

## **Analysis of the Judge's Decision in Determining Custody Rights of Minors After Divorce**

(Study of Decision Number 708/Pdt.G/2025/PA.Skh at the Sukoharjo Religious Court)

Muhammad Fajrul Minan<sup>1</sup>, Baehaqi<sup>2</sup>, Salman Al Farisi<sup>3</sup>, Aditya Fajri Kurnia Pradana<sup>4</sup>, Muhammad Kurniawan Budi Wibowo<sup>5</sup>, Jeong Chun Phuoc<sup>6</sup>

Faculty of Sharia and Islamic Economics, Mamba'ul 'Ulum Islamic Institute, Surakarta<sup>1-5</sup>

Sultan Zainal Abidin Trengganu University, Malaysia<sup>6</sup>

[minanmuhammadfajrul@gmail.com](mailto:minanmuhammadfajrul@gmail.com)<sup>1</sup>, [baehaqiim@gmail.com](mailto:baehaqiim@gmail.com)<sup>2</sup>,  
[salmanalghifariy@gmail.com](mailto:salmanalghifariy@gmail.com)<sup>3</sup>, [adityafajri44@gmail.com](mailto:adityafajri44@gmail.com)<sup>4</sup>,  
[mkbwsolo1@yahoo.com](mailto:mkbwsolo1@yahoo.com)<sup>5</sup>, [jeongchunphuoc@gmail.com](mailto:jeongchunphuoc@gmail.com)<sup>6</sup>

**Abstract:** This study aims to analyze in-depth the judge's juridical considerations in granting custody of a minor child to the biological father in Decision Number 708/Pdt.G/2025/PA.Skh. The primary focus is to evaluate the consistency of the decision with the principle of "the best interest of the child" and to examine the extent to which the judge's arguments override maternal preference as normatively regulated in Article 105 of the Compilation of Islamic Law. The analysis is conducted to ensure legal certainty and the protection of children's human rights within the context of divorce. The methodology employed in this study is normative juridical with a case study and statutory approach. The data sources consist of secondary legal materials, including primary legal materials such as the Marriage Law, the Child Protection Law, the Compilation of Islamic Law, and Decision Number 708/Pdt.G/2025/PA.Skh. Data collection techniques were conducted through literature review and documentation, analyzed qualitatively using an interactive model. This approach enables the researcher to systematically deconstruct trial facts and the legal construction established by the

**Keywords:** Child Custody, Hadhanah, Divorce, Religious Court, Family Law.

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panel of judges. The results indicate that granting custody to the father was based on evidentiary facts regarding the mother's negligence in caregiving and her absence from the proceedings (*verstek*), which reinforced the petitioner's claims concerning her moral and psychological incapacity. The study concludes that the "best interest of the child" principle serves as a legal instrument capable of overriding the maternal preference in Article 105 of the Compilation of Islamic Law when there is a proven threat to the child's developmental stability. Recommendations include the urgent need for standardized parenting eligibility parameters within Supreme Court regulations and the optimized involvement of psychological experts to ensure the sustainable psychosocial well-being of the child.

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**Abstrak:** Penelitian ini bertujuan untuk menganalisis secara mendalam pertimbangan yuridis hakim dalam memberikan hak asuh anak di bawah umur kepada ayah biologis dalam Keputusan Nomor 708/Pdt.G/2025/PA.Skh. Fokus utama adalah untuk mengevaluasi konsistensi keputusan dengan prinsip "kepentingan terbaik anak" dan untuk memeriksa sejauh mana argumen hakim mengesampingkan preferensi ibu sebagaimana diatur secara normatif dalam Pasal 105 Kompilasi Hukum Islam. Analisis dilakukan untuk memastikan kepastian hukum dan perlindungan hak asasi manusia anak dalam konteks perceraian. Metodologi yang digunakan dalam penelitian ini adalah yuridis normatif dengan studi kasus dan pendekatan hukum. Sumber data terdiri dari bahan hukum sekunder, termasuk bahan hukum primer seperti Undang-Undang Perkawinan, Undang-Undang Perlindungan Anak, Kompilasi Hukum Islam, dan Keputusan Nomor 708/Pdt.G/2025/PA.Skh. Teknik pengumpulan data dilakukan melalui tinjauan pustaka dan dokumentasi, dianalisis secara kualitatif menggunakan model interaktif. Pendekatan ini memungkinkan peneliti untuk secara sistematis menguraikan fakta-fakta persidangan dan konstruksi hukum yang ditetapkan oleh majelis hakim. Hasil penelitian menunjukkan bahwa pemberian hak asuh kepada ayah didasarkan pada fakta-fakta pembuktian mengenai kelalaian ibu dalam pengasuhan dan ketidakhadirannya dalam proses persidangan (*verstek*), yang

**Kata kunci:** Hak Asuh Anak, Hadhanah, Perceraian, Pengadilan Agama, Hukum Keluarga.

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memperkuat klaim pemohon mengenai ketidakmampuan moral dan psikologisnya. Studi ini menyimpulkan bahwa prinsip "kepentingan terbaik anak" berfungsi sebagai instrumen hukum yang mampu mengesampingkan preferensi ibu dalam Pasal 105 Kompilasi Hukum Islam ketika terdapat ancaman yang terbukti terhadap stabilitas perkembangan anak. Rekomendasi mencakup kebutuhan mendesak akan parameter kelayakan pengasuhan yang terstandarisasi dalam peraturan Mahkamah Agung dan keterlibatan ahli psikologi yang optimal untuk memastikan kesejahteraan psikososial anak yang berkelanjutan.

### INTRODUCTION

Marriage, as regulated under Article 1 of Law Number 1 of 1974, aims to establish a happy and enduring family based on belief in the One Almighty God<sup>1</sup>. In Islamic law, marriage is regarded as a sacred covenant (*mitsaqan ghaliza*) intended to create a family characterized by tranquility (*sakinah*), affection (*mawaddah*), and compassion (*rahmah*)<sup>2</sup>. Nevertheless, marital relationships do not always achieve these objectives. Persistent conflicts, incompatibility, and the failure to fulfill mutual rights and obligations may ultimately result in divorce.<sup>3</sup>

Divorce generates various legal consequences, particularly concerning the custody (*hadhanah*) of minor children. In Islamic family law, *hadhanah* refers to the responsibility for caring for, nurturing, and educating children who are not

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<sup>1</sup> Ahmad Rofiq, "Hukum Perdata Islam Indonesia," 2017.

<sup>2</sup> Sahal Mahfud, Baehaqi Baehaqi, and Salman AlFarisi, "Analisis Yuridis Intervensi Orang Tua Sebagai Faktor Penyebab Perceraian (Studi Putusan Pengadilan Agama Demak Nomor: 551/Pdt. G/2023/Pa. Dmk)," *Jurnal Tana Mana* 6, no. 2 (2025): 11–15.,

<sup>3</sup> Hasan Mohamadi Ramghani, Mohammad Roshan, and Mohsen Najafi Khah, "The Effect of Death on Dissolution of Marriage Contract with Emphasis on Presumed Death," *Journal of Politics and Law* 10, no. 1 (2016): 219.

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yet capable of independently safeguarding their interests<sup>4</sup>. Following divorce, the determination of custody becomes crucial to ensure the protection of the child's welfare and development<sup>5</sup>.

Article 105(a) of the Compilation of Islamic Law (KHI) provides that custody of children who are not yet mumayyiz (under twelve years of age) should generally be granted to the mother<sup>6</sup>. This principle is reinforced by Supreme Court jurisprudence, which prioritizes maternal custody based on the assumption that the mother is the party closest to the child and best positioned to ensure the child's well-being. However, such priority is not absolute.<sup>7</sup> Courts may depart from this principle when there is sufficient evidence demonstrating that the mother is unable or unfit to provide proper care and protection for the child<sup>8</sup>.

The flexibility of this principle is reflected in several judicial decisions, including Decision Number 708/Pdt.G/2025/PA.Skh of the Sukoharjo Religious Court, in which custody of a minor child was granted to the father. This decision is particularly significant because it deviates from the normative preference established in Article 105(a) of the KHI. The case raises important questions regarding the legal reasoning employed by judges in assessing parental fitness and applying the principle of the best interests of the child.

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<sup>4</sup> Mohammad Hifni, "Konflik Rumah Tangga Dan Solusinya Menurut Hukum Islam Dan Peraturan Perundang-Undangan," *Jurnal Res Justitia: Jurnal Ilmu Hukum* 4, no. 1 (2024): 101–16.

<sup>5</sup> Yasmin Afriatun Sadidah, "Mempertahankan Rumah Tangga Dalam Bingkai Hukum Indonesia," *Hukum Dan Demokrasi (HD)* 23, no. 1 (2023): 40–45.

<sup>6</sup> Umar Multazam, "The Concept of Child Custody (Hadhanah) After Divorce in the Perspective of Islamic Law," *Indonesian Journal of Islamic Law* 7, no. 1 (2024): 16–39.

<sup>7</sup> Yurisprudensi Mahkamah Agung RI, "Yurisprudensi Mahkamah Agung RI No. 102 K/SIP/1973" (Jakarta, 1973).

<sup>8</sup> Yurisprudensi Mahkamah Agung RI, "Yurisprudensi Mahkamah Agung RI No. 126 K/Pdt/2001" (Jakarta, 2001).

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Previous studies have generally examined the transfer of custody from the mother to the father based on factors such as immoral conduct, neglect, or failure to perform parental responsibilities<sup>9</sup>. However, limited attention has been given to judicial reasoning in cases where custody is transferred to the father despite the normative preference for maternal custody under Article 105(a) of the KHI. In particular, there remains a gap in understanding how judges evaluate factors such as parenting negligence, psychological instability, and prolonged parental separation when determining the best interests of the child within the framework of Islamic family law and judicial practice.

Based on this background, this study aims to analyze the concept of granting custody of a minor child to the father under the Compilation of Islamic Law and to examine the legal considerations underlying the decision of the Sukoharjo Religious Court in Case Number 708/Pdt.G/2025/PA.Skh. The study seeks to contribute to the development of legal discourse concerning the application of the best interests of the child principle in custody disputes following divorce.

### **METHODS**

This study employs normative legal research with a statutory approach and a case approach<sup>10</sup>. Normative legal research examines legal norms, principles, doctrines, and legal rules contained in legislation, court decisions, and legal literature. The statutory approach is used to analyze legal provisions governing child custody (*hadhanah*), particularly those contained in the

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<sup>9</sup> Ellon Belwan Cornelius Mau and Tontji Christian Rafael, "Review Of The Legal Implications Of Divorce On Child Custody Arrangements," *Jurnal Poros Hukum Padjadjaran* 5, no. 2 (2024): 231–47.

<sup>10</sup> Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9.

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Marriage Law, the Child Protection Law, and the Compilation of Islamic Law (KHI). Meanwhile, the case approach is applied through an examination of Decision Number 708/Pdt.G/2025/PA.Skh of the Sukoharjo Religious Court concerning the granting of custody of a minor child to the father following divorce.

The selection of Decision Number 708/Pdt.G/2025/PA.Skh as the research object is based on its distinctive legal characteristics. The decision departs from the general rule established in Article 105(a) of the Compilation of Islamic Law, which prioritizes maternal custody of children who are not yet mumayyiz. Consequently, the case provides an important basis for examining judicial reasoning in applying the principle of the best interests of the child.

The study utilizes secondary data consisting of legal materials classified into primary, secondary, and tertiary legal materials<sup>11</sup>. Primary legal materials include the Marriage Law, the Child Protection Law, the Compilation of Islamic Law, Supreme Court Circular Letter (SEMA) Number 1 of 2022, relevant Supreme Court jurisprudence, and Decision Number 708/Pdt.G/2025/PA.Skh. Secondary legal materials consist of legal textbooks, journal articles, research reports, and scholarly writings relevant to child custody and Islamic family law. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting references.

Data were collected through literature review and document analysis<sup>12</sup>. The collected legal materials were inventoried, classified, and systematically

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<sup>11</sup> Achmad Irwan Hamzani et al., "Legal Research Method: Theoretical and Implementative Review," *International Journal of Membrane Science and Technology* 10, no. 2 (2023): 3610–19.

<sup>12</sup> Hani Morgan, "Conducting a Qualitative Document Analysis," *The Qualitative Report* 27, no. 1 (2022): 64–77.

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organized according to the research issues. Data validity was ensured through source verification and legal material classification to maintain consistency between legal norms, doctrines, and judicial practice.

The legal materials were analyzed qualitatively using descriptive-analytical methods and legal interpretation. The analysis was conducted by examining the relationship between statutory provisions, legal doctrines, and the legal considerations contained in Decision Number 708/Pdt.G/2025/PA.Skh. This approach enabled the researcher to identify the legal construction developed by the panel of judges and to evaluate its conformity with the principle of the best interests of the child within the framework of Islamic family law.

## **RESULTS AND DISCUSSION**

This study aims to analyze in depth the legal basis and considerations of the Panel of Judges in determining custody of a minor child to his biological father. This is interesting to study because, normatively, in Islamic family law in Indonesia, children under the age of 12 have the right to be cared for by their mothers. Decision Number 708/Pdt.G/2025/PA.Skh reflects a shift from the application of rigid legal texts to an approach that prioritizes the substantive interests of children.

### **1. Factual Background of Decision Number 708/Pdt.G/2025/PA.Skh**

Decision Number 708/Pdt.G/2025/PA.Skh arose from a divorce petition filed by the husband before the Sukoharjo Religious Court. During the marriage, the parties had one child who was still categorized as not yet mumayyiz. The Petitioner alleged that the Respondent had neglected her parental responsibilities, left the marital residence, and failed to provide adequate care and attention to the child. Evidence presented during the proceedings indicated

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that the child had been primarily cared for by the Petitioner during the parties' separation. The Respondent did not appear before the court despite being lawfully summoned, resulting in a default (*verstek*) proceeding. Based on the evidence and witness testimony, the court granted the divorce petition and awarded custody of the minor child to the father.

2. The legal basis for the judge's decision on case number 708/Pdt.G/2025/PA.Skh

Child custody (*hadhanah*) constitutes one of the most significant legal consequences arising from divorce, particularly when the child has not yet reached the age of *mumayyiz*<sup>13</sup>. In Islamic family law, *hadhanah* refers to the responsibility to care for, nurture, educate, and protect a child who is not yet capable of independently managing his or her own interests<sup>14</sup>. Therefore, custody is not merely a parental right but also a legal obligation intended to safeguard the child's welfare and development.

The legal regulation of custody in Indonesia is principally governed by Article 105(a) of the Compilation of Islamic Law (KHI), which provides that the custody of a child who has not yet reached the age of *mumayyiz* shall generally be granted to the mother. This provision reflects the traditional understanding that mothers possess a stronger emotional bond with young children and are generally better positioned to provide daily care and affection during the child's formative years.

However, the maternal preference established under Article 105(a) of the KHI should not be interpreted as an absolute rule. The provision must be read

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<sup>13</sup> Multazam, "The Concept of Child Custody (Hadhanah) After Divorce in the Perspective of Islamic Law."

<sup>14</sup> Wildani Hefni and Moh Lutfi Nurcahyo, "Hadhanah Reconceptualization in Institutional Child Care Practices," *Academia Open* 11, no. 1 (2026): 10–21070.

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systematically alongside other legal instruments that prioritize the protection of children's rights. Article 41(a) of Law Number 1 of 1974 concerning Marriage stipulates that both parents remain responsible for the maintenance and education of their children despite the dissolution of marriage. Likewise, Article 3 of Law Number 23 of 2002 concerning Child Protection emphasizes the protection of children's rights to survival, growth, development, and participation in accordance with human dignity.

From this perspective, the primary objective of custody determination is not to protect the interests of either parent but rather to ensure the welfare of the child<sup>15</sup>. Consequently, judges are required to assess which parent is better able to provide physical care, emotional stability, educational support, and a healthy environment for the child's development. The focus therefore shifts from parental entitlement to the best interests of the child.

The concept of the best interests of the child has become a fundamental principle in contemporary family law<sup>16</sup>. This principle requires courts to place the child's welfare above competing parental claims. Accordingly, the right of custody may be transferred from the mother to the father when there is convincing evidence that the mother is unable to adequately fulfill her parental responsibilities. Such circumstances may include neglect, abandonment, conduct that endangers the child's welfare, or other conditions that adversely affect the child's physical, psychological, or emotional development.

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<sup>15</sup> Robert E Emery, Randy K Otto, and William T O'donohue, "A Critical Assessment of Child Custody Evaluations: Limited Science and a Flawed System," *Psychological Science in the Public Interest* 6, no. 1 (2005): 1–29.

<sup>16</sup> Michael Freeman, "The Best Interests of the Child? Is the Best Interests of the Child in the Best Interests of Children?," *International Journal of Law Policy and the Family* 11, no. 3 (1997): 360–88.

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Islamic legal doctrine similarly recognizes that the right of hadhanah is conditional upon the custodian's ability to safeguard the child's interests<sup>17</sup>. Classical Islamic jurists generally require a custodian to possess moral integrity, emotional stability, and the capacity to provide proper care and supervision<sup>18</sup>. If these conditions are no longer fulfilled, the right of custody may be transferred to another party who is more capable of ensuring the child's welfare. Therefore, the mother's priority in custody matters is not unconditional but remains subject to the overarching objective of protecting the child.

Judicial practice in Indonesia demonstrates the development of this principle through a number of Supreme Court decisions<sup>19</sup>. Supreme Court jurisprudence has consistently emphasized that the determination of custody should be based on the child's best interests rather than solely on the formal application of Article 105(a) of the Compilation of Islamic Law. In several cases, custody has been awarded to the father after the courts found that the mother had neglected her responsibilities or that remaining in her care would not support the child's optimal development.

This development illustrates a gradual shift from a formalistic interpretation of custody law toward a more substantive approach. Under a formalistic approach, custody would automatically be granted to the mother based solely on

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<sup>17</sup> Jean Zermatten, "The Best Interests of the Child Principle: Literal Analysis and Function," *The International Journal of Children's Rights* 18, no. 4 (2010): 483–99.

<sup>18</sup> Mohammad Rahman, "Islam: The Complete, Functional and Practical Guide to Life," *International Journal of Education, Culture and Society* 9, no. 3 (2024): 87–108.

<sup>19</sup> Canan Caria, "The Role of the Supreme Court in Maintaining Consistency of Judicial Decisions in Indonesia's Integrated Judicial System," *Journal of Legal Framework* 1, no. 1 (2025): 32–38.

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the child's age<sup>20</sup>. In contrast, the substantive approach requires judges to evaluate the actual circumstances of each case, including the quality of parental care, the emotional relationship between parent and child, and the potential impact of the custody arrangement on the child's future development.

The application of this approach reflects the broader function of family law as a mechanism for protecting vulnerable individuals, particularly children<sup>21</sup>. Accordingly, custody determinations must be based on objective evidence regarding parental fitness rather than on assumptions arising solely from parental status. The decisive consideration is whether a particular custodial arrangement will effectively secure the child's welfare, stability, and long-term development.

Therefore, the legal concept of granting custody of a minor child to the father under the Compilation of Islamic Law should be understood as an exception to the general rule of maternal custody. Such an exception is legally justified when factual evidence demonstrates that awarding custody to the father better serves the child's best interests. In this regard, the principle of the best interests of the child functions as the primary legal standard guiding judicial discretion in custody disputes following divorce.

### 3. Judicial Reasoning in Decision Number 708/Pdt.G/2025/PA.Skh

Decision Number 708/Pdt.G/2025/PA.Skh presents an important example of judicial interpretation in child custody disputes involving a minor child. Although Article 105(a) of the Compilation of Islamic Law generally grants custody of a child who has not yet reached the age of mumayyiz to the

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<sup>20</sup> Muhammad Azhad Al-Bohari, "Dynamics of Regulatory and Policy Changes in Child Custody in Indonesia and Malaysia: A Comparative Analysis in Responding to Modern Family Issues," *Journal of Islamic Mubadalah*, 2025, 135–56.

<sup>21</sup> Takdir Takdir et al., "Islamic Law and Local Traditions in Preventing Early Marriage in the Toraja Muslim Minority Community," *Jurnal Ilmiah Al-Syir'ah* 22, no. 2 (2024): 274–87.

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mother, the Panel of Judges concluded that custody should instead be awarded to the father. This conclusion was based on an assessment of the facts established during the proceedings and the application of the principle of the best interests of the child.

The court first examined whether the grounds for divorce had been legally proven. Based on documentary evidence and witness testimony, the judges found that the marital relationship had experienced continuous conflict and had effectively broken down<sup>22</sup>. The parties had lived separately for approximately eight months, and efforts at reconciliation had been unsuccessful. These circumstances fulfilled the requirements of Article 19(f) of Government Regulation Number 9 of 1975 in conjunction with Article 116(f) of the Compilation of Islamic Law, which recognize continuous disputes and the absence of a reasonable prospect of reconciliation as valid grounds for divorce.

A significant factor considered by the court was the Respondent's conduct during the marriage and after the separation<sup>23</sup>. Witness testimony indicated that the Respondent failed to adequately perform her parental responsibilities and demonstrated limited involvement in childcare. The evidence further showed that the Respondent had left the marital residence and that the child had remained under the care of the Petitioner. As a result, the day-to-day responsibility for the child's welfare, maintenance, and upbringing was primarily undertaken by the father.

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<sup>22</sup> Bani Syarif Maula and Vivi Ariyanti, "Justice Negotiations for Women: Divorce Cases Due to Domestic Violence in Religious Courts," *Jurnal Hukum Islam* 20, no. 1 (2022): 155–80.

<sup>23</sup> Yusna Zaidah, Hatimul Husna, and Ahmad Mubarak, "Legal Considerations of Marriage Dispensation Cases For Couples That Lead to Divorce," *Journal of Islamic and Law Studies* 9, no. 2 (2025): 206–22.

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The judges also considered the consistency and credibility of the evidence presented by the Petitioner. Testimony from witnesses, including individuals who had direct knowledge of the parties' household conditions, confirmed that the Petitioner had continuously provided care and supervision for the child. The court therefore concluded that the Petitioner had demonstrated a greater capacity to ensure the child's physical and emotional well-being.

Another important consideration was the Respondent's absence from the proceedings<sup>24</sup>. Despite having been lawfully summoned, the Respondent failed to appear before the court, resulting in a default judgment (*verstek*)<sup>25</sup>. Although the absence of the Respondent did not automatically justify granting all of the Petitioner's claims, it prevented the court from obtaining evidence capable of rebutting the Petitioner's allegations. Consequently, the judges relied on the available evidence and witness testimony in assessing the circumstances of the case.

The Panel of Judges did not base its decision solely on the literal wording of Article 105(a) of the Compilation of Islamic Law. Instead, the judges adopted a substantive approach by evaluating the actual conditions affecting the child's welfare. The court emphasized that custody disputes should not be resolved merely by reference to parental status but must be determined according to which parent is better able to protect the child's interests and support the child's development.

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<sup>24</sup> Niroj Dahal et al., "Participant Selection Procedures in Qualitative Research: Experiences and Some Points for Consideration," *Frontiers in Research Metrics and Analytics* 9 (2024): 1512747.

<sup>25</sup> Atoillah Atoillah and Mansur Mansur, "Legal Remedies for Default Against Default Decisions in Divorce Lawsuits (Case Study of Indramayu Religious Court Decision Class IA Number 731/Pdt. G2024/PA. IM)," *Gema Wiralodra* 16, no. 1 (2025): 101–9.

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This approach reflects the application of the best interests of the child principle, which has become a fundamental standard in Indonesian family law. Under this principle, the welfare of the child takes precedence over the competing claims of the parents. The court therefore viewed the mother's preferential right under Article 105(a) as a rebuttable presumption rather than an absolute entitlement. When factual circumstances indicate that the child's welfare would be better protected by the father, the court is justified in departing from the general rule of maternal custody.

The court further considered the provisions of the Child Protection Law, which emphasize the state's obligation to ensure children's rights to proper care, protection, and development. By awarding custody to the father, the judges sought to provide a stable caregiving environment that would support the child's physical, psychological, and emotional growth.<sup>26</sup> This demonstrates that the decision was grounded not only in Islamic family law but also in broader child protection principles.

Nevertheless, the transfer of custody to the father did not eliminate the Respondent's status and role as the child's biological mother. The court recognized the importance of maintaining the child's relationship with both parents and therefore preserved the mother's right to communicate with, visit, and express affection toward the child<sup>27</sup>. This consideration is consistent with Supreme Court Circular Letter (SEMA) Number 1 of 2017, which encourages

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<sup>26</sup> Muhammad Syarif and Zulhamdi Zulhamdi, "The Impact of Divorce on Psychological, Emotional and Mental Children in the Perspective of Islamic Law," *Syarah: Jurnal Hukum Islam & Ekonomi* 12, no. 1 (2023): 77–90.

<sup>27</sup> Palak Sharma, "Visitation Rights of Parents In India: Laws and Practices," *Journal on the Rights of the Child of National Law University Odisha* 6, no. 1 (2025): 107–23.

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the protection of children's emotional relationships with both parents despite the dissolution of marriage.

From a legal perspective, the decision illustrates the transformation of custody adjudication from a formalistic approach toward a child-centered approach. Rather than treating custody as a parental privilege, the court regarded hadhanah as a legal mechanism designed to safeguard the welfare and development of the child. Accordingly, the determining factor was not whether the mother possessed a normative priority under Article 105(a) of the Compilation of Islamic Law, but whether the factual circumstances demonstrated that awarding custody to the father would better serve the child's best interests.

Therefore, the Panel of Judges concluded that granting custody to the father was legally justified because the evidence demonstrated the mother's neglect of parental responsibilities, the father's active role in caring for the child, and the necessity of ensuring the child's welfare and developmental stability. The decision confirms that the principle of the best interests of the child may override the general preference for maternal custody when supported by sufficient and convincing evidence.

## **CONCLUSION**

After conducting a comprehensive analysis of the Sukoharjo Religious Court Decision Number 708/Pdt.G/2025/PA.Skh, and integrating it with various Islamic family law theories and prevailing laws and regulations in Indonesia, this research has reached a solution to the established problem formulation. Based on the research results and discussion, the following conclusions can be drawn:

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1. The chronology of the conflict in case number 708/Pdt.G/2025/PA.Skh is as follows:
  - a. The marriage was legally valid since September 2023, with the birth of one child in May 2024, but experienced a fatal breakdown in less than two years due to escalating disputes.
  - b. The primary causes of the divorce were the involvement of a third party (PIL) by the Respondent, child neglect, and psychological problems in the form of chronic insomnia that disrupted the stability of the household.
  - c. There was a separation of residence for eight months starting in December 2024, during which the child was consistently cared for by the Petitioner (father) without any significant interference from the Respondent.
  - d. The case was decided by default due to the Respondent's absence, with evidence based on witness testimony confirming disharmony and neglect by the Respondent.
2. The Judge's Legal Considerations in Case Number 708/Pdt.G/2025/PA.Skh  
The judge awarded custody of the child (hadhanah) to the father (the Petitioner) based on the following considerations:
  - a. The judge prioritized the principle of "The Best Interest of the Child," deeming that the child's well-being is best assured if cared for by a father with a stable environment and demonstrated dedication to parenting.
  - b. Considering psychological stability and continuity of care, the judge referred to Supreme Court Jurisprudence Number 110 K/AG/2007 to avoid the risk of neglecting minors.

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- c. The decision aligns with Supreme Court Circular Letter Number 1 of 2022 concerning the minimum separation period for reasons of ongoing disputes, as well as Supreme Court Circular Letter Number 1 of 2017 concerning guarantees of access rights for parents who do not hold custody.
- d. The judge considered the Respondent's immoral behavior (infidelity) and dependence on gadgets as indicators of the impropriety of holding hadhanah rights, while also appreciating the Applicant's economic capacity and social support.

Thus, this study shows that justice in contemporary family law in Indonesia is increasingly moving towards real protection of children's human rights, where the gender status of parents is no longer the sole determinant in determining custody rights, but rather the real quality of care and guarantee of the child's future.

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