



MIZAN: JOURNAL OF ISLAMIC LAW

P-ISSN: 2598-974X. E-ISSN: 2598-6252

Vol. 10 No. 2 (2026), pp. 244-251

ejournal.uika-bogor.ac.id/index.php/MIZAN/index

Resolution Of Child Maintenance Neglect After Divorce (A Study At The Department Of Women's Empowerment, Child Protection, And Family Planning Of North Sumatra Province)¹

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10.32832/mizan.v10i2.24972

Abstract:

This study examines how the North Sumatra Provincial DP3AKB resolves cases of child support neglect following parental divorce, and how its mediation-based approach relates to the Islamic legal characterization of paternal maintenance as *wajib 'ain*. Using empirical legal research with a qualitative approach, primary data were obtained through interviews with DP3AKB staff and leadership and observations of mediation sessions, with supporting documentary data from case records for 2024–2025. Private individuals' identities in the case material are pseudonymized. Findings show that DP3AKB follows a three-stage, non-litigation procedure — complaint intake and assessment, mediation and counseling, and referral — that addresses three common neglect patterns (total non-payment, irregular payment, severed communication). Applying Soekanto's legal-effectiveness framework, the mechanism is strong in legal substance and culture but weak in facilities and enforcement, as mediation outcomes lack executive force. Read against *wajib 'ain*, this creates a normative tension: a right owed unconditionally is resolved through a consent-dependent process. The study recommends a Memorandum of Understanding with the Religious Court, a post-mediation monitoring system, and beneficiary-inclusive follow-up research.

Keywords: Child Maintenance Neglect; Divorce; DP3AKB; Wajib 'Ain; Legal Effectiveness

A. INTRODUCTION

Divorce not only terminates the legal relationship between husband and wife, but also has legal consequences for the fulfillment of children's rights, particularly the right to maintenance. Normatively, the obligation of parents to nurture, educate, and provide maintenance for children remains binding even after the marriage has ended, as stipulated in Article 45 paragraph 2 of Law Number 1 of 1974 concerning Marriage,

¹ Manuscript received date: August 1, 2026; revised: August 20, 2026; approved for publication: August 25, 2026.

Article 149 letters a and b of the Compilation of Islamic Law, and further reinforced by Articles 9 and 14 of Law Number 35 of 2014 (Setiawan, 2022, p. 45).

However, in practice, this obligation is still frequently neglected by biological fathers after divorce for various reasons, such as having no fixed income, remarrying, or avoiding responsibility (Marzuki, 2018, p. 78), with impacts on the economic and psychological vulnerability of children, potentially leading to school dropouts and a decline in quality of life (Setiawan, 2018, p. 410). A similar condition occurs in North Sumatra Province, specifically in the Medan area and its surroundings, where preliminary data from the Department of Women's Empowerment, Child Protection, and Family Planning of North Sumatra Province (DP3AKB Provsu) recorded 68 complaints related to the neglect of child maintenance after divorce during the 2024–2025 period (DP3AKB Provsu, 2025). The majority of victims are children aged 0–17 years, while the perpetrators are predominantly divorced parents with diverse economic backgrounds and levels of education.

Some cases show more complex forms of neglect, including the absence of communication with the child, complete failure to provide maintenance, and abandonment without certainty of care. As the regional apparatus tasked with women's and children's protection, DP3AKB Provsu has undertaken various efforts through mediation, counseling, legal assistance, and referral to the Religious Court, but the realization of child maintenance is still not optimal because DP3AKB does not have executive authority to compel fathers to carry out their obligations (Aminah, 2019, p. 75). This indicates a gap between the legal guarantees provided by laws and regulations and the implementation of child rights protection in the field. Previous studies have generally focused on normative aspects and Religious Court decisions regarding child maintenance after divorce (Nurjanah, 2019), while empirical studies on the role of DP3AKB as a child-protection institution handling maintenance neglect specifically remain limited. This gap constitutes an important basis for this research, which is expected to contribute both theoretically — enriching the study of family law and child protection regarding the role of regional institutions — and practically, as material for policy evaluation for DP3AKB, the Regional Government, and related stakeholders.

In Islamic family law, the obligation of child maintenance rests with the father and does not cease due to divorce (Shihab, 2002, p. 245), as affirmed in the Qur'an, Surah Al-Baqarah verse 233 and Surah At-Talaq verse 7, which command the father to provide maintenance according to his ability (Ministry of Religious Affairs, 2004), and regulated in Article 77 paragraph 4 and Article 105 of the Compilation of Islamic Law. In fiqh doctrine, child maintenance is *wajib 'ain* and covers basic needs, education, and health (Al-Zuhaili, 2008, p. 7234); the principle of *al-aṣl fī al-naḥaḥ 'alā al-ab* places the father as the family's primary economic provider (Al-Jaziri, 2003, p. 21). Neglect of maintenance thus violates not only positive legal norms but also the objectives of Islamic law, namely *hiḍḍ al-nasl* and *hiḍḍ al-naḥs* (Auda, 2008, p. 33). This characterization of maintenance as an unconditional, individually owed right (*wajib 'ain*) rather than a negotiable claim is significant for how this study subsequently evaluates DP3AKB's own resolution mechanism, which — as Section C.4 discusses — operates primarily through consent-based mediation rather than direct enforcement of that right.

This study therefore examines how DP3AKB Provsu handles cases of child maintenance neglect after divorce, what efforts it has made to ensure fulfillment of children's right to maintenance, and what opportunities and obstacles it faces — evaluated, throughout, against both the positive-law effectiveness of the mechanism and its consistency with the *wajib 'ain* characterization of the underlying right.

B. METHOD

This study uses empirical legal research with a qualitative approach, chosen to directly observe how rules regarding child maintenance after divorce are implemented in the field and how DP3AKB Provsu's resolution mechanism operates in practice (Moleong, 2017, p. 6). The research was conducted at the DP3AKB Provsu office in Medan, North Sumatra, between June and August 2026, comprising informant interviews (8 June 2026) and two rounds of direct observation of case documentation and an actual mediation session (8–23 June and 18 August 2026).

Primary data were obtained through in-depth interviews with the Head of DP3AKB Provsu and a Young Expert Policy Analyst from the Child Protection Division (Marzuki, 2016, p. 54). Secondary data were obtained through library research (laws and regulations, scientific books, journals, prior research) and DP3AKB Provsu's own annual case-handling report and 2024–2025 case records (Soekanto, 2014, p. 12; DP3AKB Provsu, 2024, 2025). Data collection used in-depth interviews, documentation study of case and mediation records, and library research to strengthen the theoretical and legal analysis (Sugiyono, 2018, p. 137; Ali, 2013, p. 89).

Informants were selected through purposive sampling based on their direct knowledge, experience, and authority in handling maintenance-neglect cases (Sugiyono, 2018, p. 218). Data were analyzed using Miles and Huberman's (2014, p. 14) three-stage qualitative method — data reduction, data display, and conclusion drawing — with findings subsequently linked to Soerjono Soekanto's (2014, p. 25) theory of legal effectiveness (legal substance, structure, facilities, culture, and the community) to assess DP3AKB's mechanism systematically rather than only descriptively.

Because this study draws on internal Minutes of Mediation documenting real, ongoing family disputes between private individuals, all names and identifying details of complainants and respondents referenced in Section C are pseudonymized (labeled by initial only); only the names and titles of DP3AKB officials acting in their public institutional capacity are reported in full, consistent with their public role. [Authors to confirm and state explicitly what institutional authorization or consent was obtained from DP3AKB and from the individuals concerned for the use of mediation-record material in this study, and to insert any formal research/ethical clearance reference if one was obtained.]

This study's informants are limited to DP3AKB officials; no complainants (mothers who filed reports) or respondent fathers were interviewed directly, so the findings on the mechanism's practical effectiveness reflect the institution's own account together with documentary mediation records, rather than beneficiaries' independently

reported experience. This limitation is revisited in the Conclusion, and future research incorporating complainant-side interviews is recommended.

C. RESULTS AND DISCUSSION

1. Institutional Profile and Mandate

DP3AKB Provsu is a regional apparatus established under Regional Regulation of North Sumatra Province Number 8 of 2022 concerning the Formation and Structure of Regional Apparatuses, administering government affairs in women's empowerment, child protection, population control, and family planning (Regional Regulation No. 8 of 2022, Art. 3 D.6). It is the result of a merger of the former Department of Women's Empowerment and Child Protection and the Department of Population Control and Family Planning, tracing back to a Regional Secretariat bureau established in 2008 and reorganized in 2016 and 2022 pursuant to Law Number 23 of 2014 concerning Regional Government. It is currently led by the Head of Department, Mrs. Dwi Endah Purwanti (DP3AKB Provsu, 2024).

Institutionally, DP3AKB has five divisions — Gender Mainstreaming and Women's Empowerment; Fulfilment of Children's Rights and Family Quality; Women's Protection and Special Child Protection; Population Control; and Family Planning, Resilience, and Family Welfare — supported by a Regional Technical Implementation Unit for Women and Child Protection (UPTD PPA) Type A. Complaints regarding child maintenance neglect can be submitted through three channels: direct visits to the office, WhatsApp, or the national SAPA 129 call centre (DP3AKB Provsu, 2024).

2. Mechanism for Handling Cases of Child Maintenance Neglect

DP3AKB handles maintenance-neglect cases through a non-litigation approach grounded in the *best interest of the child* principle, carried out in three main stages. Complaint receipt and assessment. Officers from the Child Protection Division verify the reporter's identity, marital status, and evidence of neglect, followed by a comprehensive assessment by a team of social workers, psychologists, and mediators covering the father's economic capacity and good faith, the psychological condition of the mother and child, and the chronology of the neglect (Interview, 8 June 2026). This determines the case classification (mild, moderate, or severe) and the handling strategy, as well as initial counseling on legal rights and procedures.

Mediation and family counseling. Where reconciliation remains possible, a certified DP3AKB mediator facilitates a written joint agreement covering the maintenance amount, payment schedule, and distribution mechanism (Aminah, 2019, p. 70), guided by the *best interest of the child* principle and family deliberation weighing the father's economic condition against the child's real needs. Juridically, however, such agreements are only moral and administrative in nature and lack executive force; if the father defaults, DP3AKB cannot enforce compliance and must refer the case onward.

Referral and legal assistance. Where mediation fails or an agreement is violated, DP3AKB refers the case to the Religious Court for a civil maintenance suit under Article 41 of Law No. 1 of 1974 and Article 49 of Law No. 3 of 2006 concerning Religious Courts,

to the Police where the neglect meets the criminal elements of Article 77B of Law No. 35 of 2014, or coordinates with the Department of Social Affairs and Department of Manpower for economic-empowerment support where the father's non-payment stems from genuine economic incapacity.

Two documented mediations illustrate this process. In the first (Minutes of Mediation, 18 August 2026), a mother ("Mrs. R.") reported that the father of her two children ("Mr. D.") had not provided maintenance for four months; the father acknowledged the lapse and agreed, following mediation, to pay IDR 550,000 per month by the 5th of each month via transfer, to separately cover education and health costs, with the agreement effective from 1 September 2026 and reviewable annually, and referable to the Religious Court if breached. In the second (Minutes of Mediation, 18 August 2026), a mother ("Mrs. S.") and father ("Mr. N.") reached agreement on monthly maintenance of IDR 1,250,000 payable by the 10th, alongside a visitation schedule of two meetings per month, supported by three family counseling sessions addressing communication conflict that was affecting the child psychologically. Both cases reached successful joint agreements, illustrating that DP3AKB's handling combines juridical and psychological dimensions; neither outcome, however, carries independent legal enforceability beyond the parties' continued good faith.

3. Factors Causing Maintenance Neglect, and DP3AKB's Preventive and Curative Efforts

Based on DP3AKB's case data, neglect is attributed to four recurring factors: economic factors (fathers citing no fixed income or new dependents, though inability does not legally eliminate the maintenance obligation under Article 41 of Law No. 1 of 1974); psychological factors (conflict with the ex-wife, where the child becomes an outlet and maintenance is treated as an obligation to the ex-wife rather than a right of the child); legal factors (weak sanctions and execution, and DP3AKB's own facilitative-only authority); and socio-cultural factors (a persistent view that parental responsibility ends at divorce, and weak social stigma against non-paying fathers) (DP3AKB Provsu, 2025). These factors directly undermine children's basic rights to education and health, contrary to the *best interest of the child* principle in Article 26 of Law No. 35 of 2014.

In response, DP3AKB conducts preventive efforts — legal socialization and counselling through schools, villages/sub-districts, women's organizations, and official social media, aimed at public awareness that maintenance obligations survive divorce (Article 26, Law No. 35 of 2014) — and curative efforts, namely complaint services (office, WhatsApp, SAPA 129), assessment, mediation, and cross-sector referral and assistance to the Religious Court, Police, Department of Social Affairs, and Department of Manpower. It also pursues institutional-strengthening efforts, building cooperative networks with the Religious Court, Police, Legal Aid Institute, and civil society organizations to accelerate service delivery and integration.

4. A Soekanto Effectiveness Assessment, Read Against Wajib 'Ain

Applying Soerjono Soekanto's theory of legal effectiveness, DP3AKB's mechanism is strong in terms of legal substance (a clear normative mandate under

Article 26 of Law No. 35 of 2014 and Regional Regulation No. 3 of 2014) and legal culture (increasing public willingness to report, per the observed rise in complaints), but weak in facilities and structure (budget and mediator-staffing limitations restricting reach across North Sumatra, and the absence of an integrated post-mediation monitoring and evaluation system) and, most critically, in the law-enforcement dimension: DP3AKB has no executive authority, so mediation agreements bind only through the father's continued good faith (Soekanto, 2014, p. 25; Bisri, 2010, p. 112).

This last gap is worth reading against the *wajib 'ain* characterization of paternal maintenance introduced in Section A. In classical fiqh, an obligation of this kind is owed to the child as a matter of right, independent of the father's consent to a particular amount or schedule; it is not, in principle, something the child's right-holder must first successfully negotiate. DP3AKB's mechanism, however necessary as a first point of contact, resolves neglect primarily by securing the father's *agreement* to pay — which means that where a father declines to negotiate in good faith, or complies with an agreement only briefly before lapsing again (a recurrence the case-file pattern suggests is common, given DP3AKB's own acknowledgment that “many cases recur”), the *wajib 'ain* right effectively remains unenforced pending a separate Religious Court process DP3AKB itself cannot initiate on the child's behalf. This is not a criticism of DP3AKB's mediation function as such — mediation appropriately handles the first two documented cases above, where fathers acknowledged the lapse and agreed to comply — but it does suggest that a purely consent-based mechanism is structurally mismatched to a right the underlying Islamic legal doctrine treats as unconditional, and that the absence of an MoU with the Religious Court (discussed below) is not merely an administrative gap but a point where positive-law procedure and Islamic legal substance currently fail to meet.

There is also an overlap of authority between DP3AKB as facilitator and the Religious Court as executor, which contributes to delay and confusion in resolution (Bisri, 2010, p. 112); the direct impact on children includes school dropout, nutritional problems, and psychological trauma, contrary to Regional Regulation No. 3 of 2014 concerning the Administration of Child Protection.

5. Opportunities and Obstacles

Mapped against Soekanto's five factors, DP3AKB's opportunities lie chiefly in legal substance and legal culture: a clear legal basis (Article 26, Law No. 35 of 2014; Regional Regulation No. 3 of 2014), the existence of UPTD PPA and the integrated SAPA 129 and direct-complaint channels as accessible entry points, a growing cross-sector cooperation network (Religious Court, Police, Prosecutor's Office, Legal Aid Institute, Department of Social Affairs, civil society organizations), and increasing public willingness to report, reflecting rising legal literacy and institutional trust.

Its obstacles concentrate in legal structure and facilities: juridically, DP3AKB's facilitative-only authority means mediation agreements carry no executive force; structurally, budget and mediator-staffing limits constrain statewide reach; culturally, residual stigma-related misunderstanding that responsibility ends at divorce, combined with weak social sanction against non-paying fathers, persists alongside the improving

trend noted above; and technically, the absence of an integrated post-mediation monitoring and evaluation system means DP3AKB has no reliable data on whether fathers actually comply with agreements once mediation concludes. Addressing the juridical and technical obstacles — through an MoU with the Religious Court and a digital monitoring system — would do the most to close the gap between the institution's genuine opportunities and its constrained practical effectiveness.

D. CONCLUSION

Child maintenance neglect after divorce remains a serious problem in North Sumatra Province. DP3AKB Provsu carries out its facilitative mandate through a three-stage mechanism — complaint reception and assessment, mediation and counseling, and referral — that performs well on legal substance and culture but is constrained by juridical, structural, cultural, and technical obstacles, most fundamentally the absence of executive force behind its mediation outcomes. Read against the Islamic legal characterization of paternal maintenance as *wajib 'ain*, this juridical gap is not merely an administrative shortcoming but a substantive mismatch between a right owed unconditionally and a resolution process that depends on the obligor's continued consent.

Strengthening is therefore needed through a Memorandum of Understanding or Cooperation Agreement with the Religious Court so that mediation results can carry legal force, development of a digital post-mediation monitoring system, and continued public legal education. This study is limited by its reliance on institutional informants and documentary mediation records rather than direct interviews with complainants or respondent fathers; future research incorporating beneficiary perspectives and testing the *wajib 'ain*-effectiveness tension identified here against a larger case sample is recommended to further strengthen child maintenance protection policy in North Sumatra.

REFERENCES:

- Ali, M. D. (2013). *Islamic law and religious courts* (5th ed.). Rajawali Pers.
- Aminah, S. (2019). Analysis of religious court decisions on child maintenance after divorce. *Jurnal Yudisial*, 12(1), 67–82.
- Auda, J. (2008). *Maqasid Al-Shariah as philosophy of Islamic law*. IIIT.
- Bisri, C. H. (2010). *Peradilan Islam dalam tatanan masyarakat Indonesia*. Remaja Rosdakarya.
- Department of Women's Empowerment, Child Protection, and Family Planning of North Sumatra Province. (2024). *Annual report on case handling, DP3AKB Provsu 2024–2025*. DP3AKB Provsu.
- Department of Women's Empowerment, Child Protection, and Family Planning of North Sumatra Province. (2025). *Data on child neglect cases 2024–2025*. DP3AKB Provsu.

- Government of North Sumatra Province. (2014). Regional Regulation Number 3 of 2014 concerning the administration of child protection.
- Government of North Sumatra Province. (2016). Governor Regulation Number 65 of 2016 concerning the organization and work procedures of DP3AKB of North Sumatra Province.
- Government of North Sumatra Province. (2022). Regional Regulation Number 8 of 2022 concerning the formation and structure of regional apparatuses of North Sumatra Province.
- Marzuki, P. M. (2016). Legal research. Kencana.
- Miles, M. B., & Huberman, A. M. (2014). Qualitative data analysis (3rd ed.). Sage.
- Ministry of Religious Affairs of the Republic of Indonesia. (2004). Al-Qur'an dan terjemahnya.
- Moleong, L. J. (2017). Qualitative research methodology. Remaja Rosdakarya.
- Setiawan, A. (2022). The impact of child maintenance neglect after divorce on children's education and psychology. *Jurnal Hukum Keluarga dan Perlindungan Anak*, 3(2), 40–58.
- Shihab, M. Q. (2002). Tafsir Al-Mishbah: Message, impression and harmony of the Qur'an. Lentera Hati.
- Soekanto, S. (2014). Introduction to legal research. UI Press.
- Sugiyono. (2018). Quantitative, qualitative, and R&D research methods. Alfabeta.
- The Republic of Indonesia. (1974). Law Number 1 of 1974 concerning Marriage. State Gazette of the Republic of Indonesia of 1974 No. 1.
- The Republic of Indonesia. (2006). Law Number 3 of 2006 concerning Religious Courts. State Gazette of the Republic of Indonesia of 2006 No. 22.
- The Republic of Indonesia. (2014). Law Number 23 of 2014 concerning Regional Government. State Gazette of the Republic of Indonesia of 2014 No. 244.
- The Republic of Indonesia. (2014). Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. State Gazette of the Republic of Indonesia of 2014 No. 297.