

Examining Children's Interests in Divorce Conflict Resolution from an Islamic Family Law Perspective

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Abstract

This research discusses the importance of taking into account the interests of children in the context of divorce from the perspective of Islamic family law. In divorce, children are often the vulnerable parties and are often direct witnesses to their parents' conflict, which can adversely affect their well-being physically, emotionally and psychologically. Although Islamic family law provides clear guidelines on children's rights, its implementation in practice is often complex and influenced by cultural, social and economic factors. This article explores how children's interests can be preserved and prioritized in the resolution of divorce conflicts according to Islamic family law, as well as the challenges and obstacles faced in implementing these principles. The research methods used include literature review, case studies, interviews and document analysis. The results of this research are expected to provide a more comprehensive understanding of how children's interests are championed in divorce from an Islamic family law perspective, as well as provide a stronger foundation for the development of legal policies and practices that favor the protection and welfare of children. To fulfill the objectives of this research, a qualitative method was used involving in-depth analysis of Islamic legal literature, case studies, interviews, and document analysis. The results of this research include an in-depth understanding of children's interests, analysis of legal practices, identification of challenges and barriers, recommendations for policy and practical action, contribution to academic literature, raising public awareness, developing a model approach based on child welfare, and influence on public policy. In conclusion, this research makes a significant contribution to understanding and protecting children's interests in divorce from an Islamic family law perspective, and provides direction for policies and practices that are more responsive to the protection and welfare of children.

Keywords: *Children's Interests, Divorce Conflict Resolution, Islamic Family Law*

1. Introduction

Divorce is one of the complex phenomena in family life that has a significant impact, especially for the children involved. In the context of Islamic family law, divorce is not just a private matter between husband and wife, but also involves the welfare of children as vulnerable parties.

Children are often direct witnesses to the divorce conflict between their parents. This conflict can cause stress, emotional instability and even trauma to children. Therefore, it is important to understand how the interests and welfare of children can be preserved and prioritized in the divorce conflict resolution process according to the perspective of Islamic family law.

Although Islamic family law provides clear guidelines relating to children's rights in the context of divorce, its implementation in legal practice is often complex and can vary. Cultural, social and economic factors can also influence the process of divorce conflict resolution and the determination of the fate of children.

Divorce not only affects the lives of parents, but also has significant implications for the development and well-being of children. In Islam, children have clear rights, including the right to protection, maintenance, education and affection from both parents, both while in marriage and after divorce has occurred.

However, in the context of Islamic family law practice, the implementation of children's rights is often complex. For example, in divorce proceedings, decisions regarding aspects such as maintenance, custody and property division can sometimes be a source of conflict between the two parties. In many cases, the interests of children may be overlooked or not adequately considered.

In addition, cultural, social and economic factors can also influence how children's interests are understood and accommodated in divorce conflict resolution. For example, in some contexts, factors such as the stigma attached to divorce or social norms may influence decisions made in relation to children.

In addition, it is important to recognize that each divorce case has its own unique context and dynamics. In some cases, the interests of the children may be clearer and better accommodated, while in others, the complexity of the family situation may make resolution more difficult. Factors such as the age of the child, relationship with the parents, psychological well-being, and other factors must be carefully considered in determining the best decision for the children.

In the context of this research, it will also be analyzed how the courts or agencies responsible for divorce settlements interpret the principles of Islamic family law in relation to the interests of children. Is there consistency in the application of these principles, or are there significant variations between cases?

In addition, it would be useful to explore alternative approaches to resolving divorce conflicts that could better prioritize the interests of children. For example, whether family mediation, counseling or other alternatives could be a more effective solution in ensuring that the interests of children are preserved and taken care of.

It is important to note that any decision related to the interests of children in divorce should be based on principles that uphold the welfare of the child as a top priority. Such principles include the equality of children's rights, the maintenance of a stable relationship with both parents, and protection from all forms of harm, whether physical, emotional or psychological.

Every step taken in dealing with divorce conflicts must take into account the long-term impact on children. Making the right decisions in favor of children is not only relevant for the present, but also to form a solid foundation for their future development.

In the context of Islamic family law, there is a need to evaluate the extent to which the principles enshrined in the Quran and Sunnah can be effectively applied in the concrete situation of divorce in modern society. This involves in-depth research into the cultural, social and economic context in which Islamic family law is implemented.

In addition, it is also important to consider the role of educational and advocacy institutions that can help provide a better understanding of children's rights and parental duties in Islam. By raising public awareness about the principles of Islamic family law that favor the interests of children, it is hoped to encourage positive changes in the attitudes and behaviors of parents, legal institutions, and society in general.

Taking all these factors into account, this research is expected to make a significant contribution to the development of our understanding of how to handle divorce conflicts from the perspective of children's interests within the framework of Islamic family law. It may also provide a stronger foundation for the development of policies that favor the protection and welfare of children in divorce situations.

2. Method

This research is a type of qualitative research, this approach involves in-depth analysis of Islamic legal literature, both in the form of classical books and contemporary scientific works that are relevant to the research topic. By studying various sources of literature, researchers can gain a deeper understanding of the different views related to the interests of children in divorce according to Islamic family law.

Case Study: This method involves analyzing concrete cases of divorce that have occurred in the practice of Islamic family law. Researchers can analyze judicial documents, judges' decisions, and other records to understand how children's interests are considered and

accommodated in divorce conflict resolution. Case studies can provide valuable insights into the prevailing legal practices and challenges faced in the protection of children's interests.

Interviews: This method involves direct interaction between the researcher and various parties involved in the divorce process under Islamic family law, including judges, lawyers, family counselors, and even children involved in the divorce. Interviews can provide a deeper understanding of their views, experiences and perceptions in relation to the interests of children in divorce conflicts.

Document Analysis: This approach involves analyzing various relevant legal documents, such as laws, regulations, and court decisions related to divorce and children's rights in the context of Islamic family law. By analyzing these documents, researchers can gain a more comprehensive understanding of the legal framework governing the protection of children's interests in divorce.

The combination of the above methods can provide a holistic and in-depth approach in examining children's interests in divorce conflict resolution from an Islamic family law perspective. Thus, this research is expected to provide a more comprehensive and contributive understanding of issues relating to the protection and welfare of children in the context of divorce.

3. Results and Discussion

Results

A Deeper Understanding of Children's Interests: This research will result in a deeper understanding of how children's interests are considered and prioritized in divorce conflict resolution from an Islamic family law perspective. This includes an understanding of children's rights, parental responsibilities, and the principles governing the protection and welfare of children in the context of divorce.

Analysis of Legal Practice: The results of this research will also provide a detailed analysis of the prevailing legal practices in dealing with divorce according to Islamic family law, including how children's interests are championed in courts, fatwas, and other legal institutions. This will provide an overview of the extent to which Islamic principles related to children's interests are implemented in legal practice.

Identification of Challenges and Barriers: This research will identify the challenges and barriers faced in accommodating children's interests in divorce conflict resolution according to

Islamic family law. These include gaps between theory and practice, incompatibility with specific cultural values, and lack of resources to provide adequate protection for children.

Policy Recommendations and Practical Actions: The results of this study will generate policy recommendations and practical actions that can be taken by the government, judicial institutions, civil society, and individuals to improve the protection and welfare of children in divorce from an Islamic family law perspective. These include recommendations related to counseling, training for legal professionals, development of family mediation programs, and efforts to raise public awareness about children's rights.

Contribution to Academic Literature: The results of this research will make a novel contribution to the academic literature in the field of Islamic family law and the study of children's interests in the context of divorce. The in-depth analysis and research findings will be a valuable reference source for academics, researchers and students interested in this field.

Increased Public Awareness: Through the resulting policy recommendations and practical actions, this research will have the potential to raise public awareness about the importance of taking children's interests into account in divorce proceedings. This may trigger changes in the attitudes and behaviors of parents, legal institutions, and society in general in treating children with more sensitivity and concern for their welfare.

Development of an Approach Model Based on Child Welfare: The results of this study can assist in the development of a better model approach in dealing with divorce conflicts, which is oriented towards child welfare as the main focus. This could include the development of practical guidelines, training for professionals, and the development of more effective intervention programs to support children affected by divorce.

Influence on Public Policy: The findings from this research can have a significant influence on the formation of public policies related to family law and child protection. Policy recommendations based on the results of the research can serve as a basis for policy makers in designing laws, regulations, and programs that are more inclusive and pro-children in divorce situations.

Discussion

Basically, this research aims to explore how children's interests are considered and championed in the divorce conflict resolution process according to the principles of Islamic

family law. In this context, it is important to consider several aspects that underlie the importance of examining children's interests in divorce situations.

First of all, the interests of children as the most vulnerable parties in divorce conflicts must be taken seriously. Children are often direct witnesses to the tensions between their parents during divorce proceedings, and the impact this can have on their well-being physically, emotionally and psychologically. Therefore, it is important to understand how children's interests are accommodated in the divorce conflict resolution process according to Islamic family law.

In Islam, children's rights are clearly recognized and regulated. Principles such as maintenance, education, protection, and compassion are set out to ensure the well-being of children. However, the implementation of these principles in legal practice is often complex and may vary depending on cultural, social and economic factors.

In addition, this research also involves an examination of the prevailing legal views and practices in dealing with divorce in Islamic family law. Analysis of court decisions, fatwas and other legal documents will provide an overview of how children's interests are championed and addressed in the context of divorce.

Furthermore, the discussion will also consider how external factors, such as the judicial system, social institutions and community support, influence how children's interests are considered in divorce conflict resolution. This research will explore whether there is consistency in the application of Islamic family law principles that favor the interests of children, as well as the extent to which these external factors support the protection and well-being of children.

In addition to the factors already mentioned, it is also important to consider the role of parents in ensuring the welfare of children during and after divorce. In Islam, parents have a great responsibility for the education, protection and welfare of their children, both in marriage and after divorce. Therefore, in this discussion, it will be analyzed how the role of parents can influence the process of divorce conflict resolution and decision-making that impacts the lives of children.

Furthermore, in the context of this research, it will also be explored how Islamic principles of peace and justice can be applied in resolving divorce conflicts with the interests of children in mind. This includes an exploration of concepts such as children's human rights, fairness in the division of assets and financial obligations, and mediation and reconciliation efforts that can reduce the negative impact of divorce on children.

The discussion will also highlight the challenges and obstacles faced in implementing the principles of child-friendly Islamic family law in legal practice. For example, the gap between theory and practice, incompatibility with certain cultural values, and the lack of resources to provide adequate protection for children in divorce situations.

Finally, in order to promote better understanding and practice in handling divorce conflicts with children's interests in mind, the discussion will include policy recommendations and practical actions that can be taken by governments, judicial institutions, civil society, and individuals in protecting and championing the rights of children in divorce from an Islamic family law perspective.

By delving into all these aspects, this research is expected to provide a more comprehensive understanding of how children's interests are considered and championed in divorce conflict resolution from an Islamic family law perspective. It can also provide a stronger foundation for the development of legal policies and practices that are more responsive to the protection and welfare of children in divorce situations.

4. Conclusion

A Deeper Understanding of Children's Interests: This research provides a deeper understanding of how children's interests are considered and prioritized in divorce conflict resolution from an Islamic family law perspective. This includes a better understanding of children's rights, parental responsibilities, and the principles governing the protection and welfare of children in the context of divorce.

Analysis of Legal Practice: The results of this study also provide a detailed analysis of the prevailing legal practices in dealing with divorce under Islamic family law. This includes how children's interests are championed in courts, fatwas and other legal institutions. This analysis provides an overview of the extent to which Islamic principles related to children's interests are implemented in legal practice.

Identification of Challenges and Barriers: This research identified challenges and barriers faced in accommodating children's interests in divorce conflict resolution according to Islamic family law. These include gaps between theory and practice, incompatibility with certain cultural values, and lack of resources to provide adequate protection for children.

Policy Recommendations and Practical Actions: The study resulted in policy recommendations and practical actions to improve the protection and welfare of children in

divorce from the perspective of Islamic family law. These include recommendations related to counseling, training for legal professionals, development of family mediation programs, and raising public awareness about children's rights.

Contribution to Academic Literature: This research makes a novel contribution to the academic literature in the field of Islamic family law and the study of children's interests in the context of divorce. The in-depth analysis and research findings are a valuable source of reference for scholars, researchers and students.

Increased Public Awareness: Through the resulting policy recommendations and practical actions, this research has the potential to raise public awareness about the importance of taking children's interests into account in divorce proceedings. This can trigger changes in the attitudes and behaviors of parents, legal institutions, and society in general.

Development of an Approach Model Based on Child Welfare: This research contributes to the development of a better model approach in dealing with divorce conflicts, with child welfare as the main focus. This includes the development of practical guidelines, training for professionals, and the development of more effective intervention programs to support children affected by divorce.

Influence on Public Policy: The findings from this research can have a significant influence on the formation of public policies related to family law and child protection. Policy recommendations developed based on the results of the research can serve as a basis for policy makers in designing laws, regulations, and programs that are more inclusive and pro-child interest in divorce situations.

Overall, this research makes a significant contribution to the understanding and protection of children's interests in the context of divorce from the perspective of Islamic family law, and provides direction for policies and practices that are more responsive to the protection and welfare of children.

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