



Between Duty, Capacity, and Inability: Post-Divorce Child Support in Indonesian Religious Courts

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Abstract

When the court explicitly acknowledges a father's economic incapacity, child support obligations after divorce create acute legal tension. This article looks at a confusing situation in child support decisions after divorce, based on Decision Number 4501/Pdt.G/2024/PA.Jr. from the Jember Religious Court, Indonesia, where the court required a fixed child support payment even though the father had proven he couldn't afford it. The case highlights a bigger problem that courts face in areas with different laws and economic challenges: how to balance the need to protect children with the reality that some financial obligations may not be possible to enforce. This study uses a legal approach to analyse laws, court decisions, and important Islamic legal sources to assess whether the court's reasoning is fair. The findings reveal a structural inconsistency. Even though the court referenced child protection rules and traditional legal views that support parental responsibility, the maintenance order was too high for the father to afford, making it very difficult for him to follow. Through the evaluative lens of *Maqāṣid al-Sharī'ah*, the decision demonstrates a failure of proportional balancing: the protection of offspring (*ḥifẓ al-nasl*) was prioritised without adequate consideration of economic preservation and basic welfare (*ḥifẓ al-māl* and *ḥifẓ al-nafs*), both foundational objectives within Islamic legal thought. The article argues



that this pattern in court decisions shows a common problem in family courts with limited resources, where the legal responsibilities are recognised more than they can actually be enforced. By placing a local decision within this ongoing issue, the study adds to worldwide discussions about fairness, the ability to enforce choices, and the power of judges in child support cases after divorce.

[Kewajiban nafkah anak pasca perceraian menimbulkan ketegangan hukum yang serius ketika ketidakmampuan ekonomi ayah secara eksplisit diakui oleh pengadilan itu sendiri. Artikel ini menganalisis kontradiksi normatif dalam penetapan nafkah anak melalui Putusan Nomor 4501/Pdt.G/2024/PA.Jr. di Pengadilan Agama Jember, di mana kewajiban nafkah tetap dibebankan meskipun ketidakmampuan ekonomi yang terdokumentasi juga menjadi penyebab utama perceraian. Meskipun berangkat dari satu putusan konkret, kasus ini merefleksikan dilema struktural yang lebih luas yang dihadapi pengadilan dalam konteks pluralisme hukum dan keterbatasan ekonomi: bagaimana menyeimbangkan komitmen normatif terhadap perlindungan anak dengan batas material daya laksana putusan. Dengan menggunakan pendekatan yuridis normatif melalui analisis doktrinal terhadap ketentuan perundang-undangan, penalaran yudisial, dan sumber hukum Islam yang relevan, penelitian ini mengevaluasi proporsionalitas pertimbangan hakim. Temuan menunjukkan adanya inkonsistensi struktural: meskipun hakim mendasarkan putusan pada norma perlindungan anak dan otoritas fikih klasik tentang tanggung jawab orang tua, besaran nafkah yang ditetapkan melampaui kapasitas ekonomi ayah yang telah dibuktikan, sehingga secara faktual sulit dilaksanakan. Melalui kerangka evaluatif *Maqāṣid al-Sharī'ah*, putusan tersebut memperlihatkan kegagalan dalam penyeimbangan proporsional antara perlindungan keturunan (*ḥifẓ al-naṣl*) dan penjagaan kesejahteraan dasar serta kapasitas ekonomi (*ḥifẓ al-naḥs* dan *ḥifẓ al-māl*) sebagai tujuan-tujuan esensial hukum Islam. Artikel ini berargumentasi bahwa pola adjudikasi semacam ini mencerminkan ketegangan berulang dalam praktik peradilan keluarga di lingkungan yang sumber dayanya terbatas, ketika afirmasi normatif kewajiban hukum melampaui kemungkinan realisasi praktisnya. Dengan menempatkan satu putusan lokal dalam dilema struktural tersebut, penelitian ini berkontribusi pada perdebatan sosio-legal global mengenai proporsionalitas, daya laksana putusan, dan batas kewenangan yudisial dalam perkara nafkah anak pasca perceraian.]

Keywords: Judicial proportionality; *Maqāṣid al-Sharī'ah*; Child maintenance adjudication; Legal pluralism; enforceability of court orders.

Introduction

Child maintenance after divorce remains one of the most complex and contested issues in Islamic family law and contemporary legal practice. While divorce legally dissolves the marital relationship between spouses, it does not extinguish parental responsibilities toward children, who retain independent rights to care, protection, and financial support (Ahmad et al. 2020). Both Islamic law and Indonesian positive law place children at the centre of post-divorce legal protection, recognising them as the most vulnerable parties whose welfare must be safeguarded regardless of changes in parental marital status (Alamsyah et al. 2025). Nevertheless, the realisation of these rights in practice often encounters significant obstacles, particularly when parental economic incapacity intersects with rigid judicial obligations (Nasution and Nasution 2021).

In Islamic family law, the obligation of maintenance (*nafāqah*) is firmly grounded in the Qur'an and classical juristic interpretation. Surah al-Baqarah (2:233) explicitly mandates fathers to provide food and clothing for their children, while simultaneously establishing a fundamental ethical limitation: no person shall be burdened beyond their capacity (Zamroni 2019). Contemporary Islamic legal scholarship emphasises that this verse embeds a conditional obligation—maintenance is obligatory as a matter of principle, yet its amount and scope must correspond to the actual economic ability of the father (Mera et al. 2024). This conditionality reflects a core normative value of Islamic law, which seeks to protect vulnerable parties without generating injustice through the imposition of impossible or disproportionate burdens.

This normative structure is consistently reflected in Indonesian family law. Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law designates fathers as the primary bearers of responsibility for children's living and educational needs until the age of twenty-one (Adriyeni et al. 2024). At the same time, both legal instruments explicitly recognise economic incapacity as a legally relevant factor and authorise courts to require maternal contribution when fathers are demonstrably unable to fulfil their obligations (Syahrin et al. 2025; Azizah 2017). Normatively, this framework seeks to reconcile child protection mandates with principles of justice, proportionality, and legal realism.

Despite this apparent doctrinal coherence, judicial practice frequently reveals significant tensions in the adjudication of post-divorce child maintenance. Religious courts in Indonesia often encounter cases in which

fathers lack stable employment, earn incomes far below regional minimum wage standards, or experience structural poverty that predates and contributes to marital dissolution. In such contexts, judges face a difficult dilemma: they must uphold children's rights to maintenance while simultaneously avoiding the imposition of obligations that exceed the economic capacity of the obligated parent (Amaliya 2024). This dilemma becomes particularly acute when a father's economic incapacity is not merely alleged but formally established through judicial findings, witness testimony, and evidentiary assessment, as reflected in court decisions (PA Jember 2024).

Empirical patterns in religious court litigation indicate that economic hardship remains a dominant factor in divorce cases. Studies show that instability of income, low wages, and inability to meet basic household needs are among the primary causes of marital breakdown, particularly in regions with high poverty levels (Sudarmadi et al. 2024). In such conditions, fathers who rely on irregular or informal employment frequently remain subject to legally binding child maintenance orders that presuppose economic capacities they do not possess. As a result, maintenance obligations risk functioning as symbolic affirmations of responsibility rather than as practically enforceable mechanisms of child protection (Hashim 2020; Abela 2023).

This tension is clearly illustrated by Decision Number 4501/Pdt.G/2024/PA.Jr issued by the Jember Religious Court. In this case, the court explicitly acknowledged that the father had no permanent employment, relied on irregular daily labour, and earned income ranging between Rp30,000 and Rp45,000 per day. The court further recognised that this economic incapacity constituted the primary cause of the divorce itself (Sudarmadi et al. 2024). Nevertheless, the court imposed a fixed monthly child maintenance obligation of Rp500,000, excluding education and health costs, accompanied by an automatic annual increase of ten per cent. This decision exposes a fundamental paradox in post-divorce child maintenance adjudication: economic incapacity operates simultaneously as a justification for marital dissolution and as a condition that does not meaningfully constrain post-divorce maintenance obligations (Ilyas 2022).

When examined in light of regional socio-economic indicators, this paradox becomes more pronounced. The Regional Minimum Wage (UMR) for Jember Regency in 2024 is Rp2,555,662.91. Even under optimistic assumptions that the father secures work every day, his estimated monthly income ranges from

Rp900,000 to Rp1,350,000—only 35.22% to 52.82% of the regional minimum wage. Research on household expenditure in Jember Regency further indicates that a two-person household requires approximately 94.47% of the minimum wage to meet basic needs, including food, utilities, and incidental expenses such as education (Sudarmadi et al. 2024). These figures demonstrate that the maintenance obligation imposed in this case significantly exceeds the father's documented economic capacity.

From a socio-economic perspective, the father's condition aligns with established poverty indicators. The Central Statistics Agency defines poverty as the inability to meet basic food and non-food needs as measured by expenditure (Badan Pusat Statistik 2014; Hadi et al. 2024). Internationally, the United Nations classifies individuals living on less than USD 1.90 per day as extremely poor (Ningsih and Prasodjo 2024). Based on the court's own findings and reasonable income calculations, the father in this case falls within these categories. Consequently, the maintenance order raises serious concerns regarding proportionality, enforceability, and substantive justice.

Existing scholarship on post-divorce child maintenance in Indonesia has largely focused on normative legal frameworks, statutory interpretation, and enforcement challenges. Prior studies have examined judicial discretion in determining maintenance amounts, patterns of non-compliance, and the socio-economic consequences of divorce for women and children. Other works have highlighted the gap between legal norms and social realities, particularly in contexts of poverty and informal employment (Azizah 2017; Syahrin et al. 2025). However, relatively little attention has been paid to cases in which economic incapacity is judicially established and yet maintenance obligations are imposed without meaningful recalibration. Moreover, few studies employ *Maqāṣid al-Sharī'ah* as an evaluative framework to assess whether judicial reasoning achieves a proportionate balance among competing legal objectives.

Maqāṣid al-Sharī'ah, which articulates the overarching objectives of Islamic law, offers a particularly relevant analytical lens for addressing this gap. Classical formulations identify the protection of life (*ḥifẓ al-nafs*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*) as core components of the essential interests (*ḍarūriyyāt*) that Islamic law seeks to preserve (Hamzah et al. 2024). These objectives are not intended to operate in isolation; rather, they require integrated and proportional balancing. Protecting children's welfare should not be achieved at the expense of

undermining the basic economic survival of parents, just as protecting property should not negate children's rights to care and support.

Within this framework, post-divorce child maintenance constitutes a critical site for evaluating the coherence of Islamic family law in practice. When courts prioritise child protection without adequately safeguarding economic capacity, they risk violating the integrative logic of *maqāṣid*, which demands that essential interests be preserved collectively rather than hierarchically. Conversely, when economic capacity is overemphasised at the expense of child welfare, children's rights risk becoming illusory. The challenge, therefore, lies in achieving a proportionate balance that preserves all relevant objectives without generating new forms of harm.

This study seeks to address this challenge by critically examining the legal reasoning in Decision Number 4501/Pdt.G/2024/PA.Jr through a normative juridical approach informed by *Maqāṣid al-Sharī'ah*. Rather than questioning the legitimacy of child maintenance as a legal obligation, the study focuses on how such obligations are operationalised when economic impossibility is documented by the court itself. Specifically, it asks whether the judicial reasoning in this case adequately balances the protection of children's welfare (*ḥifẓ al-nasl*), the preservation of basic human welfare (*ḥifẓ al-nafs*), and the protection of property and economic capacity (*ḥifẓ al-māl*).

By situating judicial reasoning within its socio-economic context—drawing on regional wage standards, household expenditure data, and poverty indicators—the study evaluates whether the maintenance obligation imposed was proportionate to the father's documented capacity. In addition, the study examines the consequences of failing to operationalise statutory and doctrinal mechanisms that allow for shared parental responsibility in cases of incapacity. Ultimately, this research aims to contribute to a more nuanced understanding of how Islamic family law can respond to economic vulnerability without undermining its commitment to child protection, thereby enhancing substantive justice and legal coherence in religious court adjudication.

The Normative Tension Between Child Protection Mandates and Economic Impossibility

Maintenance (*naḥāqah*) constitutes a fundamental legal and moral obligation of a father toward his wife and children in Islamic family law. This obligation is explicitly articulated in Surah al-Baqarah (2:233), which mandates fathers to

provide food and clothing for their children while simultaneously establishing a normative limitation that no person shall be burdened beyond their capacity. This dual formulation is significant, as it affirms child welfare as a protected interest while embedding proportionality as a core ethical constraint (Hamzah et al. 2024). Wahbah Zuhaily interprets this verse as indicating that the obligation of maintenance arises as a direct legal consequence of marriage and parenthood, yet remains inherently conditioned by the father's financial ability and actual economic circumstances (Zuhaily 1986). Thus, Islamic law does not conceptualise maintenance as an absolute or rigid duty but as a capacity-based obligation that must be aligned with material reality.

This normative principle is consistently reflected in Indonesian positive law. Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law assigns primary responsibility for fulfilling children's living and educational needs to fathers until the age of twenty-one (Syahrin et al. 2025). However, these legal instruments simultaneously recognise economic incapacity as a legally relevant limitation and authorise courts to require maternal contribution when fathers are demonstrably unable to fulfil their obligations (Syahrin et al. 2025; Azizah 2017). Normatively, this legal architecture seeks to reconcile child protection mandates with substantive justice by ensuring that legal obligations correspond to factual economic capacity rather than abstract expectations.

In theory, therefore, both Islamic law and Indonesian family law share a coherent normative position: child maintenance is obligatory, but its scope must be determined according to the father's ability, and responsibility may be shared when incapacity is established (Solihin 2020). This framework reflects a broader conception of justice that rejects the imposition of legal duties that are impossible to perform. Justice, within this paradigm, is not merely formal compliance with legal norms but the alignment of obligation, capacity, and social reality (Sudarmadi et al. 2024).

However, judicial practice often reveals a significant gap between this normative framework and its practical application. This tension is clearly illustrated by Decision Number 4501/Pdt.G/2024/PA.Jr issued by the Religious Court of Jember. In this case, the panel of judges ordered the father to pay child support in the amount of Rp500,000 per month, excluding education and health costs, accompanied by an automatic annual increase of ten per cent. The court justified this order on the basis of justice and fairness, while at the same time explicitly acknowledging—through witness testimony and factual findings—

that the father was economically incapable of meeting the family's daily needs and relied solely on irregular casual labour with daily earnings ranging between Rp30,000 and Rp45,000 (Badan Pusat Statistik 2014; Hadi et al. 2024).

This judicial outcome raises fundamental questions about proportionality and legal coherence. On the one hand, the court recognised the father's economic incapacity as the primary cause of the divorce. On the other hand, the same incapacity did not function as a meaningful constraint on the determination of post-divorce maintenance obligations (Suleman 2021). As a result, economic inability simultaneously operated as a justification for dissolving the marital relationship and as a condition that failed to limit the scope of post-divorce legal responsibility. This paradox exposes a structural tension in judicial reasoning that warrants critical examination.

When evaluated against objective socio-economic indicators, the proportionality of the maintenance obligation imposed in this case becomes increasingly problematic. The Regional Minimum Wage (UMR) for Jember Regency in 2024 is Rp2,555,662.91 (Sudarmadi et al. 2024). Even under optimistic assumptions that the father secures work every day, his estimated monthly income ranges from Rp900,000 to Rp1,350,000. These figures represent only 35.22% to 52.82% of the regional minimum wage. In other words, even at maximum estimated earnings, the father's income remains significantly below the minimum standard deemed necessary to meet basic living needs (Ningsih and Prasodjo 2024).

Empirical research further underscores the severity of this disparity. Sudarmadi et al. demonstrate that a household consisting of two individuals in Jember Regency requires approximately 94.47% of the minimum wage to meet basic needs, including food, electricity, water, and incidental expenses such as education and recreation (Zahra et al. 2023). Under these conditions, the imposition of an Rp500,000 monthly maintenance obligation—excluding education and health costs and compounded by a ten per cent annual increase—constitutes a substantial and potentially unsustainable burden. After fulfilling the maintenance order, the father would be left with insufficient resources to meet his own basic needs, raising serious concerns about economic survival and legal fairness (Sudarmadi et al. 2024).

From a poverty assessment perspective, the father's condition aligns with both national and international standards. The Central Statistics Agency defines poverty as the inability to meet basic food and non-food needs as measured by

expenditure (Hadi et al. 2024). Internationally, the United Nations classifies individuals living on less than USD 1.90 per day as extremely poor (Syahrin et al. 2025; Azizah 2017). Based on the court's own findings and reasonable income calculations, the father in this case falls within these poverty categories. Consequently, the maintenance obligation imposed by the religious court raises serious concerns not only regarding proportionality but also regarding the practical enforceability of the decision.

Importantly, the applicable legal framework itself provides mechanisms for proportional adjustment that were not fully operationalised in this case. Article 156 of the Compilation of Islamic Law explicitly requires that child maintenance obligations be determined according to the father's ability and authorises courts to bind maintenance amounts to economic capacity (Azizah 2017). Likewise, Law Number 1 of 1974 on Marriage permits courts to require maternal contribution when fathers are unable to fulfil their obligations. These provisions reflect an integrated approach to child welfare that recognises shared parental responsibility in situations of incapacity (Dusuki and Bouheraoua 2020).

This approach aligns with classical Islamic jurisprudence. The opinion cited by the court from *Fath al-Mu'in* by Zainuddin bin 'Abd al-'Aziz al-Malibārī explicitly acknowledges that responsibility for child maintenance may rest with both parents until the child reaches adulthood (Ibrahim et al. 2019). However, despite quoting this doctrinal authority, the court did not operationalise the principle of shared responsibility. Instead, the entire maintenance burden remained imposed on the father, notwithstanding clear statutory and doctrinal support for involving the mother when incapacity is established.

This selective application of legal norms undermines the principle of justice that the court itself sought to uphold. Justice, in this context, cannot be reduced to affirming children's rights in abstraction while disregarding the material conditions necessary for those rights to be realised (Azizah 2017; Welchman 2004). When courts impose obligations that exceed documented capacity, compliance becomes unlikely, enforcement problematic, and legal certainty weakened. More critically, such decisions risk transforming child maintenance orders into symbolic affirmations of responsibility rather than effective mechanisms for protecting children's welfare.

Accordingly, reconsidering both the amount and the structure of maintenance obligations in cases of proven economic incapacity is essential. By calibrating maintenance amounts to actual income levels and activating

mechanisms of shared parental responsibility, courts can better ensure that children's rights are not merely recognised normatively but realised substantively. Such an approach would preserve the protective function of child maintenance while avoiding the imposition of unjust and impracticable burdens on economically vulnerable parents.

In sum, the case examined illustrates that the core challenge in post-divorce child maintenance adjudication lies not in the absence of legal norms but in the difficulty of translating those norms into proportionate and enforceable judicial outcomes. Aligning maintenance obligations with economic reality is not a concession that weakens child protection; rather, it is a necessary condition for ensuring that child welfare is protected in a sustainable and just manner. By adhering more closely to capacity-based principles embedded in both Islamic law and Indonesian family law, religious courts can strengthen substantive justice, enhance legal coherence, and improve the practical realisation of children's rights in post-divorce contexts.

Evaluating Proportionality Through *Maqāṣid al-Sharī'ah*: Balancing *ḥifẓ an-nafs*, *ḥifẓ al-nasl* and *ḥifẓ al-māl*

Maqāṣid al-Sharī'ah constitutes a normative framework that articulates the ultimate objectives and wisdom underlying Islamic legal norms. Rather than functioning merely as a classificatory doctrine, *maqāṣid* serves as an evaluative lens for assessing whether the application of law achieves substantive justice. Classical and contemporary scholars converge on the view that the essential objectives of Sharia include the preservation of religion, life, reason, lineage, and property as indispensable interests (*aḍ-ḍarūriyyāt*) for human welfare (Abidin and Mokhtar 2016; Jufri et al. 2021). Ibn 'Ashūr conceptualises *maqāṣid* as the meanings and rationales embedded within legal provisions, while al-Ghazālī frames them as *maṣlahah*, namely the preservation of Sharia's purposes and the prevention of harm (*mafsadah*) to these essential interests (Hasani et al. 2024).

Importantly, *maqāṣid* does not function as a hierarchical device for privileging one objective at the expense of others. As emphasised in the classical tradition, including al-Suyūṭī's assertion that *maqāṣid* guide juristic reasoning toward truth, the framework demands proportional balancing among competing interests rather than their isolation (Roslan and Zainuri 2023). Al-Ghazālī's tripartite classification—*aḍ-ḍarūriyyāt*, *al-ḥājiyyāt*, and *at-taḥṣīniyyāt*—further clarifies that harm to essential interests (*aḍ-ḍarūriyyāt*) results in serious

disruption to individual and social life and therefore requires the highest level of legal protection (Ghazali 2014).

Within this framework, Decision Number 4501/Pdt.G/2024/PA.Jr directly implicates three essential objectives of *aḍ-ḍarūriyyāt*: *ḥifẓ al-nafs* (protection of life and basic welfare), *ḥifẓ al-nasl* (protection of offspring), and *ḥifẓ al-māl* (protection of property and economic capacity) (An-Na'im 2006). These three objectives are inherently interconnected in post-divorce child maintenance cases, as the fulfilment of children's rights depends on parental resources, while excessive economic burden on parents may undermine their own basic welfare.

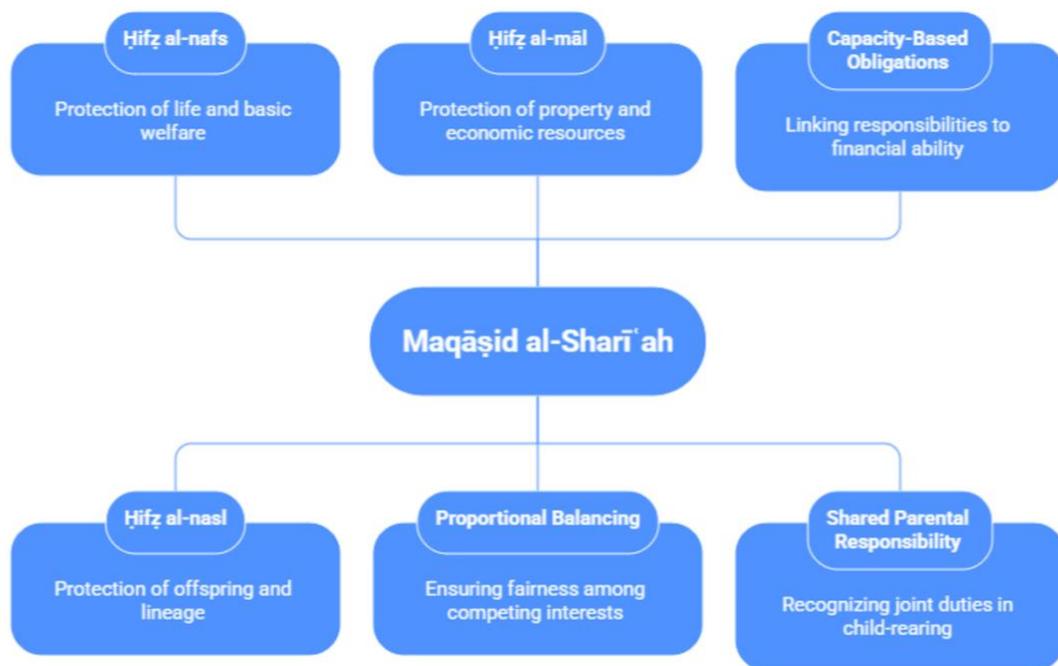
First, *ḥifẓ al-nafs* relates to the protection of human life and welfare through the fulfilment of basic needs such as food, health, and shelter (Roslan and Zainuri 2023). In the context of family law, the father's obligation to provide maintenance for his children represents a concrete manifestation of this objective, as it aims to ensure the child's physical survival and well-being (Solikhudin et al. 2024). Second, *ḥifẓ al-nasl* encompasses moral, social, and legal responsibilities to maintain the continuity of a healthy generation, both physically and spiritually. Post-divorce child maintenance plays a critical role in safeguarding children's stability and ensuring that they grow in an environment conducive to proper care and development (Mera et al. 2024). Third, *ḥifẓ al-māl* concerns the protection of property and economic resources from injustice, loss, and unsustainable depletion. In Islamic legal doctrine, maintenance obligations are explicitly conditioned upon the financial capacity of the obligated party, reflecting the principle that economic preservation is integral to justice (Zailani et al. 2022).

In the decision under review, the panel of judges sought primarily to realise *ḥifẓ al-nafs* and *ḥifẓ al-nasl* by guaranteeing the child's right to financial support. This orientation is evident in the court's reliance on classical fiqh authority, particularly the opinion cited from *Fath al-Mu'in* by Zainuddin bin 'Abd al-'Azīz al-Malibārī, which affirms that fathers are obligated to provide maintenance for their children until adulthood, while also acknowledging that responsibility may rest with both parents. The court further grounded its reasoning in Article 13, paragraph (1) of Law Number 23 of 2002 on Child Protection, which emphasises that every child must be protected from neglect and must have guaranteed means of livelihood in accordance with justice and capacity (Hadi et al. 2024).

However, despite invoking both doctrinal and statutory sources that recognise shared responsibility and capacity-based obligations, the Religious Court ultimately imposed the entire maintenance burden solely on the father.

This is particularly problematic given that the father's economic incapacity had been explicitly established through judicial findings and was identified as the primary cause of the divorce (Bano 2007). Although the court quoted scholarly authority acknowledging joint parental responsibility, it did not operationalise this principle by requiring maternal contribution, as permitted under Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law (Danil et al. 2025).

Figure Field 1: Evaluating Proportionality in Legal Decisions



From a *maqāṣid* perspective, this selective application reveals a failure of proportional balancing. While the court emphasised *ḥifẓ al-nasl* by securing the child's right to maintenance, it did so at the expense of *ḥifẓ al-māl* and, indirectly, *ḥifẓ al-nafs* for the father. The obligation imposed—Rp500,000 per month, excluding education and health costs, with an automatic annual increase of ten percent—significantly exceeds the father's documented economic capacity. Even if the father were to secure continuous employment, his income would remain insufficient to meet his own basic needs after complying with the maintenance order. Such an outcome undermines *ḥifẓ al-māl* by forcing unsustainable depletion of limited resources and threatens *ḥifẓ al-nafs* by jeopardising the father's ability to maintain a minimally decent standard of living.

The panel of judges appeared to adopt a “middle ground” approach by reducing the plaintiff’s claim from Rp1,000,000 to Rp500,000 per month. However, proportionality within *maqāṣid al-Sharī‘ah* is not determined by numerical compromise alone, but by alignment with actual capacity. A reduction that remains disconnected from factual economic conditions does not resolve imbalance; it merely moderates it symbolically. Consequently, the decision fails to fully realise *maqāṣid* justice, as the protection of one essential objective (*ḥifẓ al-nasl*) is achieved through the disproportionate sacrifice of others (*ḥifẓ al-māl* and *ḥifẓ al-nafs*) (Hallaq 2004).

In sum, the *maqāṣid*-based evaluation of Decision Number 4501/Pdt.G/2024/PA.Jr demonstrates that the central issue lies not in the recognition of child maintenance as a legal obligation but in the method by which that obligation is operationalised. A genuinely *maqāṣid*-orientated adjudication would require courts to translate doctrinal commitments into capacity-sensitive outcomes by recalibrating maintenance amounts and activating mechanisms of shared parental responsibility. Without such recalibration, judicial decisions risk functioning as symbolic affirmations of justice rather than as substantively just and enforceable legal solutions.

Normative and Practical Implications for Ensuring Continuity of Child Support

The evaluation conducted through the *Maqāṣid al-Sharī‘ah* framework in this study demonstrates that judicial decisions on post-divorce child maintenance require a more proportionate and explicitly reasoned balance among the three essential objectives (*aḍ-ḍarūriyyāt*): *ḥifẓ al-nafs* (protection of life and basic welfare), *ḥifẓ al-nasl* (protection of offspring), and *ḥifẓ al-māl* (protection of property and economic capacity). The analysis reveals that, in the case examined, judicial reasoning predominantly prioritised *ḥifẓ al-nasl* by emphasising the child’s right to financial support, while insufficiently accounting for *ḥifẓ al-nafs* and *ḥifẓ al-māl* in relation to the father’s documented economic condition (Emon 2010).

This imbalance has important normative implications. Within the *Maqāṣid* framework, the preservation of one essential objective cannot be legitimately achieved through the disproportionate sacrifice of other objectives of equal normative weight (Gundogdu 2019; Arwani et al. 2022). When a father is judicially recognised as living in poverty, the imposition of child maintenance

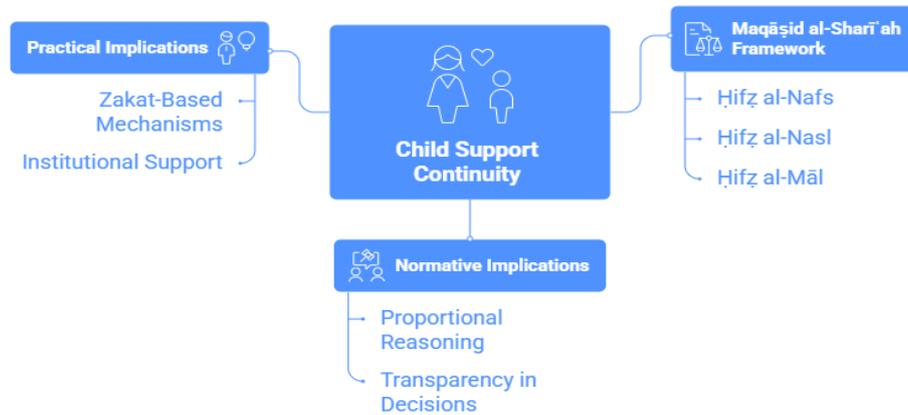
obligations that exceed his economic capacity risks undermining his *ḥifẓ al-nafs*, understood as the ability to secure a minimally decent standard of living, as well as his *ḥifẓ al-māl*, understood as the protection and sustainable management of limited economic resources. From a *maqāṣid*-based perspective, such outcomes indicate not the fulfilment of justice, but a failure of proportional reasoning (Ezzerouali et al. 2025; Al-Ayyubi and Harnidar 2023).

Accordingly, this study suggests that judicial considerations in child maintenance cases should move beyond generalised references to “principles of justice and propriety” and instead articulate, in a transparent and structured manner, how competing *maqāṣid* objectives are balanced in light of the parties’ factual circumstances (Ezzerouali et al. 2025). Explicit reasoning of this kind would not only enhance the substantive legitimacy of judicial decisions but also provide clearer normative guidance for judges adjudicating similar cases. Greater transparency in *maqāṣid*-based reasoning would contribute to consistency in religious court jurisprudence and reduce the risk of symbolic adjudication that affirms obligations without ensuring their practical realisability.

The findings of this study further indicate an urgent need for complementary mechanisms to ensure the continuity of child support in situations where fathers face genuine economic hardship (Azid et al. 2023; Almurni 2025). When legal systems impose binding obligations without providing institutional pathways to address cases of incapacity, there is a substantial risk that children’s rights will remain unfulfilled in practice, despite the existence of final and binding court decisions. This gap between normative entitlement and material realisation undermines both child protection objectives and public confidence in judicial outcomes (Vogel 2000; Al-Hamed 2024).

As a policy implication, this study identifies the potential integration of zakat-based mechanisms as a supplementary source of child support in post-divorce contexts characterised by poverty. Within Islamic jurisprudence, families experiencing economic deprivation may fall within the categories of *al-fuqarā*’ (the poor) or *al-masākīn* (the needy), both of which are explicitly recognised among the eight categories of zakat recipients (*aṣnāf al-zakāh*) mentioned in Surah al-Tawbah (9:60) (Ghozali et al. 2025). Contemporary research underscores that zakat functions not only as a ritual obligation but also as an institutional mechanism of economic redistribution aimed at reducing inequality and ensuring the fulfilment of basic needs within the community (Ezzerouali et al. 2025).

Figure 1: Normative and Practical Implications for Child Support Continuity



In the specific context of child maintenance after divorce, zakat-based mechanisms could be operationalised through targeted programmes managed by the National Zakat Agency (BAZNAS) or authorised Zakat Institutions (LAZ). Such programmes could be designed to support children affected by post-divorce economic hardship through periodic financial assistance, educational scholarships, health subsidies, and parental economic empowerment initiatives. Importantly, the integration of zakat should be conceptualised as a complementary measure rather than a substitute for parental responsibility, reinforcing the realisation of children’s rights while accommodating documented economic limitations.

Taken together, these findings suggest that a *maqāṣid*-orientated approach to child maintenance adjudication requires not only normative commitment to child protection but also institutional creativity and proportional reasoning capable of responding to economic vulnerability. By aligning judicial reasoning with transparent *maqāṣid* balancing and integrating supportive welfare mechanisms, religious courts can more effectively ensure that child maintenance obligations are both just in principle and realisable in practice.

Conclusion

This study has argued that the central difficulty in post-divorce child maintenance adjudication does not lie in doctrinal ambiguity but in the judicial management of economic impossibility. The case examined illustrates how courts may affirm normative commitments to child protection while leaving

unresolved the question of enforceability. When legal obligation is imposed without meaningful calibration to verified capacity, adjudication risks producing formal recognition rather than substantive protection.

Through a *Maqāṣid al-Sharī'ah*-based analysis, the article has demonstrated that proportionality requires more than the prioritisation of a single objective. The preservation of offspring cannot be detached from the safeguarding of basic welfare and economic capacity, since these objectives operate within an integrated normative structure. A decision that secures one essential interest by eroding another does not realise *maqāṣid* justice; it merely redistributes vulnerability.

The broader contribution of this study lies in conceptualising the gap between obligation and material possibility as a recurring structural challenge for family courts operating under economic constraint. The tension identified here is not unique to a single jurisdiction but reflects a wider question confronting legal systems within plural normative orders: how far judicial authority can extend when enforcement depends upon resources that do not exist. A proportionate response therefore demands explicit capacity-sensitive reasoning and institutional mechanisms capable of supporting child welfare beyond the courtroom. Only by aligning legal determination with socio-economic reality can adjudication move from symbolic affirmation toward durable justice.

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