



LEGAL ANALYSIS OF CHILD CUSTODY RIGHTS IN CASES OF DIVORCE

Dikki Saputra Saragih¹, Rolando Marpaung², Malthus Hutagalung³, Seni Fifi Meriani Zalukhu⁴
Law Study Program, Universitas Sari Mutiara Indonesia^{1,2,3,4}

*Correspondence: : dikkisrg@gmail.com²¹⁾, rolandomarpaung@gmail.com²
malthus@gmail.com³⁾

Abstract

Child protection law No. 23 of 2020 article 14, which states that "Every child has the right to be raised by his own parents, unless there are valid reasons and/or legal regulations indicating that the separation is in the best interests of the child and is a consideration final". The aim of this research is to find out how child custody is determined after divorce. To find out what the judge considers in decisions regarding custody of minor children as a result of divorce. This type of research is qualitative descriptive research which aims to describe the characteristics of an individual, the condition of a particular symptom or group or to determine the distribution of a symptom or to determine whether there is a relationship between a symptom and other symptoms in society. Conclusion The determination of child custody as a result of divorce according to Presidential Instruction Number 1 of 1991, for children who are not yet adults or under 12 (twelve) years of age is the mother's right. Meanwhile, for adult children, it is up to the child to choose between his father and mother as the holder of his child's rights.

Keywords: *Determination, Consideration, Divorce, Child Custody*

INTRODUCTION

Regulations Concerning Marriage Article 1 Marriage is a physical and otherworldly relationship between a man and a woman as a married couple whose aim is to form a happy and eternal family (families) in the radiance of belief in God Almighty. Marriage wants to have children who can complete it and make life truly charming. The bond between humans is living together, so that at that time the relationship between male and female partners was limited by the marriage bond. Remembering Article 1 of Law Number 1 of 1974 concerning Marriage (UU No. 1 of 1974) it is said that "Marriage is an inner and outer relationship between a man and a woman as a unit that decides in a cheerful and eternal form.

On the other hand, family from the point of view of the Almighty Godhead... what marriage really means is a bond that agrees on the relationship between a man and a woman as one unit to form another family as is deemed reasonable to achieve deep goals. deep-rooted satisfaction. Young people are naturally introduced to the world through marriage. The meaning of child in Guideline no. 23 of 2002 concerning Youth Security is an endless gift from God Almighty, to whom is attached the embodiment and privilege of being an ideal individual. A teenager is someone under the age of 18, including teenagers who are still in the womb. From birth, there is an honor that children must receive from their parents based on guidelines and rules material. True security for children can be defined as efforts to legally protect the fundamental doors and opportunities open to children as well as the interests associated with government assistance to children.

Of course, relationships will have problems that can lead to separation which can lead to disputes over child custody. The most effective way to obtain child guardianship is

Rolando Marpaung¹, Dikki Saputra Saragih², Malthus Hutagalung³, Seni Fifi Meriani Zalukhu⁴

to follow the case method to provide legal certainty as contained in legal applications in Indonesia. Both guardians are privileged to have the same opportunity to guarantee their guardianship freedom with the aim that their guardianship rights remain unknown. Child care was in most cases an issue before or after partition. In fact, it is very possible for clashes and conflicts with each other to be able to really focus on their children, because children are the hope of parents who are difficult to keep at a distance. Young people are a group that can overcome disasters due to the division of their parents. Children lose the love they really need completely from their parents, no child only needs to get love from their father or mother, apart from that, living and education cannot be separated from their parents' work. The best condition of a child is for him to be under the supervision of his two guardians, for great care and attention from both of them will develop his physical and otherworldly capacities. It also plans for children to become adults forever.

In the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, custody is defined as the authority of parents to care for, educate, care for, develop, protect and develop children according to the religion they adhere to and their abilities, talents and interests. Parental obligations continue even if the marriage between the parents breaks down.¹This is in line with Article 41 of the Marriage Law which regulates the consequences of dissolution of a marriage due to divorce, namely: (a) Both the mother and father remain obliged to care for and educate their children, solely based on the interests of the child, if there is a dispute regarding control of the children, the Court give his decision. (b) The father is responsible for all maintenance and education costs required by the child; If the father is in fact unable to fulfill these obligations, the court can determine that the mother will also bear the costs. (c) The court can require the ex-husband to provide living expenses and/or determine obligations for the ex-wife. In this case the author is interested in discussing 'Legal Analysis of Child Custody in Divorce Cases'.

LITERATURE REVIEW

Understanding Child Custody

Child custody occurs when the guardian chooses to separate. Freedom of child custody is a term used in court to conclude which party will have the option to truly focus on the child. This child custody right has been regulated in Child Protection Law No. 23 of 2020 article 14, which states that "Every child has the right to be raised by his own parents, unless there are valid reasons and/or legal regulations indicating that the separation is for the sake of is in the best interests of the child and is the final consideration." The child's authority consists of legal guardianship, namely the choice to make decisions about the child, and actual guardianship, namely the right and commitment to really pay attention to the child. Actual care will determine where a child lives and who chooses the day-to-day matters relating to the child. In the event that a parent has actual guardianship over a child, then the parent's home will be the child's legal place of residence (residence). Regulations regarding who has guardianship over children are regulated in

¹Republic of Indonesia Law Number 23 of 2002 concerning Child Protection

Decree Number 55/Pdt. G/2012/Ms-Bna which states that the child's authority will be given to the father and mother, Option Number 65/Pdt. G/2011/MS-Bna and 66/Pdt. G/2012/MS-Bna states that child care will be given to the father, and Decree Number 225/Pdt. G/2009/MS-BNA and Number 261/Pdt. G/2010/MS-BNA states that the child's authority will be given to the mother Article 105 of the Compilation of Islamic Law (KHI) is used in determining child custody. In principle, if the child is not yet 12 years old, custody of the child will fall to the mother. Unless the child is over 12 (twelve) years old, the child has the right to choose whether he wants to go with his mother or father.

Child Custody Lawsuit

There are conditions for a lawsuit, which include a letter submitting a request for custody to the court, a photocopy of the divorce certificate, a photocopy of the child's birth certificate, and payment of court costs. Next, follow the following steps:

1. Make a written complaint to the court, either by appearing in person or by appointing a legal representative or attorney.
2. File a lawsuit for custody of the child.
3. The registrar provides a registration number after the court fees have been paid.
4. Next, the clerk determines the panel of judges.
5. Summoning the plaintiff and defendant to attend the hearing regarding the child custody lawsuit.
6. The divorce process and processing of child custody require assistance from a lawyer.

METHOD

This type of investigation is an emotional observational assessment because most consider it normal to describe the nature of an individual, an aftereffect state or a particular group or to decide the distribution of secondary effects or to conclude whether there is a relationship. between the after-effects and the encompassing impacts. secondary effects from various tissues locally. This assessment is a review with a realistic point-by-point investigation, as most would consider it reasonable to provide precise data regarding various circumstances or secondary impacts. Because this assessment is intended to provide a point-by-point, purposeful and complete outline of everything related to child care and its importance to the meeting. It is hoped that this emotional transmission can more clearly depict the reality of society that occurs as a result of trials regarding child guardianship due to an agreement between guardians.

RESULTS AND DISCUSSION

Child Custody Rights According to the Marriage Law (UU No.1 of 1974)

Regarding the obligations of parents towards their children, based on Article 45 of the Marriage Law:

1. Both parents are obliged to care for and educate their children as best as possible.

2. The parental obligations referred to in paragraph (1) of this article apply until the child marries or is able to stand alone, which obligations continue to apply even if the marriage between the parents breaks down.

What is meant by youth according to Article 1 point 1 of Guideline no. 35 of 2014 concerning Child Protection underlines: A child is someone who is not yet 18 years old, including children who are still in the womb. Apart from that, it is also called nurturing power, especially the guardian's power to really focus attention, educate, care for, raise, care for and develop children in accordance with the religion they adhere to and according to their abilities and gifts. and interests. Opportunities for Child Custody in Separation are:

This is because the Marriage Guidelines do not explicitly regulate who has the choice to have authority over teenagers who are not yet 12 years old. In contrast to simply coordinating the guardianship of the children after release, the two players are expected to not really concentrate and educate their children and if there is a disruption in child care, the court will make a decision. The valid reasoning used to make decisions regarding the honor of children relies on the law (previous court decisions, for example in the Decision of the Supreme Court of the Republic of Indonesia Number 126 K/Pdt/2001 dated 28 August 2003. That in this decision it is conveyed with the assumption that, if this occurs distribution, then the rights over the minor child are handed over to the person closest and known to the child, especially the mother. The agreement does not fulfill its obligation to truly target the child and also be in accordance with its form.

Article 49 of the Marriage Regulations states that the court may reject this power and choose a gatekeeper as the agent of consideration for the young person. However, providing child care to the father can also be done in a separate environment. Article 156 letter (c) KHI provides that a mother can lose guardianship of her child even though he is not yet 12 years old if he cannot guarantee the child's physical and spiritual well-being. Assuming this is the case, if a family member is interested, the Strict Court may transfer authority to another family member. Apart from that, we find another measure of freedom to care for children in Official Instruction Number 1 of 1991 concerning the Dissolution of the Collection of Islamic Regulations (KHI). Article 105 KHI means that in the event of separation: The care of children who are not mumayyiz or who are not yet 12 years old is the mother's right;

- a. The consideration of a mumayyiz child is left to the child to choose his father or mother as the holder of the choice to really focus on him;
- b. The living costs are borne by the father. Given this arrangement, consideration of children under 12 falls to the mother. If a child has mumayyiz, then the little one chooses for himself who he will really focus on.

Division of Custody in Divorce

1. Care of Children Under 5 Years Due to Separation If there is a dispute between mother and father regarding child custody, then in this situation the majority are children under 5 years of age. Basically, the court will consider which of the two guardians is more entitled to care for the child in accordance with the relevant

guidelines. However, if we touch on Article 105 KHI, then it makes sense that the right to care for children separately from children under 12 years is given to the mother. If you think about it, the father actually bears all the child's maintenance costs. However, a mother can lose her freedom as a parent. The following are the reasons why some mothers lose attention to their children:

- a. A mother behaves badly.
 - b. A mother who went to prison.
 - c. A mother cannot guarantee the physical and spiritual health of her child. These reasons could also be the reason why custody of the child from the mother shifts to the father.
2. **Custody of Young Women** The legal premise used in deciding the authority of young women continues as before as the guardianship of children under 5 years of age. Where if the teenage girl is under 12 years old, then the mother is eligible for treatment. However, if the girl is over 12 years old, the child has the right to choose the right parents to really care for her.
 3. **Child Custody Privileges** In the event that a Spouse Requests Separate Parenting for children under 12 years of age will however fall under the mother's freedom and remain the father's responsibility regarding the costs. However, if a partner requests a separation because he or she is busy, this can lead to parenting adjustments that may fall on the father. Where there is concern that the child will be abandoned because the mother is busy.
 4. **Guardianship of Children in the Case of Husband and Wife Proven to be Cheating** Guardianship of children in separation if the wife is proven to have committed fraud will result in a reduction in the mother's privilege to really focus on the child. That is the explanation, if an attempt is proven in court, then the mother is deemed to have failed as a mother as intended in Article 34 paragraph (2) of the Marriage Regulations. If the exchange of child care carried out by the hadhanah holder turns out to be unable to guarantee the physical and mental safety of the child, even though living expenses and hadhanah have been covered, then at that time the overall concern is that the Strict Court can transfer the rights of hadhanah to another general who also has hadhanah freedom. So based on this arrangement, the father can submit a request to the Strict Court regarding the exchange of child care (hadhanah) which of course is a joint force to help grant the request to save the child's guardianship. Until now, cases of disputes regarding child care are still a touching topic. For craftsmen and society in general, if a split occurs, apart from being a matter of shared resources, it is also an answer to the problem of the younger generation's struggle for concern.

Determination of Child Custody Rights After Divorce

The main pressing concern that married couples think about when separating is whether they currently have children as offspring of their affection. For some people, children seem to be a burden, but the reality shows that most couples who separate actually

want to gain power/guardianship over their children. The term youth guardianship/power refers to the importance of the power of a person (father/mother/grandmother, etc.) or an institution, based on the choice or request of the court, to provide direction, care, upbringing, education and welfare. , because the parents or one of the guardians cannot guarantee the child's normal growth and development in accordance with the religion he adheres to and his abilities, talents and interests. To date there is no reasonable standard or obligation for a Strict Court judge to conclude who has the privilege of guardianship of children in separate cases, either the father or the mother. So, unlike usual, there are many problems in cases of fighting over child custody, both in meetings and outside meetings. In fact, from several existing guidelines, the reference for the Strict Court's decision in concluding a child's authority is in Official Instruction Number 1 of 1991 concerning the Collection of Islamic Regulations Article 105 which states: In the event of separation:

- a. Consideration of children who are not mumayyiz or not yet 12 years old is the mother's right.
- b. The maintenance of a mumayyiz child is left to the child to choose the father or mother as the holder of maintenance rights.
- c. The maintenance costs are borne by the father. In the Strict Court, the judge will usually refer to the guidelines contained in the Collection of Islamic Regulations (KHI). Child care in the KHI idea is known as guardianship (child care).

Custody is the right to care for, maintain and educate children until they are adults, married or able to stand on their own. This right to custody is regulated in Article 05 of the Compilation of Islamic Law which gives mothers rights over children who are not yet adults or under 12 years old. KHI created the concept that custody of children is basically more focused on the psychological interests of children who are immature or under 12 years old, who definitely still need a mother's love. The existence of the concept of child maintenance rights in the KHI can certainly help a mother to obtain custody of her child.

However, this provision does not apply absolutely because in Article 229 of the Compilation of Islamic Law it is emphasized that judges, in resolving cases submitted to them, are obliged to pay serious attention to the legal values that exist in society so that their decisions are in accordance with a sense of justice. So the judge must seriously consider whether the mother deserves the right to care for a child who is not yet an adult or less than 12 years old. So based on the definition, the concept of custody in the KHI is not much different from the concept of protection as regulated in generally accepted legal provisions, namely that you still have to pay attention to the behavior of the parents (for example, the mother does not work late at night, prioritizing closeness to the child). children compared to activities outside the home and so on), as well as matters related to the child's interests both psychologically, materially and non-materially.

According to Article 41 of the Marriage Law, the consequences of breaking up a marriage due to divorce are:

- a. Parents are still obliged to care for and educate their children, solely based on the child's interests; If there is a dispute regarding the control of children, the court gives its decision.

Rolando Marpaung¹, Dikki Saputra Saragih², Malthus Hutagalung³, Seni Fifi Meriani Zalukhu⁴

- b. The father is responsible for all maintenance and education costs required by the child; if the father is in fact unable to fulfill these obligations; The court may determine that the mother shares in these costs.
- c. The court can require the ex-husband to provide living expenses and/or determine obligations for the ex-wife.

Based on the provisions above, even though the marriage has been dissolved, the father and mother are still obliged to care for and educate their children, solely for the interests of the children, even though in reality this is only carried out by one of them. This means that one of the fathers or mothers acts as guardian of their children, as long as the children have not reached the age of 18 years. Based on the provisions of Article 41 of the Marriage Law, whether the mother or father remains obliged to care for and educate their children, solely based on the interests of the child, if there is a dispute regarding control of the children, the court makes its decision.

It is important to note that applications for child custody can be submitted at the same time as a request/lawsuit for divorce to the Religious Court for those who are Muslim and the District Court for those who are Christian. So in a divorce lawsuit, apart from being able to request that the marriage be dissolved due to divorce, one of the parties can also request that they be granted custody of the children (who are still minors) born from the marriage. It needs to be emphasized once again that in cases of fighting for child custody it must still be based on the interests and fulfillment of the child's needs. You must understand that after divorce, in general, children have the right to:

- a. Warmth, even though parents are separated, children still have to get love and children have the right to determine who they will live with.
- b. Education
- c. Health attention
- d. Decent place to live.

The four basic elements above must be met by parents towards children, if they divorce. However, it cannot be denied that there are parents who divorce but one party does not fulfill the child's rights, so that the child's rights are neglected. Article 105 of the compilation of Islamic Law determines that the maintenance of children who are not yet adults or under 12 years old is the right of the mother. The legal basis that can be used to determine child custody in divorce cases is also regulated in Article 49 paragraph (1) of Law no. 1 of 1974 concerning Marriage, namely that one or both parents can have their authority over one or more children revoked for a certain time at the request of the other parent, the child's family in the straight line and adult siblings or an authorized official, with a court decision in matters:

- a. He greatly neglected his obligations towards his child.
- b. He behaved very badly. So the judge in his legal considerations will also consider the condition of the wife's and husband's behavior in looking after the child.

Judge's Considerations in Decisions on Custody of Minor Children Due to Divorce

Based on valid materials and studies carried out by the creator regarding the jury's considerations in caring for a minor child with his father, he focuses on child welfare guidelines, as in the 6 (six) court options, among others that accompany it. :

1. Judge's consideration of Decision Number: 906/Pdt.G/2012/PN.SBY Considering the frequent quarrels caused by the defendant because he often left the house at night without the plaintiff's permission. That the defendant prioritized his personal interests without caring about the whereabouts of his child. That the defendant seemed to have forgotten her obligations as a mother towards her children and husband. That the defendant left his child 2 days after his child's 1st birthday with the plaintiff until now. That the defendant only visited his child twice after handing him over to the plaintiff and did not return. That all this time it was the plaintiff who paid for and cared for the children. That the defendant does not have a permanent job. That the plaintiff really loves and gives full attention to his child.

Based on Decision Number: 906/Pdt.G/2012/PN.SBY, the judge's considerations were in accordance with statutory regulations. Article 105 letter (a) KHI states that the *mumayyiz* limit for children aged 12 years and caring for children who are not yet 12 years old is the mother's right (Abdurahman, 2007: 138), based on this article the right to child custody should be given to the mother, but there are several circumstances which resulted in child custody being given to the father, including in this case the mother often left the house at night, prioritizing personal interests without caring about them. the presence of the child, abandoning her obligations as a mother towards the child by leaving the child 2 days after the child's birthday, and only seeing the child twice after leaving the child and not returning. In this regard, for the benefit of the child, custody of the child can be handed over to the father as also stated in the Convention for the Protection of Child Rights that both parents are responsible for ensuring the protection of the child and the child's growth and development. growth. This is stated in Article 27 Paragraph (2) which states:

“Parents or those responsible for the child bear the primary responsibility for ensuring, within their means and finances, the living conditions necessary for the child's development.” If the parents divorce, the care and maintenance of the child remains the obligation and responsibility of the parents, even though one parent has custody of the child. However, in the care and maintenance of children, the rights of the child are prioritized for the benefit of the child in the future. This is stated in Article 14 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. So, in this case, custody of the child is legally given to the father as stated in the decision.

2. Judge's Choice of Thoughts Number: 278/Pdt. P/2016/PN. Dps Based on Choice Number: 278/Pdt. P/2016/PN. Dps, the consideration of the appointed official is in accordance with the provisions of the law, namely assuming that the two guardians are separated, then the care and maintenance of the child remains a commitment and obligation for the guardians, even if one of the guardians is. the guardian takes care of the child. However, in the consideration and care of children, children's freedom

requires support from the child from now on. This is stated in Article 14 of Regulation Number 35 of 2014 concerning Amendments to Regulation Number 23 of 2002 concerning Child Guarantee. Considering the special features related to this case, after separation, the care of the child fell into the hands of the mother, but in fact the child was happy to live with his father. The mother rarely meets the child who is supposed to be her dependent (only had 2 conversations during the last half year). The mother also assisted the child in arranging a visa by a Migration specialist as she preferred not to mark the most common way of making identification/visa extension, so considering the current situation, the jury gave the option according to legal guidelines to serve the child, in particular by providing care child to his father.

3. Judge's Choice of Thought Number: 527/Pdt. G/2012/PN. Dps Based on Choice Number: 527/Pdt. G/2012/PN.Dps, the consideration of the appointed official is in accordance with legal guidelines. The mother figure in this situation is a woman who does not have good behavior (likes to lie, is submerged in water and often leaves the house without the consent of the offended party), so that to serve the child, guardianship can be given to the father as stated in this option considering the guidelines. The law states that if the two guardians are assumed to be separated, then the care and maintenance of the child remains a commitment and obligation for the guardians, even though one of the guardians has separated. youth care. However, in the consideration and care of children, children's freedom requires support from the child from now on. This is stated in Article 14 of Regulation Number 35 of 2014 concerning Amendments to Regulation Number 23 of 2002 concerning Child Guarantee.
4. Judge's Consideration of Choice Number: 1654/Pdt. G/2013/PA.Jbg Considering Choice Number: 1654/Pdt. G/2013/PA.Jbg, the jury's considerations are in accordance with legal guidelines as in Article 14 of Regulation Number 35 of 2014 concerning Amendments to Regulation Number 23 of 2002 concerning Child Safety which considers that the two guardians are separated, consideration and care for the child remains a commitment and obligation to the guardian. , even though one of the guardians is caring for the child. However, in the consideration and care of children, children's freedom requires support from the child from now on. In this way, the mother has deviated from her belief in Islam, which is the religion she has adhered to since she was married and often leaves the city, so that in order to accompany the child, custody is given to the father to be able to look after the child. Development and improvement of children and maintaining children's self-confidence. This is in accordance with Article 156 KHI (Aggregation of Islamic Regulations) which states; "In the event that the hadhonah holder cannot guarantee the physical and spiritual well-being of the child, the Strict Court can suspend his hadhonah rights.....etc."
5. Judge's Considerations Regarding Choice Number: 574 K/Ag/2016 Considering Judge's Considerations Number: 574 K/Ag/2016, the jury's considerations are in accordance with legal regulations as in Article 14 of Regulation Number 35 of 2014 concerning Amendments to Regulation Number 23 of 2014 2002 concerning Child

Protection which states that assuming the two guardians are separated, consideration and support for the child remains a commitment and obligation to the guardian, even though one of the guardians has the option to really focus on the child. However, in the consideration and care of children, children's freedom requires support from the child from now on. In this situation, the mother often travels to another country and the child is raised by her family partner. The mother was also a drug addict and often watched obscene films and should have been expected to undergo recovery but was deemed to have gone downhill. So, considering these conditions, guardianship of the child is handed over to the father to serve the child.

6. Judge's Consideration of Choice Number: 335/Pdt. G/2014/PA.Clg Considering Choice Number: 335/Pdt. G/2014/PA.Clg., the jury's considerations are in accordance with the legal guidelines as stated in Article 14 of Regulation Number 35 of 2014 concerning Revision of Regulation Number 23 of 2002 concerning Child Safety which states that in the event that the two guardians are separated, the care and maintenance of the child remains is the commitment and obligation of the guardians, even if one of the guardians is caring for the child. However, in the consideration and care of children, children's freedom requires support from the child from now on. Regarding this case, the three children decided to live with their father on the grounds that their mother remarried after being separated and is currently pregnant and pregnant with their third child, making it difficult for their father and older relatives to track them. Mother also often spoke and acted brutally towards Father so that her children felt awkward. In connection with these matters, it is appropriate for the appointed authority to give guardianship of the child to the father to help the child.

CLOSING

Conclusion

Guarantee of child care due to separation in accordance with Official Instruction Number 1 of 1991, for children who are not yet adults or under 12 (twelve) years of age is the mother's right. Meanwhile, for adult children, it is ultimately up to the child to choose the father or mother as the holder of the child's freedom. Or vice versa, according to the thoughts of the appointed authority by considering the husband or wife's condition in their behavior towards children. The court's guarantee regarding child guardianship does not sever the blood relationship between the child and his biological guardian and does not eliminate the commitment of both guardians to help the child's life.

The thoughts of the appointed authorities regarding the 6 (six) separate options of granting custody of minor children to their fathers are not in accordance with applicable regulations and guidelines because in each of these choices it just happened, namely the reasons for the jury's thoughts are also unique, such as the way the mother behaves the bad one. , abandoning her child, not remembering her obligations as a mother. This results in the granting of guardianship over children due to separation from their father, as stated in the Child Safety Regulations, Marriage Regulations and Collection of Islamic Regulations

that mothers are obliged to care for children who are not yet adults. So it can be assumed that this is where the government's sustainability and support for the younger generation, especially minors, is focused on this, the Adjudicators who handle cases like this not only use formal guidelines such as the Law but also use other considerations that are intended to provide a just and prosperous life and this is not far from the welfare of children.

Suggestions

After conducting the study in this discussion, the author expresses suggestions as follows:

1. States should increase public education regarding the detrimental impact of separation on child turnover, and limit the incidence of separation in their areas by not making the cycle of separation easier and making intervention a primary consideration to end separation.
2. For parties who have entered into a marriage, they should maintain the trust of their family in order to create a comfortable and prosperous daily life because it has an impact on the child's growth and development. If you are dealing with problems in the family, you must face them clearly and not easily make the decision to separate because of separation. generally not the best setting.
3. People are expected to understand what marriage is, avoid early marriage, it is better to mature your age and readiness if you want to get married, choose a good partner because this really influences married life forever so that bad things don't happen in future marriages.

REFERENCES

- Abdullah Azzam Nur. 2017. "Hak Asuh Anak Akibat Perceraian Perspektif Hukum Islam (Studi Putusan Nomor 0503/Pdt.G/2014/PA.Yk)". Skripsi. Yogyakarta: Fakultas Syariah dan Hukum UIN Sunan Kalijaga.
- Anjar S C Nugraheni, Diana Tantri C, Zeni Luthfiyah. 2013. "Komparasi Hak Asuh dan Hak Nafkah Anak dalam Putusan-Putusan Perceraian di Pengadilan Negeri dan Pengadilan Agama Kota Surakarta". Yustisia. Volume 2. Nomor 3. Surakarta: Fakultas Hukum Universitas Sebelas Maret.
- Faridaziah Syahrain. 2017. "Penetapan Hak Asuh Anak di Bawah Umur Akibat Perceraian Perspektif Hukum Islam". Lex et Societatis. Volume 5. Nomor 7. Manado: Fakultas Hukum Universitas Sam Ratulangi.
- Mansari. 2016. "Pertimbangan Hakim Memberikan Hak Asuh Anak kepada Ayah: Suatu Kajian Empiris di Mahkamah Syar'iyah Banda Aceh". Petita. Volume 1. Nomor 1. Banda Aceh: Fakultas Hukum Universitas Islam Negeri Ar-Raniry.
- Abdullah, Abdul Gani (1994), Pengantar Kompilasi Hukum Islam dalam Tata Hukum Indonesia, Jakarta: Gema Insani Press
- Meliala, Djaja S.(2006), Perkembangan Hukum Perdata tentang Orang dan Hukum Keluarga., Nuansa Aulia, Bandung

Rolando Marpaung¹, Dikki Saputra Saragih², Malthus Hutagalung³, Seni Fifi Meriani Zalukhu⁴

Mulyadi, Lilik (2005), *Pengadilan Anak di Indonesia (Teori Praktek dan Permasalahannya)*, Bandung: CV. Mandar Maju
Projodikoro, Wirjono, (2002), *Hukum Perkawinan Di Indonesia*, Bandung: Grafika
Soemitro, Irma Setyowati, (1990), *Aspek Hukum Perlindungan Anak*, Jakarta: Bumi Aksara
Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan sebagaimana diubah dengan Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan
Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak
Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan Atas