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The Dialectics of Islamic Law and National Law in Protecting Children's Rights

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ABSTRACT

The protection of children's rights in Indonesia's legal system faces the challenge of harmonizing Islamic law norms with national law, especially in regulating child marriage, custody rights (hadhanah), and children's civil relationships. This study aims to analyze the construction of children's rights protection from the perspective of Islamic law and national law, identify dialectics and potential normative tensions, and formulate a legal harmonization model oriented toward substantive justice. This study uses a normative legal research method with library research through statutory, conceptual, and comparative approaches. Primary legal materials include the Qur'an, hadith, legislation, the Compilation of Islamic Law, and Constitutional Court decisions, while secondary legal materials cover fiqh literature, legal theory, and previous research. Legal materials are analyzed qualitatively using content analysis through systematic and teleological interpretation. The research results show that Islamic law and national law share the same orientation in ensuring child protection but show differences in normative construction regarding the minimum marriage age, custody priorities, and the civil status of children. This study produces a conceptual model of law harmonization through three stages: identifying relationships between norms, evaluating protection objectives, and constructing fair interpretations. The integration of the principles of maqashid sharia, the best interests of the child, and substantive justice becomes the main foundation in bringing the two legal systems together. This study concludes that legal harmonization should go beyond just formally aligning norms by putting the fulfillment of children's rights and welfare as the main focus in developing Islamic family law and national law in Indonesia.

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INTRODUCTION

Protecting children's rights is a fundamental part of building a legal system that respects human dignity, justice, and social welfare. Children, as legal subjects, have basic rights that must be guaranteed, whether in the family, community, or by the state. In Indonesia, protecting children's rights is not only based on national laws but is also closely connected to Islamic legal values that are alive and developing in society. Islamic law, through the principles of maqashid sharia, especially hifz al-nafs (protection of life) and hifz al-nasl (protection of lineage), provides a normative foundation for the importance of

ensuring children's safety, survival, and well-being. At the same time, national law places child protection as part of the state's constitutional responsibility, carried out through various legal and regulatory instruments. Although both legal frameworks recognize the importance of protecting children, differences in their normative foundations and legal interpretations may create inconsistencies in determining and implementing children's rights. These differences raise a fundamental legal question concerning how Islamic law and national law can be harmonized to ensure substantive justice and the best interests of the child.

Although Indonesia already has various legal instruments regulating child protection, the reality shows that fulfilling children's rights still faces complex issues, especially in the context of child marriage, post-divorce custody, neglect, and recognition of a child's legal status. Law Number 35 of 2014 on Child Protection emphasizes the importance of guaranteeing protection of children's rights, while Law Number 16 of 2019 sets the minimum marriage age for both men and women at 19. However, the existence of marriage dispensation mechanisms shows there are exceptions that spark debate about balancing legal considerations, religious values, and the best interests of the child. Similar issues arise in post-divorce child custody disputes, where the hadhanah provisions in the Compilation of Islamic Law must be considered alongside child protection principles in national law. These legal issues illustrate potential normative tensions between Islamic family law provisions and national child protection standards, particularly when formal legal rules do not fully reflect children's individual needs and welfare. Therefore, even though both Islamic law and national law aim to protect children, the central problem lies in how their respective norms can be interpreted and applied consistently to guarantee children's rights and substantive justice.

Studies on the relationship between Islamic law and national law in protecting children's rights have received attention in several previous researches. Asni (2019), through research on the urgency of synchronizing marriage laws in Indonesia, showed that marriage law reform needs to be accompanied by alignment with child protection regulations, human rights, and the elimination of domestic violence (Asni, 2019). Next, Nelli and colleagues (2025), in their research on disparities in the regulation of child custody rights, identified differences in emphasis between caregiving provisions in Islamic law and child protection principles in national law, especially regarding the priority of caregivers and considerations of the child's best interest (Nelli et al., 2025). Heriandi and Rahmad Efendi's (2026) research also looks into the integration of Islamic

law and the Child Protection Act, highlighting the shared goal of both legal systems in ensuring welfare and protection for children (Efendi & others, 2026). Meanwhile, Baidowi (2026) examines the harmonization of Islamic family law and national marriage law in the issue of child marriage through the integration of the concepts of baligh and rusyd (Baidowi, 2026). These studies have contributed to understanding the relationship between Islamic law and national law, particularly regarding regulatory synchronization, child custody, and child marriage. However, their discussions have generally focused on specific legal issues or normative integration, rather than systematically examining substantive justice as the central foundation for harmonizing child protection norms.

Based on the findings of previous studies, an important research gap can be identified in the limited discussion of how normative harmonization between Islamic law and national law can be developed through an integrated framework of substantive justice. Several previous studies have discussed the integration of the two legal systems, whether concerning child marriage, custody, or legal protection in general. However, the relationship between the normative authority of Islamic law, constitutional principles of child protection, and substantive justice has not been sufficiently explored within a unified analytical framework. Therefore, the novelty offered in this research lies in the development of a framework for harmonizing norms based on the integration of maqashid sharia, the principle of the best interests of the child, and substantive justice. Through this framework, harmonization is not only aimed at reducing regulatory differences but also at formulating legal interpretation principles that can position children as independent rights-holders whose interests must be prioritized in legal decision-making. In this way, this research seeks to develop a conceptual perspective that connects normative, philosophical, and child protection-oriented dimensions in the Indonesian legal system.

This research starts from the argument that Islamic law and national law basically shouldn't be seen as two legal systems that oppose each other when it comes to protecting children. They both share philosophical points that can be developed through principles like public interest, justice, respect for human dignity, and protection of vulnerable groups. However, just because they have similar goals doesn’t automatically mean their rules align, considering the differences in legal structures, sources of legitimacy, and interpretation methods. That’s why an analytical approach is needed to bring Islamic law principles together with national law provisions without ignoring the unique characteristics of each legal system. This study aims to analyze the construction of child

rights protection from the perspective of Islamic law and national law, identify points of convergence as well as potential normative tensions between the two, and formulate a harmonization framework oriented towards substantive justice. Through library research using normative juridical, conceptual, and comparative approaches, this study is expected to provide a systematic legal argument about the importance of integrating the principles of maqashid sharia and the best interests of the child in the development of child protection law in Indonesia.

The urgency of this research lies in the need to develop a more integrative legal understanding in dealing with the complexity of child rights protection amid the plurality of legal systems in Indonesia. Harmonizing Islamic law and national law is important because protecting children cannot rely solely on formal legal certainty, but must also consider justice, welfare, and the comprehensive fulfillment of children's rights. In this context, this research is expected to provide a theoretical contribution to the development of Islamic family law studies, especially in strengthening the relationship between maqashid sharia, norm harmonization, and the theory of substantive justice. At the practical level, the proposed framework may provide conceptual guidance for judges, legal scholars, and policymakers in interpreting child-related legal provisions in accordance with the best interests of the child. Thus, the significance of this study lies in its effort to bridge normative differences and promote a more consistent, just, and child-centered legal protection system in Indonesia.

METHOD

This study uses a normative legal research method (normative juridical) with a library research type and a qualitative approach. This method is used to thoroughly examine the dialectical relationship between Islamic law and national law in child protection, especially regarding the harmonization of norms and the principle of justice. This research applies three approaches, namely the statutory approach, the conceptual approach, and the comparative approach. The statutory approach is used to examine national legal provisions related to child protection, particularly the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2002 on Child Protection along with its amendments, Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, and the Compilation of Islamic Law. A conceptual approach is used to analyze the principles of maqashid sharia, maslahah, substantive justice, and the best interests of the child as the philosophical basis for protecting children's rights. Meanwhile, a comparative

approach is used to identify the similarities, differences, and common ground between Islamic law provisions and national law, especially in regulating child marriage, custody (hadhanah), and protection of children's civil rights. The comparison is conducted by examining the legal foundations, regulatory objectives, and principles of child protection within each legal framework to identify opportunities for normative harmonization.

The data sources for this research consist of primary, secondary, and tertiary legal materials collected through documentation techniques. Primary legal materials include the Qur'an, relevant hadiths, laws and regulations, the Compilation of Islamic Law, and court rulings related to child rights protection if they are relevant to the focus of analysis. Secondary legal materials include classical and contemporary fiqh books, Islamic family law books, scientific journal articles, previous research results, and literature on legal harmonization theory and substantive justice. Meanwhile, tertiary legal materials include legal dictionaries, Islamic law encyclopedias, and other supporting reference sources. The collection of legal materials is done through literature review, inventorying regulations, identifying legal concepts, and classifying materials based on the theme of child rights protection. Next, the legal materials are analyzed using qualitative content analysis techniques through stages of identifying norms, categorizing legal substance, systematic and teleological interpretation, and comparing the principles of Islamic law and national law. The analysis begins with identifying relevant legal provisions and judicial considerations, followed by classifying the materials according to the issues of child marriage, custody, and civil rights protection. Each category is then examined using the three legal approaches to determine the consistency between normative principles and their legal application.The analysis is conducted by examining the conformity, differences, and potential conflicts of norms, then constructing a harmonization argument based on the principles of maqashid sharia, the best interests of the child, and substantive justice. The validity of the analysis is maintained through triangulation of legal sources, checking the consistency of arguments, and using relevant and accountable academic literature. The analysis results are then organized in a descriptive-analytical and prescriptive way to formulate a conceptual model for harmonizing Islamic law and national law, focusing on protecting children's rights fairly and thoroughly.

RESULT AND DISCUSSION

1. Child Rights Protection Construction from the Perspective of Islamic Law and National Law: Integration of Sharia Maqashid and Human Rights Principles

The protection of children's rights in Islamic law is based on a philosophical foundation that focuses on safeguarding human welfare, as developed in the theory of maqashid shariah (Ahmad et al., 2025; Jasmin et al., 2025). Al-Syatibi in Al-Muwafaqat explains that the main purpose of Islamic law is related to the preservation of five basic necessities (al-daruriyyat al-khams), which are religion, life, intellect, lineage, and property. These five principles can be used to understand child protection as a legal responsibility that covers various aspects of life. Analysis of the Qur'an in Surah An-Nisa verse 9 shows an emphasis on intergenerational responsibility to ensure that descendants are not left in a vulnerable state, while Surah Al-Baqarah verse 233 provides a foundation regarding the responsibility to care for and meet the needs of children. Both provisions show that child protection is not just about the biological relationship between parents and children, but also about the obligation to guarantee their survival and well-being. When linked to Al-Syatibi's thinking, fulfilling children's rights can be seen as part of protecting primary needs, which should be a priority in establishing and applying the law. So, child protection in Islamic law has a normative basis that allows for the development of legal interpretations contextually according to the needs of children in today's society.

This construction is related to the human rights approach that has been developing within Indonesia's national legal system. Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia provides a constitutional guarantee for children's rights to live, grow, develop, and to be protected from violence and discrimination. This guarantee is reinforced through Law Number 23 of 2002 on Child Protection, as amended by Law Number 35 of 2014 and subsequent amendments. Conceptually, these provisions align with a rights-based approach that sees children as rights holders, not just as objects of adult protection. The Convention on the Rights of the Child, through Article 3 paragraph (1), also emphasizes that the best interests of the child must be a primary consideration in actions concerning children. John Eekelaar (1992), in his discussion on the interests and rights of children, stresses the importance of understanding a child's interests in relation to their welfare and their position as individuals with their own interests. This perspective strengthens the

argument that protecting children is not enough just by formally recognizing their rights, but also requires mechanisms that ensure these rights are fulfilled. Therefore, Islamic law and national law can come together through a protective approach that prioritizes the welfare of children as legal subjects.

The comparative analysis results show that the principles of maqashid shariah have a conceptual connection with the principles of child protection in national law, even though both are built through different legal traditions. The principle of hifz al-nafs relates to protecting children's right to life and safety, while hifz al-'aql can be linked to guaranteeing education and intellectual development. Meanwhile, hifz al-nasl is relevant to protecting identity and family relationships, and hifz al-mal relates to fulfilling economic rights as well as protecting children's property. This conceptual connection can be reinforced through Jasser Auda's (2008) thinking in Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach, which develops a systems approach to understanding the goals of Islamic law in a more open, multidimensional, and human development-oriented way. The Auda perspective allows the principles of maqashid sharia not only to be used to uphold existing legal provisions but also as a tool to evaluate how well a norm meets human needs. In the context of child protection, this approach provides a basis for assessing whether family law regulations offer adequate protection for children's safety, education, and welfare. Thus, integrating maqashid sharia and children's rights principles can be developed as an interpretive approach that connects religious values with the needs of modern legal protection.

Issues around child custody after divorce show how the relationship between the two legal systems needs deeper interpretation. Article 105 of the Compilation of Islamic Law gives custody priority to the mother for children who are not yet mumayyiz or under 12 years old, while Article 156 lays out further provisions on custody and the possibility of transferring rights if the child's safety is not guaranteed. These provisions show that Islamic family law has a custody priority structure based on family relationships, but it doesn't completely ignore the child's welfare. In the theory of the best interests of the child, as explained by the Committee on the Rights of the Child in General Comment No. 14 (2013), the best interests of the child is a substantive right, a principle of legal interpretation, and a procedural rule that must be considered in decision-making. If this theory is used to read the provisions on

hadhanah, the priority of caregiving based on age shouldn't be understood as a rule that prevents evaluation of the child's actual situation. Determining custody needs to consider safety, emotional stability, continuity of education, and the parents' ability to meet the child's needs. The results of this analysis show that the principle of the child's best interest can serve as a basis for interpreting the provisions of hadhanah without ignoring the normative structure already set in Islamic law.

The relationship between Islamic law and national law also shows a more complex issue when it comes to protecting the civil status of children. Article 100 of the Compilation of Islamic Law regulates the lineage of children born out of wedlock with their mother and her family, while Constitutional Court Decision Number 46/PUU-VIII/2010 provides a constitutional interpretation of Article 43 paragraph (1) of the Marriage Law regarding the possibility of a child's civil relationship with a man proven to have a blood connection as the biological father. These differences show that the concept of lineage in Islamic law and civil relationships in national law don't always have the same scope or legal consequences. If analyzed through John Rawls' theory of justice (1971) in A Theory of Justice, especially the idea of equal moral standing and protection for individuals within the basic structure of society, legal treatment of children needs to consider that their birth circumstances are not a choice they can be held accountable for. Rawls' thinking in this context is used as an evaluative framework, not as a direct source for regulating lineage in Islamic law. Therefore, the protection of children's civil rights should focus on preventing harm and discrimination without oversimplifying doctrinal differences between biological relationships, lineage, guardianship, and inheritance.

Based on the overall analysis, it was found that the concept of child protection in Islamic law and national law shares a common goal of protection, but there are still differences in regulating family relationships and certain legal consequences. This finding can be explained through the legal pluralism theory developed by John Griffiths (1986), which sees the existence of more than one normative order in a social environment as a reality that needs to be considered in legal analysis. In the context of Indonesia, Islamic law and national law are not always in conflict because some Islamic legal norms have been recognized through state legal instruments, including in the regulation of family law. However, the existence of various normative sources can still lead to differences in interpretation regarding rights and obligations in family

relationships. Therefore, harmonization requires an approach that can distinguish between conceptual differences, regulatory differences, and conflicts of norms that have consequences for child protection. The integration of maqashid sharia and child rights principles can be used as a foundation to develop such an approach. These findings emphasize that legal harmony should be built through strengthening protection goals and systematic interpretation, rather than by eliminating the characteristics of each legal tradition.

2. The Dialectics of Islamic Law and National Law in Protecting Children's Rights: An Analysis of Legal Pluralism and Substantive Justice

The dialectic between Islamic law and national law in protecting children's rights shows that having different normative systems doesn't always lead to conflict, but can create a complementary relationship as well as tensions in law enforcement(Masdar et al., 2026). The review of the Compilation of Islamic Law, the Marriage Law, and the Child Protection Law shows differences in determining marriage eligibility, custody priorities, and the structure of children's civil relationships. This normative phenomenon can be analyzed through John Griffiths' (1986) theory of legal pluralism in his article *What Is Legal Pluralism?*, which explains that social reality can accommodate more than one legal or normative order. In the context of Indonesia, this pluralism has unique characteristics because Islamic law not only develops as a religious norm in society, but some of its provisions have also been incorporated into the national legal system. As a result, the relationship between these two systems cannot be simply explained as a conflict between religious law and state law. Differences more often appear in the level of interpretation, the scope of regulation, and the legal consequences of the norms applied. That's why a legal pluralism approach helps explain that harmonization needs to consider the variety of normative sources as well as the position of regulations within the national legal system.

The issue of marriage age limits is one form of a dialectic that shows the relationship between the concept of maturity in Islamic jurisprudence and child protection policies in national law(Rosaliana et al., 2026). Based on Law Number 16 of 2019, the minimum age for marriage for men and women is set at 19 years old. The explanation for this law change connects raising the marriage age with protecting health, education, and the development of children (Undang-Undang No 16 Tahun

2019 Tentang Perkawinan, 2019). In Islamic jurisprudence, the discussion of marriage eligibility relates to the concepts of puberty and maturity, although the meaning and consequences of both differ depending on context and scholars' opinions. The difference between biological maturity and the age limits set by the state can be analyzed through the concept of maslahah developed by Al-Ghazali in Al-Mustasfa min 'Ilm al-Usul. In Al-Ghazali's thought, maslahah is related to preserving the objectives of sharia and is not solely based on the subjective benefits felt by a person. Based on this framework, setting a minimum marriage age can be understood as a legal policy aimed at preventing potential harm to children. However, the existence of marriage dispensations shows that this protection still requires a strict assessment mechanism so that the reasons for exceptions do not override the main purpose of age restrictions. Thus, the dialogue between Islamic jurisprudence and national law can be directed toward interpreting maturity in a way that considers the child's growth and well-being more comprehensively.

The issue of child custody after divorce shows the tension between prioritizing caregiving based on family ties and assessing what's best for the child (Nuraini, Alika; Alfiana, 2025). Article 105 of the KHI gives priority to the mother in caring for a child who is not yet discerning, while Article 156 of the KHI provides regulations regarding the party entitled to custody and the possibility of transferring custody rights under certain conditions. When related to John Rawls' (1971) theory of justice, these regulations can be evaluated based on how far legal institutions provide fair protection for individuals in vulnerable positions. Even though Rawls' theory was not specifically developed to regulate hadhanah, its principles of justice can be used to assess whether the application of legal provisions has considered the child's interests as a party directly affected by divorce. This analysis is reinforced by General Comment No. 14 (2013) from the Committee on the Rights of the Child, which places the best interests of the child as a principle of interpretation whenever a provision allows for more than one meaning. Based on both perspectives, parenting priorities shouldn't be seen as parental rights that can be applied without considering the child's situation. Assessing safety, emotional stability, and the continuity of education needs to be part of the legal reasoning in determining custody. This way, substantive justice in custody matters can be achieved through an interpretation that puts the child's needs as the main consideration.

A more complex dialectic is found in the relationship between lineage status according to Islamic law and civil relations under national law (Sitakar, Endah Lakona; Zuhrah, 2026). Article 100 of the Compilation of Islamic Law regulates the lineage relationship of children born out of wedlock with their mother and the mother's family, while Constitutional Court Decision Number 46/PUU-VIII/2010 opens up the possibility of a civil relationship with the biological father based on valid proof. This issue has been discussed by Fischer Timothy Manueke (2019) in research on the status and inheritance rights of children born out of wedlock after the Constitutional Court decision. The study emphasizes the importance of protecting children's civil rights within the framework of justice and human rights (Abid et al., 2022). Meanwhile, research published in the Judicial Journal about the implementation of Constitutional Court Decision Number 46/PUU-VIII/2010 shows that there are problems in applying the decision in the cases studied, mainly because the legal considerations are more dominant compared to the sociological and philosophical ones (Nurhadi, 2018). Both of these studies reinforce the analysis that expanding civil protection for children is not enough just by changing the interpretation of norms, but also requires clarity on legal consequences and consistency in enforcement. From the perspective of maqashid sharia, this protection can be linked to the principles of hifz al-nafs and hifz al-nasl, as long as it does not overlook the differences between biological relationships, lineage, and civil relationships. In this way, the issue of a child's status shows the need for harmonization that considers both the protection of rights and the accuracy of legal construction.

The difference in interpretation can be further explained through Lawrence M. Friedman's (1975) legal system theory in The Legal System: A Social Science Perspective, which distinguishes three main elements of a legal system: legal structure, legal substance, and legal culture. In the context of child protection, legal substance relates to provisions on marriage, parenting, and civil relationships, while legal structure covers the institutions authorized to interpret and enforce these provisions. Legal culture, meanwhile, concerns society's values, understanding, and attitudes toward children's rights and family relationships. Based on Friedman's framework, differences in regulations between Islamic law and national law are a matter of legal substance, but harmonization difficulties can also arise from institutional practices and public understanding. For example, the existence of norms

prioritizing child protection doesn't automatically ensure that the child's interests will be given enough weight in every case resolution process. However, since this study uses a literature review method, the analysis of legal structure and culture is presented as a theoretical explanation, not as empirical findings about the behavior of law enforcement officials or the public. Thus, Friedman's theory broadens the understanding that harmonizing norms is an important part of legal system reform, but not the only factor that determines the effectiveness of child protection.

Based on that discussion, the research results show that the dialectic between Islamic law and national law in child protection occurs across three main dimensions: differences in the concept of maturity, priorities in caregiving, and the construction of civil relations. These three dimensions show that differences in norms don't always lead to unsolvable conflicts, but rather require an interpretive approach that considers the purpose and legal consequences. Griffiths' theory of legal pluralism helps explain the diversity of normative orders, Friedman's legal system theory provides a framework for understanding the role of harmonization within the legal system, while Rawls' theory of justice and the principle of the best interests of the child offer a basis for evaluating the substance of the protection children receive. When related to the objectives of Shariah, those four perspectives can be brought together through the focus on preventing harm and fulfilling the welfare of children. The findings show that harmonization shouldn't just aim at standardizing legal formulations, but needs to produce interpretations that protect children without neglecting legal certainty. In this way, the dialogue between the two legal systems can serve as a basis for developing more integrative legal reasoning, especially when dealing with family issues involving the interests of children.

3. Reconstruction of the Harmonization of Islamic Law and National Law Based on Maqashid Sharia, the Best Interests of the Child, and Substantive Justice

The analysis of child protection structures and the dialectics of norms shows that harmonizing Islamic law and national law requires a conceptual framework that can connect the goals of sharia, constitutional rights guarantees, and substantive justice. Based on a review of the thoughts of Al-Shatibi, Al-Ghazali, Jasser Auda, and John Rawls, this study develops the argument that child protection should be placed as a main orientation in interpreting family law provisions. Al-Shatibi, through the theory of maqasid al-sharia, provides a basis that legal determination must consider

the preservation of basic human needs, while Al-Ghazali emphasizes the link between public interest and the goals of sharia. These ideas can be connected with Jasser Auda's (2008) approach, which views Islamic law as a system that can be analyzed through openness, multidimensionality, and goal-orientation. Meanwhile, Rawls' (1971) theory of justice provides an evaluative perspective on the importance of organizing social institutions fairly, especially when there are differences in positions and vulnerabilities among individuals. Combining these ideas leads to the argument that harmonizing laws is not enough by just matching normative formulations; it also needs to consider the impact of law implementation on fulfilling children's rights. Thus, this study proposes a goal-based harmonization framework that still takes into account the characteristics of Islamic law and the position of national law within the legal system.

The first reconstruction was carried out by integrating the maqashid of sharia with a child rights-based approach. Jasser Auda (2008) developed a systemic approach that allows Islamic law objectives to be analyzed more broadly in relation to human development and social change. This perspective provides a conceptual basis for linking hifz al-nafs with child safety protection, hifz al-'aql with education and intellectual development, and hifz al-nasl with protecting identity and family relationships. Meanwhile, hifz al-mal can be used to assess the fulfillment of economic needs and the protection of children's property rights. In national law, this dimension is related to the guarantee of children's rights as regulated in the Child Protection Act. The analysis results show that the relationship between these two frameworks can be used to assess the substance of protection more comprehensively, because each norm is not only evaluated based on its compliance with the legal source but also based on its contribution to the safety and welfare of children. However, this integration does not mean that every category of maqashid sharia is identical to the categories of children's rights in national law. Differences in philosophical foundations and regulatory scope still need to be considered so that harmonization does not lead to a simplification of both legal traditions. Thus, a goal-based approach can serve as an interpretive tool that connects Sharia principles with child protection standards proportionally.

The second reconstruction is aimed at strengthening the principle of the best interests of the child as a parameter in interpreting norms that have differences in

regulation. The Committee on the Rights of the Child, through General Comment No. 14 (2013), explains that the best interests of the child have three dimensions: as a substantive right, a principle of legal interpretation, and a procedural rule. These three dimensions show that the child's interests must be considered not only in the substance of decisions but also in the process of forming legal arguments. In child marriage, applying this principle requires assessing the impact of the marriage on the child's health, education, and development, so the dispensation mechanism is not evaluated solely based on whether formal requirements are met. In matters of hadhanah, this principle requires that childcare priorities according to KHI are considered together with the child's individual conditions, including safety and caregiving stability. Meanwhile, in civil relations, the child's best interest serves as the basis for evaluating whether a legal interpretation could result in discrimination or remove protection for the child's basic needs. Based on this analysis, the principle of the child's best interest can be used as an evaluation benchmark that connects the goals of Islamic law with protection guarantees in national law. However, its application must still be based on clear legal arguments so that assessments of the child's interest do not turn into subjective considerations that ignore legal certainty.

The third reconstruction is related to using substantive justice as a guide for resolving differences between Islamic law norms and national law. John Rawls (1971), through *A Theory of Justice*, places justice as the main virtue of social institutions and develops principles of justice to evaluate the basic structure of society. Although Rawls' theory doesn't directly address Islamic family law issues, his ideas can be used as a philosophical framework to assess whether the application of norms provides fair protection for individuals in vulnerable positions. In the context of child protection, substantive justice requires that the application of the law not only focuses on compliance with normative formulations but also considers its impact on the rights and welfare of children. This argument is related to Satjipto Rahardjo's thinking about progressive law, which sees law as a tool to serve humans and rejects a legalistic approach that ignores humanitarian goals. If both perspectives are used complementarily, legal harmonization can be directed toward developing interpretations that are more responsive to children's needs without ignoring the existing legal boundaries. For example, determining child custody needs to take into account the provisions of the KHI as well as the safety and development of the child,

while protecting civil relationships needs to consider the legal consequences on fulfilling the child's needs. In this way, substantive justice becomes an evaluative orientation that strengthens the relationship between legal certainty, public welfare, and the protection of children's rights.

Based on the integration of these three approaches, this study offers a conceptual model for harmonizing norms through three interconnected stages: identifying relationships between norms, evaluating protection objectives, and constructing fair interpretations. The identification stage is carried out by reviewing Islamic law provisions and national law provisions that regulate similar issues, then classifying the similarities, differences, and potential conflicts that arise. The evaluation stage uses maqashid sharia and the best interests of the child principle to assess the protection orientation contained in each provision. Next, the interpretation construction stage is carried out through a systematic and teleological approach, while still considering the hierarchy of legislation and the authority of the institutions implementing the law. This model is related to Jasser Auda's systems approach, which emphasizes the importance of interconnections between components in understanding the purpose of law. Besides that, the model can be explained through Friedman's legal system theory, especially in relation to the need to build a coherent legal substance as one of the elements of a legal system. In the issue of child marriage, this model can be used to connect the concept of maturity with the goal of restricting marriage age. In the issue of hadhanah, the model allows for evaluating the relationship between parenting priorities and the individual interests of the child, while in civil law matters it can be used to distinguish the construction of lineage from the protection of civil rights. So, the harmonization model offered is a conceptual synthesis of the theory and legal materials analyzed, rather than a model whose effectiveness has been proven through field research.

The main findings of this study show that the harmonization of Islamic law and national law in protecting children's rights can be developed through the integration of maqashid sharia, the principle of the best interest of the child, and substantive justice as a single legal reasoning framework. Compared to Manueke's (2019) research, which focused on the status and civil rights of children born out of wedlock following the Constitutional Court Decision Number 46/PUU-VIII/2010, this study proposes a framework that covers three normative issues at once: child marriage,

post-divorce custody, and children's civil relations. Studies on the implementation of Constitutional Court decisions in the Jurnal Yudisial also highlight the importance of considering philosophical and sociological aspects in legal reasoning, which strengthens the need for an approach that is not purely formalistic (Abid et al., 2022). The conceptual contribution of this research lies in developing a three-stage harmonization model that uses child protection objectives as a parameter to reconcile differences in norms. The model offers an approach that doesn't require standardizing all provisions of Islamic law and national law but aims to build interpretative consistency based on protection goals, legal certainty, and justice. However, the novelty claim of the model still needs to be tested through a broader comparison with previous studies, while its effectiveness requires further research. Thus, this study offers an initial contribution to the development of Islamic family law studies that connect legal pluralism, sharia objectives, and child rights protection in the context of Indonesia's legal system.

CONCLUSION

The dialectic between Islamic law and national law in protecting children's rights shows that there's an alignment in normative goals while also having differences in legal constructions that need a harmonization approach based on substantive justice. The analysis results show that both legal systems share the same orientation in ensuring children's safety, welfare, and fulfillment of rights, even though there are differences in regulations regarding the legal age of marriage, custody rights (hadhanah), and children's civil relationships. These differences don't always reflect fundamental conflicts, but rather highlight the need for more integrative and contextual legal interpretation. From the perspective of maqashid sharia, the theory of legal pluralism, and the principle of the best interests of the child, this study emphasizes that harmonization is not enough to be done merely through formal alignment of norms, but must consider the impact of law implementation on the interests and welfare of children. The main contribution of this research is the formulation of a conceptual model of harmonization through three stages: identifying the relationships between norms, evaluating protection objectives, and constructing a fair interpretation. This model offers a reasoning framework that integrates the value of benefits in Islamic law with constitutional protection principles in national law without eliminating the characteristics of each legal system.

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