 2023).

Hifzh al-nafs (preservation of life/soul) is realized through various physical and psychological protection mechanisms: from the obligation of maintenance (nafkah) in hadhanah, to the prohibition on guardians neglecting the child, to the obligation of nafkah iddah and mut'ah that protect the ex-wife from post-divorce economic vulnerability. Hifzh al-mal (preservation of wealth) is manifested in the provisions for guardianship over a child's property (QS. An-Nisa: 2, 6) and the equitable division of joint property (harta bersama) (Article 97 of the KHI) (Enjellina et al., 2025).

From the perspective of legal integration, the KHI has succeeded in translating classical fiqh principles into operational positive law. Nevertheless, the gap between norms and implementation still requires serious attention. Research shows that the enforcement of post-divorce child support obligations remains weak, many guardians are negligent or abuse their authority without facing effective sanctions, and women's access to their post-divorce rights is often hindered by limited legal knowledge and economic constraints (Neman, 2021).

Strengthening the implementation of these three protection instruments requires an integrated approach that includes: increasing legal literacy among the Indonesian Muslim community, strengthening the capacity of religious courts in enforcing custody and child support

rulings, and developing more effective guardianship oversight mechanisms. Thus, the ideals of Maqashid Sharia in protecting the rights of children and women can be realized not only at the normative level but also at the practical level (Asnawi, 2019)..

CONCLUSION

Based on the normative study conducted, this article formulates four main conclusions (Prihatin Purwaningsih, 2014; Syahrizan & Nelli, 2025; Tarmizi & Yulia Pradiba, 2023). First, hadhanah (child custody) is a comprehensive instrument for protecting children's rights in Islamic law. It encompasses obligations that do not lapse post-divorce, with an equitable division of roles between the mother (caregiving) and the father (financial support). The principle of the "best interest of the child," which is the soul of the Islamic hadhanah system, has been consistently operationalized in the KHI, although its enforcement in the field still requires strengthening (RI, 2011; Tarmizi & Yulia Pradiba, 2023).

Second, guardianship is a structured and highly accountable legal protection mechanism. The three-tiered system of wali nasab (lineal guardian), wali hakim (judge guardian), and wali wasiat (testamentary guardian) ensures that no child is left completely without legal protection. The strict eligibility standards for guardians and the mechanism for the revocation of guardianship by religious courts are instruments of accountability enforcement whose implementation needs to be continuously strengthened (Harahap, 2018; Syahrizan & Nelli, 2025).

Third, the regulation of marriage dissolution in Islam and the KHI demonstrates a legal design that favors the protection of vulnerable parties. Through a diverse spectrum of divorce forms—ranging from talak to khul' and fasakh—Islamic law accommodates various domestic life situations. Post-divorce provisions, including nafkah iddah (maintenance during the waiting period), mut'ah (consolatory gift), custody rights, child support, and the division of joint property, serve as a comprehensive safety net for women and children (Basri, 2020; Sriono, 2023).

Fourth, these three instruments synergistically realize Maqashid Sharia, particularly hifzh al-nasl (preservation of offspring) and hifzh al-nafs (preservation of life), in the context of Islamic family law in Indonesia. The KHI, as the codification of Indonesian Islamic family law, has succeeded in integrating classical fiqh principles with the demands of modern legal certainty. The challenge ahead lies in narrowing the gap between norms and implementation through the strengthening of legal literacy, court capacity, and more effective oversight mechanisms (Atmoko & Baihaki, 2022; Lino, 2021).

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