

Legal Implementation in the Digital Era: Protection of Child Support Rights after Divorce in Indonesia

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Abstract: This study aims to examine the implementation of child support rights protection after divorce in Indonesia within the context of the digital era through field research. A qualitative approach was used to gain an in-depth understanding of the practices, challenges, and opportunities in enforcing child support rights. Data were collected through in-depth interviews with various stakeholders, such as religious court judges, lawyers, divorced parents, and officers from child protection agencies in several religious court jurisdictions in Indonesia. The findings reveal a gap between existing legal provisions and their practical implementation. Major obstacles include limited public legal awareness, weak supervision mechanisms, and restricted access to and utilization of digital technology in the determination and monitoring of child support. Nevertheless, several digital innovations have begun to be applied, such as document digitization systems and child support tracking applications that help expedite processes and enhance transparency. This research makes significant contributions in Indonesia by offering contextual understanding and strategic recommendations for strengthening technology-based child support protection. Globally, the findings can serve as a reference for developing countries seeking to integrate family law regulations with digital advancements to improve access and the effectiveness of legal services. These results are expected to promote the development of a more inclusive, responsive, and adaptive child support protection system in the digital era.

Keywords: Child Support, Child Protection, Digital Era

1. Introduction

Marriage is an event that has an important meaning in human life, because through marriage individuals can form a family that is run in accordance with social norms and the provisions of religious law. In general, marriage is carried out with the hope of realizing a lasting household life until death separates us.¹ However, in reality, household life is not free from various problems that have the potential to cause conflict, and can even lead to divorce.² Although divorce is not the goal of marriage, in Islamic teachings divorce is seen as an act that is greatly hated by Allah. However, divorce is often the last resort taken when problems in the household cannot be resolved through deliberation or peaceful means. Not only in Islam, basically every religion does not encourage divorce.³ However, in reality what happens in society, cases of divorce in households are still found a lot. Divorce not only affects the husband and wife, but also involves children who are part of the marriage relationship. Children also feel the consequences of

¹ Mahendra Mahendra, Violis Maisuri, and Mufliha Wijayati, "Early Marriage In Indonesia Islamic Family Law Perspective," *MILRev : Metro Islamic Law Review* 1, no. 2 (December 27, 2022): 282, <https://doi.org/10.32332/milrev.v1i2.6215>.

² Abdul Haq Syawqi et al., "Law Omission in Muslim Society: Inquiring Citizen Rights in the Administration of Islamic Family Law in Madura Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (October 21, 2023): 1757, <https://doi.org/10.22373/sjhk.v7i3.20048>.

³ Durotun Nafisah et al., "Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 21, 2024): 847, <https://doi.org/10.22373/sjhk.v8i2.16825>.

their parents' divorce. In the legal context, the relationship between children and parents is not severed even though a divorce occurs.⁴ However, in practice, children often become victims of internal conflicts or parental egoism, which results in the neglect of the fulfillment of their rights. This is especially seen in the fulfillment of children's rights to support, which are often not fulfilled as when the marriage was still ongoing.⁵ To overcome this problem, a number of laws and regulations have been enacted in Indonesia that aim to provide protection and legal guarantees for children's rights to post-divorce support. There are two main regulations that specifically regulate this, namely Law Number 1 of 1974 concerning Marriage and Law Number 35 of 2014 concerning Child Protection. Although both regulate similar issues, each has a different scope and legal policy in terms of implementing and protecting children's rights after divorce. As regulated in Law Number 1 of 1974, specifically in Chapter VIII which discusses the dissolution of marriage and its legal consequences, it is stated that one of the consequences of divorce is the obligation to provide child support. In Article 41 letter b, it is stated that "the father is fully responsible for all costs of maintaining and educating the child. However, if in reality the father cannot carry out these obligations, the court may determine that the mother also bears the responsibility for these costs."

Law Number 35 of 2014 concerning Child Protection, which is an amendment to Law Number 23 of 2002, also regulates children's rights after divorce. Article 14 paragraph (1) states that "every child has the right to be raised by his/her own parents, unless there is a valid reason or legal provision stating that separating the child from the parents is the best action in the interests of the child. In such cases, the separation must be the last step after considering various relevant aspects." The fundamental difference between the policies in Law Number 1 of 1974 concerning Marriage and Law Number 35 of 2014 concerning Child Protection lies in the determination of the party responsible for fulfilling child support after a divorce. Law Number 1 of 1974, especially in Article 41 letter b, emphasizes that the responsibility for the maintenance and provision of child support lies entirely with the father. Law Number 35 of 2014 in Article 14 paragraph (1) contains provisions that require both parents—both father and mother—to remain responsible for the rights of the child, including in terms of providing post-divorce maintenance. Thus, there is a difference in approach between the two regulations, where the Child Protection Law emphasizes the principle of shared responsibility for the best interests of the child.

Fulfillment of the right to child support is often a major problem due to a lack of understanding of the obligation to provide child support, which has implications for the development and welfare of children from the marriage. One of the main factors of negligence in fulfilling the right to child support after divorce is the parents' lack of awareness of their obligations. Many parents assume that the obligation to provide child support after divorce is no longer their responsibility.⁶ This phenomenon is also influenced by differences in policies in two laws that regulate the provision of child support after divorce, namely Law Number 1 of 1974 concerning Marriage and Law Number 35 of 2014 concerning Child Protection. In the digital era, the management and supervision of child support fulfillment has undergone a significant transformation through the integration of technologies such as e-court, digital wallets, and application-based support monitoring platforms. Countries such as the UK and Australia have developed "child support digital services" systems that allow courts and social agencies to assess and collect support automatically.

The objective of this research is to compare the policies outlined in Law Number 1 of 1974 on Marriage and Law Number 35 of 2014 on Child Protection, particularly concerning the provision of child support after divorce, while taking into account the context and challenges of the digital era. In a time when legal

⁴ Sonia Ranieri et al., "Promoting Coparenting After Divorce: A Relational Perspective on Child Custody Evaluations in Italy," *Journal of Divorce & Remarriage* 57, no. 5 (July 3, 2016): 361–73, <https://doi.org/10.1080/10502556.2016.1185204>.

⁵ Ita Musarrofa, Husnul Muttaqin, and Ridha Amaliyah, "The Problems of Islamic Family Law in the Digital Era and Its Relevance to Renewal of the Compilation of Islamic Law," *Jurnal Hukum Islam* 22, no. 1 (June 3, 2024): 89–124, https://doi.org/10.28918/jhi_v22i1_4.

⁶ Nur Solikin and Moh. Wasik, "The Construction of Family Law in the Compilation of Islamic Law in Indonesia: A Review of John Rawls's Concept of Justice and Jasser Auda's Maqashid Al-Shari'a," *Ulumuna* 27, no. 1 (June 30, 2023): 315–40, <https://doi.org/10.20414/ujis.v27i1.708>.

information is more accessible yet also more prone to misinterpretation, this study aims to provide normative clarity as well as practical guidance for law enforcers, legal practitioners, policymakers, and the general public to comprehensively understand how parental responsibilities toward children should be upheld fairly and sustainably despite the occurrence of divorce. The comparison between the two laws will be analyzed in terms of legal philosophy, regulatory structure, and the effectiveness of their implementation in safeguarding the child's right to financial support as part of their basic needs and guaranteed well-being. This research also highlights how developments in information technology—such as the digitalization of judicial systems, child support tracking applications, and online family information systems—can be utilized to strengthen law enforcement in post-divorce cases, especially regarding the provision of child support. Thus, the findings of this study are expected to serve as a legal reference that is not only academically relevant but also practically applicable in responding to socio-legal dynamics in the digital age, while enhancing the protection of children's rights as part of a just and responsive legal development in line with contemporary changes.

2. Method

This research uses a qualitative approach focused on field research to explore in depth how the implementation of the protection of children's maintenance rights after divorce in the context of the digital era in Indonesia. Primary data collection was conducted through in-depth interviews with various key informants, including religious court judges, advocates handling divorce and child support cases, parents who are undergoing or have experienced divorce, as well as officers from child protection agencies involved in enforcing child support rights. These interviews aim to understand their perspectives, experiences, and challenges faced in the practical implementation of child support post-divorce. Additionally, the study observes court processes and the digital mechanisms utilized, such as document digitization systems, child support tracking applications, and online family databases that support the determination and supervision of child support. Supporting data were also obtained from relevant legal documents, court decisions, and related legal and information technology literature to serve as comparative and analytical materials. Purposive sampling was employed to select relevant and representative informants and data to produce valid and contextual findings aligned with the research objectives. A total of 15 informants participated in this study.

Data analysis was carried out systematically using content analysis techniques oriented towards deep understanding and interpretation of the collected qualitative data.⁷ This stage involved coding, categorization, and the formation of main themes that illustrate patterns of implementation, obstacles, and opportunities in protecting child support rights in the digital era. The analysis also compared the alignment between written legal norms, court practices, and the social realities on the ground to identify gaps or discrepancies and formulate evidence-based solutions supported by legal studies. This research upholds ethical principles by maintaining informant confidentiality, avoiding conflicts of interest, and ensuring data accuracy and integrity through source triangulation. This approach allows the study not only to describe factual conditions but also to comprehensively examine legal and social implications, aiming to provide strategic recommendations for stakeholders to strengthen the protection of child support rights post-divorce in Indonesia.

3. Results and Discussion

3.1. Legal Reform of Child Support Rights in Divorce in the Digital Era

In principle, a father cannot escape his responsibility to provide for his child, even though his marital relationship with the child's mother has ended through divorce. This is stated in Article 26 paragraph (1) letter a of Law Number 35 of 2014 concerning Child Protection, which states that parents have the obligation and responsibility to care for, maintain, educate, and protect children. This provision is

⁷ Roger Chafe, "Rejecting Choices: The Problematic Origins of Researcher-Defined Paradigms within Qualitative Research," *International Journal of Qualitative Methods* 22 (October 21, 2023), <https://doi.org/10.1177/16094069231165951>.

substantially in line with Article 41 of Law Number 1 of 1974 concerning Marriage. This article explains that: (1) both father and mother are obliged to care for and educate their children in the best interests of the child; (2) the father is responsible for all costs of maintaining and educating the child, and if in practice the father is unable to fulfill this obligation, the court may determine that the mother must also bear it; and (3) the court may require the ex-husband to provide living expenses and/or determine certain obligations to the ex-wife. This provision confirms that a father's obligations to his child do not end due to divorce, even in situations where the father has being at a young age or not yet economically independent, the right to custody of the child generally lies with the mother, while the responsibility for financing or providing child support remains entirely the responsibility of the father.⁸

Based on the results of the author's interview with the Bima Religious Court Judge, it was found that "in many divorce cases, fathers who have remarried often try to avoid the obligation to provide child support on the grounds of being economically incapable. In some cases, they even did not attend the follow-up trial regarding the execution of the child support decision." The judge also added that "court orders to pay child support are not always accompanied by a strong monitoring mechanism, making it difficult to ensure whether the child actually receives the support."

In addition, an interview with a supervisory officer from the Women and Children Protection Service (DP3A) revealed that many mothers who hold custody rights do not report violations of child support payments because they do not know the complaint mechanism, or because they feel the legal process is too complicated and time-consuming. This shows a gap between legal norms and social reality, where the implementation of paternal responsibility after divorce cannot always be enforced effectively. In the perspective of a family law advocate, whom the author interviewed in Yogyakarta, it was stated that "Law Number 1 of 1974 still does not reflect the spirit of equality and comprehensive child protection. The absence of provisions on administrative or criminal sanctions for parents who neglect child support makes this legal norm passive and dependent on the initiative of the aggrieved mother." He also emphasized the need for regulatory revision to include a digital-based support collection system or one that is directly connected to account data and automatic deductions from the father's income.

The role of the courts, execution institutions, and active community participation are key in ensuring that children continue to receive their rights in full after divorce. Enforcement of Article 41 of the Marriage Law requires strengthening from the system side and broader social awareness so that it does not become an empty norm that fails to provide real protection for children. Child support is part of the fundamental rights that children still have even though their parents have separated or divorced. This is emphasized in Article 41 letter (a) of Law Number 1 of 1974 concerning Marriage, which states that both fathers and mothers remain obliged to care for and educate their children, solely for the best interests of the child. If there is a dispute regarding child custody, the court has the authority to make a decision.

The obligation to care for children, both in terms of education, health, and daily needs, remains the joint responsibility of parents, regardless of their marital status. The phrase "interests of the child" in this case refers to efforts to ensure that children's rights are optimally fulfilled after the parents' divorce occurs. Settlement regarding child care can be achieved through a peaceful agreement between the two parties.⁹ However, if no agreement is reached and a dispute arises, the court can make a decision regarding who has the right to care for the child based on legal considerations and the best interests of the child. In essence, the responsibility for caring for and maintaining children remains with both parents as parties who have a direct biological relationship. In conditions where there is a dispute over custody rights, the judicial institution will play a role in providing a fair and proportional decision.¹⁰

⁸ MBF, "Personal Interview" (Manado, 2024).

⁹ Nataliia Lesko et al., "Legal Principles of Counteracting Cyberbullying Against Children," *Journal of Education Culture and Society* 12, no. 2 (September 25, 2021): 67–76, <https://doi.org/10.15503/jecs2021.2.67.76>.

¹⁰ Constance R. Ahrons and Jennifer L. Tanner, "Adult Children and Their Fathers: Relationship Changes 20 Years After Parental Divorce," *Family Relations* 52, no. 4 (October 12, 2003): 340–51, <https://doi.org/10.1111/j.1741-3729.2003.00340.x>.

In Regarding child support costs, Article 41 letters (b) and (c) of Law Number 1 of 1974 concerning Marriage explains that: (b) The father is responsible for all maintenance and education costs required by the child. However, if in reality the father is unable to fulfill these obligations, the court may determine that the mother must also bear part of the burden of these costs; (c) The court may also require the ex-husband to provide living costs and/or determine certain obligations for the ex-wife. Based on these provisions, it can be concluded that the father still bears the primary responsibility for financing child support, including education and other basic needs. However, these obligations must be adjusted to the father's real ability. If the father is proven unable to fulfill his obligations in full, the court has the authority to decide that the mother must also contribute to bearing these costs. In addition, a father is also obliged to bear a number of costs related to his ex-wife, such as iddah maintenance, mut'ah maintenance, and kishwah, as part of his post-divorce responsibilities.¹¹

If the ex-husband does not have the full ability to meet the child's living expenses, then there needs to be a division of financial responsibility between the two parents. This division should ideally cover all the child's basic needs in order to ensure that the child's rights are fully fulfilled, so that the child still has the right to live, grow, develop, and participate fairly in accordance with human dignity and honor. In terms of financing the child's education, decisions should be made through a mutual agreement between the father and mother. Although based on national legal provisions and religious norms, this obligation is the father's responsibility, cooperation between the two parents in raising the child is still needed for the best interests of the child's development.¹² For parents who do not have custody of a child who is still a minor (minderjarig), it is recommended to maintain communication and pay attention to the child's growth and development.¹³ Conversely, the parent who holds custody should not prevent the child from interacting with the other parent. In line with the provisions of Article 41 letter (c) of Law Number 1 of 1974 concerning Marriage, the court can require the ex-husband to provide living expenses and/or determine certain obligations for the ex-wife.¹⁴ In this regard, it is important for both parents to avoid open conflict in front of children after divorce, because it can negatively affect the child's psychological condition. This constructive resolution effort is intended so that children continue to obtain their rights optimally and can develop in an environment that supports their physical, mental, and emotional well-being, even though they are in a divorced family situation.

3.2. Fulfillment of Children's Basic Rights in Separated Families

Child Protection is a pivotal and comprehensive element within Indonesia's legal framework, serving as a fundamental instrument that transcends mere legal codification to embody the state's deep-seated commitment to safeguarding the rights of every child from the earliest stages of life. Article 3 of the Law explicitly articulates that the primary aim of child protection is to guarantee the fulfillment of children's rights,¹⁵ enabling them not only to survive but also to thrive by living, growing, and developing optimally in all dimensions—physically, psychologically,¹⁶ socially, and morally.¹⁷ This holistic perspective reflects an understanding that child development is multifaceted and that ensuring these rights is critical for nurturing a generation capable of actively participating in society while upholding human dignity. The strategic nature of this law lies in its foresight: children are the nation's future, and their well-being and

¹¹ Edward H. Futterman, "Child Psychiatry Perspectives: After the 'Civilized' Divorce," *Journal of the American Academy of Child Psychiatry* 19, no. 3 (June 1980): 525–30, [https://doi.org/10.1016/S0002-7138\(09\)61068-2](https://doi.org/10.1016/S0002-7138(09)61068-2).

¹² MA, "Personal Interview" (Yogyakarta, 2024).

¹³ YB, "Personal Interview" (Medan, 2024).

¹⁴ KA, "Personal Interview" (Jakarta, 2024).

¹⁵ Hafit Ibnu Malik and Agus Purnomo, "Implementasi UU Nomor 1 Tahun 1974 Dan Kompilasi Hukum Islam Dalam Pemenuhan Hak-Hak Anak Pasca Perceraian Di Ponorogo," *Journal of Economics, Law, and Humanities* 1, no. 1 (April 28, 2022): 44–60, <https://doi.org/10.21154/jelhum.v1i1.537>.

¹⁶ Jianghao Xia, "The Best Interests of the Child Principle in Residence Disputes after Parental Divorce in China," *International Journal of Law, Policy and the Family* 34, no. 2 (August 1, 2020): 105–25, <https://doi.org/10.1093/lawfam/ebaa001>.

¹⁷ Carla van Wamelen, "Children's Ideas About 'Divorce and After,'" *Journal of Divorce & Remarriage* 14, no. 2 (October 19, 1990): 125–47, https://doi.org/10.1300/J087v14n02_07.

protection are essential to national progress. The regulation also embeds strong preventative measures against all forms of violence and discrimination, which are significant barriers that can hinder a child's growth and development. Such provisions align with global standards on child rights and protection, emphasizing not only survival but also the promotion of well-being in a safe, nurturing environment. The law's comprehensive scope is intended to cultivate a quality generation endowed with noble morals and equipped to live prosperous lives, thus reflecting and reinforcing the nation's broader developmental and ethical aspirations.¹⁸

Moreover, the fulfillment of child support rights under this legal framework is inseparable from the broader spectrum of children's rights enshrined in the Child Protection Law.¹⁹ Fundamental rights such as the right to live with dignity,²⁰ to receive adequate care, proper treatment, and maintenance form the bedrock for ensuring children's optimal growth and development. Beyond these basics, the law also guarantees children's rights to property ownership and education, recognizing these as essential to a child's holistic development and future independence.²¹ The practical realization of these rights demands consistent and sustainable efforts from both parents and the state, especially in challenging family circumstances such as divorce or separation, where children are particularly vulnerable to neglect or deprivation of support. This regulation mandates that both parents bear the responsibility for fulfilling child support proportionally, reinforcing the principle that parental obligations remain intact regardless of marital status changes.²² The law thus provides a robust legal foundation that not only articulates children's rights but also establishes systematic protection mechanisms designed to ensure that these rights translate into real, ongoing support.²³ This multi-layered legal protection serves as a critical safeguard for children's physical, emotional, and social development, guaranteeing that children receive the comprehensive care necessary for their well-being and enabling them to fulfill their potential in line with the objectives of Indonesia's child protection policies.

Article 14 of Law Number 35 of 2014 underscores the fundamental principle that every child has an inherent right to be raised by their own biological parents, reflecting a foundational commitment within Indonesian law to prioritize the child's best interests and family integrity.²⁴ This provision clearly states that the child's separation from parents should only occur under exceptional circumstances, supported by valid legal grounds and after all other alternatives have been thoroughly considered, thereby positioning separation as a last-resort measure.²⁵ This legal framework recognizes the critical importance of maintaining the family unit for the optimal physical, psychological, and social development of the child. This article aligns with the universal child rights principles, ensuring that the family remains the primary environment for a child's development unless overriding reasons dictate otherwise.²⁶ The law's emphasis on continuous personal contact between the child and both parents aims to preserve emotional bonds and ensure the child's psychological well-being, recognizing that ongoing parental involvement plays a

¹⁸ A. Malthuf Siroj, Ismail Marzuki, and Elkhairati Elkhairati, "Transformation and Future Challenges of Islamic Law in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 May (May 16, 2023): 95, <https://doi.org/10.29240/jhi.v8i1.6618>.

¹⁹ Soraya Devy and Doni Muliadi, "Pertimbangan Hakim Dalam Menetapkan Nafkah Anak Pasca Perceraian (Studi Putusan Hakim Nomor 0233/Pdt.G/2017/MS-MBO)," *El-USRAH: Jurnal Hukum Keluarga* 2, no. 1 (August 8, 2020): 123, <https://doi.org/10.22373/ujhk.v2i1.7646>.

²⁰ Justin MacLochlainn et al., "Children's Social Work Safe Staffing Supply and Workforce Demands Analysis: A Case Study from Northern Ireland," *The British Journal of Social Work* 55, no. 3 (April 1, 2025): 993–1014, <https://doi.org/10.1093/bjsw/bcae163>.

²¹ Jan Faust et al., "Parent–Child Gender Matching and Child Psychological Adjustment after Divorce," *Journal of Child Custody* 14, no. 1 (January 2, 2017): 1–10, <https://doi.org/10.1080/15379418.2017.1312658>.

²² Matthijs Kalmijn, "Father-Child Relations after Divorce in Four European Countries: Patterns and Determinants," *Comparative Population Studies* 40, no. 3 (September 30, 2015), <https://doi.org/10.12765/CPoS-2015-10>.

²³ Chafe, "Rejecting Choices: The Problematic Origins of Researcher-Defined Paradigms within Qualitative Research."

²⁴ Nafisah et al., "Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia."

²⁵ RA, "Personal Interview" (Bima, 2024).

²⁶ Mariska Klein Velderman et al., "Preventive Group Training Improves Children's Outcomes after Divorce: A Dutch Quasi-Experimental Study," *Journal of Child and Family Studies* 31, no. 4 (April 13, 2022): 1069–78, <https://doi.org/10.1007/s10826-021-02220-x>.

crucial role in shaping the child's identity and social adjustment.²⁷ This view by arguing that the child's right to maintain relationships with both parents after separation is essential to mitigate the negative effects of divorce on children's mental health and social integration. Furthermore, the law mandates the provision of care,²⁸ maintenance, education, and protection aligned with the child's abilities, talents, and interests, emphasizing a comprehensive approach to child development that transcends mere survival needs.²⁹ The legal stipulations reflect the modern paradigm of child protection, where the child's holistic well-being — including emotional, intellectual,³⁰ and social growth — is prioritized in legal frameworks. This approach aligns with international standards on child rights, such as those articulated by the UN Convention on the Rights of the Child, highlighting Indonesia's commitment to global child protection norms.

The law explicitly affirms that the financial responsibility for child support remains a shared duty of both parents, irrespective of marital status changes, including divorce or the formation of new family units by either parent. This legal obligation is designed to prevent any neglect or abdication of parental responsibilities that could adversely impact the child's economic security and overall well-being. The proportional sharing of child support obligations embodies the principle of fairness and responsibility, ensuring that both parents remain equally accountable for the child's financial needs regardless of personal circumstances. The proportional sharing of child support obligations serves to balance parental duties fairly, avoiding undue burden on any single parent, and reflects the principle that child support is a right rather than a favor. The law's recognition of new family structures while maintaining child support responsibilities demonstrates legal adaptability to contemporary family dynamics, ensuring that children's rights are preserved despite changing social contexts. The law thus ensures that children continue to benefit from parental resources necessary for their maintenance, education, health, and general welfare. This legal framework is vital in preventing economic neglect and promoting children's welfare post-divorce. The statutory insistence on upholding these responsibilities also reinforces the social and emotional ties between children and their parents, which are crucial for fostering a sense of security and belonging. Consequently, this legal framework not only protects children's economic rights but also supports their emotional and social needs, providing a multidimensional approach to child protection in the post-divorce context. This comprehensive legal stance ultimately aims to uphold the child's best interests, safeguarding their rights to care, support, and nurturing from both parents, thereby fostering their well-rounded development and well-being within the family law system.

3.3. Legal Paradigm Shift in Post-Divorce Child Maintenance in Indonesia

A comparison between Law Number 1 of 1974 concerning Marriage and Law Number 35 of 2014 concerning Child Protection shows two different legal paradigms in regulating children's rights to support after divorce.³¹ The Marriage Law reflects a traditional role-based legal construction, where the responsibility for support is predominantly placed on the father (Article 41 letter b). This approach is based on the assumption that the father is the main breadwinner in the family structure. In contrast, the Child Protection Law emphasizes the principles of justice and equality in fulfilling children's rights, by stating

²⁷ Nasaruddin Mera et al., "Child Custody Rights for Mothers of Different Religions: Maqāṣid Al-Sharī'ah Perspective on Islamic Family Law in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 24, 2024): 1645, <https://doi.org/10.22373/sjhk.v8i3.23809>.

²⁸ Judith S. Wallerstein, "Children After Divorce," *Perspectives in Psychiatric Care* 24, no. 3–4 (January 16, 2009): 107–13, <https://doi.org/10.1111/j.1744-6163.1987.tb00291.x>.

²⁹ Marco Albertini and Marco Tosi, "Grandparenting after Parental Divorce: The Association between Non-Resident Parent–Child Meetings and Grandparenting in Italy," *European Journal of Ageing* 15, no. 3 (September 4, 2018): 277–86, <https://doi.org/10.1007/s10433-018-0478-z>.

³⁰ Hsuan-Lei Shao, Robert B Leflar, and Sieh-Chuen Huang, "Factors Determining Child Custody in Taiwan after Patriarchy's Decline: Decision Tree Analysis on Family Court Decisions," *Asian Journal of Comparative Law* 18, no. 2 (August 19, 2023): 272–88, <https://doi.org/10.1017/asjcl.2022.28>.

³¹ Sharlene A. Wolchik et al., "Effects of an Asynchronous, Fully Web-based Parenting-after-divorce Program to Reduce Interparental Conflict, Increase Quality of Parenting and Reduce Children's Post-divorce Behavior Problems," *Family Court Review* 60, no. 3 (July 22, 2022): 474–91, <https://doi.org/10.1111/fcre.12620>.

that both parents are jointly responsible for the child's living expenses (Article 14 paragraph 1 and Article 26 paragraph 1) even though the marriage relationship has ended.³² The two laws and regulations that are the object of the study, namely Law Number 1 of 1974 concerning Marriage and Law Number 35 of 2014 concerning Child Protection, have different legal bases and approaches in dealing with the issue of divorce, especially related to the obligation to provide child support after a divorce between parents. Law Number 1 of 1974 was drafted and ratified during a period that was still dominated by conservative and patriarchal views, where the role of the father in the family was positioned as the main breadwinner. Therefore, the provisions in this marriage law place more emphasis on the father's obligation to provide support to the child, even after a divorce.³³ The main objective of this regulation is to ensure the survival of the child after the divorce of his parents, and to ensure that the father, as the party who generally has better economic capabilities, continues to bear responsibility for the child's needs even though the marriage relationship has ended.³⁴

This is in stark contrast to Law Number 35 of 2014 which adopts a more modern approach and emphasizes comprehensive child protection. The law recognizes that both parents, even though they have divorced and are no longer bound by a marriage relationship, still have full responsibility to support the welfare of the child. Therefore, in the regulation regarding the right to child support after divorce, this law applies the principle of joint responsibility. The main objective of this regulation is to ensure that children's rights are not neglected after parental divorce, and to ensure that every legal decision taken always prioritizes the best interests of the child. Article 41 paragraph (b) of Law Number 1 of 1974 stipulates that after a divorce, the father bears full responsibility for fulfilling the child's livelihood. This provision places an absolute obligation on the father, who is considered to be the party who is more economically capable, and reflects the traditional view that places the father as the main breadwinner in the family. However, if the father is unable to fulfill this obligation, the court may decide that the mother must also contribute to fulfilling the child's livelihood. However, the main responsibility remains with the father, so the mother tends to have a more passive role in this aspect.

The Marriage Law does not explicitly affirm the collective responsibility model, so that in practice there is often a unilateral burden on the father, or conversely, neglect of responsibility due to regulatory ambiguity. This is reinforced by a study by Sakamoto et al. (2022), which shows that in a legal system that does not support collective responsibility between parents, the rate of negligence in child support increases significantly, especially in post-divorce families experiencing high conflict. A significant difference is seen in Law Number 35 of 2014,³⁵ especially in Article 14 paragraph (1), which stipulates that the obligation to provide child support after divorce is the joint responsibility of both parents. This law does not differentiate between fathers and mothers in terms of providing child support, so that both bear equal obligations even though the marriage relationship has ended. The policy is considered fairer because it takes into account the contribution of both parents in meeting the needs of the child, both from financial and non-financial aspects. Both of these laws provide important legal protection for children in terms of providing child support rights after divorce. Law Number 1 of 1974 provides for the obligation of support to the more capable party, namely the father. However, its implementation may be unbalanced because it ignores the role of the mother in fulfilling the needs of children after divorce. On the other hand, Law Number 35 of 2014 introduces a fairer approach by emphasizing that both parents are jointly responsible. This approach

³² Iksan, Adnan, and Khairunnisa, "Perlindungan Anak Pasca Perceraian Orang Tua," *Fundamental: Jurnal Ilmiah Hukum* 9, no. 1 (June 8, 2020): 1–16, <https://doi.org/10.34304/fundamental.v1i1.9>.

³³ Judy Cashmore and Patrick Parkinson, "Children's and Parents' Perceptions on Children's Participation in Decision Making After Parental Separation and Divorce," *Family Court Review* 46, no. 1 (January 19, 2008): 91–104, <https://doi.org/10.1111/j.1744-1617.2007.00185.x>.

³⁴ Rianne van Dijk et al., "Longitudinal Associations between Sibling Relationship Quality and Child Adjustment after Divorce," *Journal of Marriage and Family* 84, no. 2 (April 10, 2022): 393–414, <https://doi.org/10.1111/jomf.12808>.

³⁵ Hotnidah Nasution, Windy Triana, and Ahmad Rifqi Muchtar, "Ensuring Children's Rights after Divorce in Indonesia: Religious Court Decisions on Nafkah Madiyah," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (June 1, 2024): 41–57, <https://doi.org/10.14421/ahwal.2024.17103>.

can reduce the potential for injustice arising from the unequal division of roles between fathers and mothers, and provide maximum protection for children in obtaining their rights.

The experience of countries such as Australia and Canada shows more positive results when their legal systems adopt the principle of shared responsibility with the help of digital systems.³⁶ In Australia, the Child Support Scheme system regulates the division of responsibilities based on parenting time and the financial capacity of both parents,³⁷ and is accompanied by an automatic deduction mechanism from income.³⁸ This system is considered fairer and more effective,³⁹ as shown in a study by Li & Archer (2021) which concluded that the digitalization of the child support system was able to increase legal compliance by up to 30% within two years. An unexpected finding from this analysis is the fact that although the Child Protection Law has become more modern in its approach, its implementation in Indonesia has not been supported by adequate family law technology infrastructure. In fact, digital implementation has great potential in supporting the supervision and enforcement of child support rights. Several countries have even begun to develop blockchain and artificial intelligence (AI)-based platforms to record, collect, and report post-divorce parental obligations in a transparent and efficient manner. Zhao & Lin (2023) state that this kind of digital approach not only increases transparency, but also reduces the potential for data manipulation and avoidance of legal obligations.

The Child Protection Law reflects the spirit of this responsive law,⁴⁰ but is still hampered by practices that tend to be formal normative without the support of strong implementation mechanisms. In the context of Indonesian legal culture that is still full of patriarchal values, the collective approach to fulfilling children's livelihood as adopted by the Child Protection Law does face the challenge of social resistance. However, changing legal norms that support the principle of the best interests of children is an essential step to shift the paradigm of child protection from one based on charity to one based on rights (rights-based approach). Although this study provides an important contribution in revealing the potential disharmony between regulations, its limitation is that it does not include empirical field studies, especially interviews with judges or legal practitioners. Therefore, further research with a sociological approach or socio-legal research is highly recommended in order to strengthen the validity of the findings holistically.

4. Conclusion

This conclusion highlights the fundamental differences between Law Number 1 of 1974 concerning Marriage and Law Number 35 of 2014 concerning Child Protection in regulating the right to child support after divorce. The Marriage Law maintains a traditional perspective that places the primary financial responsibility for children on the father, often rooted in socio-cultural and religious norms that reinforce patriarchal values. In contrast, the Child Protection Law reflects a more contemporary and egalitarian view by affirming the shared obligations of both parents regardless of gender, emphasizing that children's rights to support, care, and welfare are not contingent on marital status or custody arrangements. This normative inconsistency creates legal ambiguity that can complicate court decisions and obstruct the realization of justice in divorce-related child support cases. Particularly in contentious divorces, the absence of legal harmony leads to varied interpretations by judges and inconsistent enforcement, ultimately impacting the child's welfare. The implications of this legal gap underscore the pressing need

³⁶ Martina Hrgović, "Odgovornost Percepcija Roditeljske Manipulacije u Odnosu s Djecom i Odgojiteljima Tijekom i Nakon Razvoda," *Magistra Iadertina* 16, no. 2 (March 14, 2022): 55–71, <https://doi.org/10.15291/magistra.3645>.

³⁷ Ana Martínez-Pampliega et al., "Protecting Children After a Divorce: Efficacy of Egokitzen—An Intervention Program for Parents on Children's Adjustment," *Journal of Child and Family Studies* 24, no. 12 (December 26, 2015): 3782–92, <https://doi.org/10.1007/s10826-015-0186-7>.

³⁸ Michael A. Saini, Leslie M. Drozd, and Nancy W. Olesen, "Adaptive and Maladaptive Gatekeeping Behaviors and Attitudes: Implications for Child Outcomes After Separation and Divorce," *Family Court Review* 55, no. 2 (April 12, 2017): 260–72, <https://doi.org/10.1111/fcre.12276>.

³⁹ Marie Wadsby and Carl Göran Svedin, "Children's Behaviour and Mental Health 2 Years after Parental Divorce A Follow-up Study," *Nordic Journal of Psychiatry* 47, no. 5 (January 12, 1993): 325–34, <https://doi.org/10.3109/08039489309104097>.

⁴⁰ A. Shahid, "Post-Divorce Maintenance for Muslim Women in Pakistan and Bangladesh: A Comparative Perspective," *International Journal of Law, Policy and the Family* 27, no. 2 (August 1, 2013): 197–215, <https://doi.org/10.1093/lawfam/ebt004>.

for harmonization between the two statutes to ensure a unified, coherent, and rights-based legal framework that places the best interests of the child at the center. By aligning regulatory provisions, the legal system can enhance both preventive and remedial legal measures, offering more robust protection for children caught in the socio-legal aftermath of divorce.

Moreover, this study stresses the critical role of integrating digital innovations into the enforcement of child support obligations, especially in a time when digital transformation is reshaping governance and legal systems globally. Drawing lessons from countries with advanced e-justice infrastructures, such as child support tracking platforms, automated payment monitoring systems, and digital access to court services, Indonesia can adopt a more efficient, transparent, and accountable approach to child support implementation. This digital integration must be accompanied by institutional reforms that strengthen coordination between courts, social service agencies, and financial institutions to monitor and enforce compliance effectively. On a broader socio-cultural level, the findings expose the persistence of patriarchal norms that disproportionately assign caregiving and financial roles, often disadvantaging women and placing children at risk. Transitioning to a paradigm of shared parental responsibility requires not only legal reform but also intensive legal literacy campaigns, community-based advocacy, and increased state intervention to safeguard children's rights. In this regard, the responsibility for child welfare must not rest solely on individual compliance but must be institutionalized as part of a national commitment to justice, equality, and child-centered governance. Ultimately, this research affirms that the protection of children's rights to support post-divorce is a litmus test for how responsive, inclusive, and humane the legal system is in the digital age. Law should not remain confined to written codes—it must be dynamic, operational, and grounded in the lived realities of the people it seeks to serve, especially the most vulnerable.

Declarations

Author Contribution Statement

Nurul Fitri Kayati served as the main and corresponding author, leading the research design, data analysis, and manuscript writing. Syarif Hidayatullah contributed to data collection and analysis. Jainuddin assisted in the literature review and preparation of research materials.

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Interview

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