

Child-Centered Adjudication: Integrating the Best Interests Principle Into Indonesian Marital Property Distribution

Muchlis,¹ Yasardin,² Oyo Sunaryo Mukhlas,³ Siah Khosyi'ah⁴
Fahadil Amin Al Hasan⁵

Universitas Islam Negeri Sunan Gunung Djati Bandung, Indonesia^{1,3,4,5}

Supreme Court of the Republic of Indonesia²

Email: muchlis.bdlg001@gmail.com

Keywords:

Adjudication;
Interest of the
child;
Jurisprudence;
Marital property.

DOI:

<https://doi.org/10.19109/nurani.v25i2.30371>

Submitted:

July 21, 2025

Accepted:

September 21, 2025

Published:

October 13, 2025

Pages: 473 - 492

Abstract: The division of marital property often presents a complex legal dilemma. Greater judicial evaluation usually considers acquisition timing, sources, and separation agreements. Nevertheless, the recent Indonesian jurisprudence, especially the Supreme Court Circular Letter (SEMA) No. 1/2022 and Cassation Decision No. 377 K/Ag/2023 (5 April 2023), requires the introduction of the principle of the best interests of a child, as stipulated in the Child Protection Act, to the adjudication of marital property. This study adopts a qualitative documentary analysis that draws upon primary legal sources, including statutes, circular letters, and court decisions, and is supplemented by secondary academic literature. The analysis demonstrates how normative rules and jurisprudence integrate the child's best interest into post-divorce asset allocation. The results indicate that a child's welfare has become a necessary pillar in judicial reasoning, influencing courts to postpone the distribution of marital assets until children reach adulthood. This normative and jurisprudential shift highlights not only legal enforcement but also substantive justice, ensuring children's decent living conditions. This research contributes by elucidating the legal significance of Decision 377 K/Ag/2023, which reinforces the role of the best interests principle in Indonesian family law and advances a progressive approach to the adjudication of marital disputes.

Introduction

Marriage does not always lead to positive outcomes; in many cases it ends in divorce, a process that can profoundly affect the parties concerned (De Coninck et al., 2021; Sururie et al., 2023). Divorce is not only the destruction of the relationship between two people but also the beginning of complicated legal consequences. These consequences often encompass matters of child custody (hadhanah), child support, post-divorce maintenance, and related obligations (Haris et al., 2024; Nafisah et al., 2024).

The legal framework governing these issues is established by Law Number 1 of 1974 on Marriage, which defines marital property as assets acquired during the marital relationship, spanning from its commencement until its termination by divorce, death, or court ruling (Rais, 2019; Sukiati et al., 2023). This definition forms the legal basis for resolving disputes over marital property. Interestingly, the concept of marital property is relatively new in the development of Islamic family law. Classical *fiqh* does not explicitly

discuss it (Awiety & Riyadi, 2020; Yusoff, 2024). In Arab society, the concept of marital property was not originally recognized; its adoption in Islamic countries, including Indonesia, was initially grounded in *'urf* (custom) and developed in accordance with each community's practices (Abubakar, 2019; Pelu & Dakhoir, 2021).

In practice, numerous marital disputes are brought before the court as a result of misunderstandings and conflicts between spouses (Khairina et al., 2024). In 2023 alone, there will be 2,085 marital property cases filed in Indonesian courts. Although this figure shows a slight decrease from 2,234 cases in 2022, it reflects how marital assets remain a central issue in post-divorce disputes (Directorate General of Religious Courts, 2024).

The reasons underlying these disputes are diverse, one of which involves unilateral control over property, where a spouse asserts exclusive ownership of assets acquired during the marriage. Another recurring problem arises when houses or other assets are built on land belonging to one spouse's family, which often leads to ownership conflicts. Ambiguities about each spouse's contributions to the acquisitions of property are also a frequent source of tension. Other cases involve hidden assets or undisclosed agreements (Ahmed et al., 2021; Kusmayanti et al., 2021; Mahdianur et al., 2024).

In adjudicating marital property disputes, judges typically consider the timing of acquisitions, the origin of the property, and the presence of marital agreements, including prenuptial contracts (Nurnazli, 2018). Generally, property acquired during marriage is presumed to be common property and is divided in proportion to the contributions of each partner (Yusup & Hasan, 2023). Conversely, assets obtained long before marriage are excluded from this category (Kurniawan, 2018). However, a significant shift has emerged with the issuance of Supreme Court Circular Letter (SEMA) No. 1 of 2022 and Cassation Decision No. 377 K/Ag/2023 of April 5, 2023, bringing in new factors, i.e., the best interests of the child, in dividing marital property. This particular decision is highlighted because it stands as one of the most recent rulings where the Supreme Court explicitly incorporated the child's best interest as a decisive factor. While it may not yet constitute binding jurisprudence, its progressive reasoning offers an important signal of how the court may steer future marital property disputes, making it highly relevant for this study. In Cassation Decision No. 377 K/Ag/2023, the court recognized the existence of the marital property but deferred its distribution until the children reached adulthood, thereby placing their welfare at the core of judicial reasoning in accordance with Act No. 35 of 2014 on Child Protection.

Against this background, the research is guided by two problem formulations, the first being: What is the legal concept of the best interests of the child, particularly as articulated in the Child Protection Act? and (2) How is the application of the same aspect of the best interest of the child of Cassation Decision Number 377 K/Ag/2023 Dated April 5, 2023, according to the Child Protection Act? Prior studies have analyzed the protection of children's rights in family law. This is exemplified by Budi et al. (2024), who explored the protection of the child's best interests in Islamic law and the formulation of judicial decisions related to child residence. Not until after the enactment of SEMA No. 1 of 2022 did this study analyze judicial decisions, whereas earlier

research relied on those issued before. In doing so, it highlights the Supreme Court's reasoning in reforming procedural aspects of marital property cases involving children. Agustina (2023), who interviewed divorced couples, examined children's rights after divorce, concluding that it is crucial to safeguard children's rights within cooperative relationships between ex-spouses. The importance of protecting the rights of children in property disputes has also been emphasized by Hidayat et al. (2022), Musaddad et al. (2025), and Syukrawati et al. (2024). Drawing from this body of research, the article aims to show how the best interests of the child principle, particularly as articulated in Cassation Decision No. 377 K/Ag/2023, can contribute to reforming the adjudication of marital property in Indonesia.

Method

This research employs a normative juridical method, commonly known as doctrinal legal research, which conceives law as a system of norms and principles. Cassation Decision Number 377/K/Ag/2023, issued on April 5, 2023, is the object of this study, particularly with respect to its judicial reasoning in relation to the principle of the child's best interests. In this context, Supreme Court Circular Letter (SEMA) No. 1/2022 is also taken into account as a significant jurisprudential reference in the adjudication of marital property.

This study adopts a normative-qualitative approach, relying chiefly on secondary data. The primary legal resources include legislative enactments such as the Marriage Law and the Child Protection Act, as well as binding court decisions. Secondary sources consist of scholarly books, journal publications, and prior studies that strengthen the overall analysis. The research procedure was conducted sequentially, beginning with identifying legal issues, followed by collecting statutory provisions and court decisions, classifying and systematizing the data, and ultimately analyzing them to draw conclusions. This structured approach ensures that the study is conducted in a systematic and focused manner.

Three methods are applied in this study: the statute approach, which focuses on examining the legal framework; the case approach, an analysis of Cassation Decision 377 K/Ag/2023 and relevant precedents; and the conceptual approach, a tool to clarify key terms such as "marital property" and "the best interest of the child." It is through legal interpretation and reasoning that the data are analyzed. This process makes use of systematic, teleological, and comparative methods to assess the conformity of the Cassation Decision with statutory law and child protection principles.

Results and Discussion

Concept of Marital Property: The regulations in the Indonesian Legal System

Marital property constitutes a fundamental component of marriage and family law in Indonesia. Assets acquired during marriage (from its inception until dissolution by divorce, death, or a court decision) are deemed joint property under Law No. 1 of 1974 (Rais, 2019; Sukiati et al., 2023). The meaning of the term, as defined, is in line with Article 35 of Act Number 1 of 1974 related to marriage, where the property acquired during the marital

period qualifies as marital property (Rouf et al., 2023). The most important factor is the timing of acquisition, which may be overridden by the existence of a specific marital agreement as stipulated in Article 97 of Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (KHI) (Nurnazli, 2018; Yusup & Hasan, 2023).

By offering only a rudimentary definition, the Marriage Act does not articulate the objectives or provide a detailed classification of marital property. It only explains that all the property created due to the marriage comes under this. The legal scholars, however, provide more nuanced categorizations. As explained by J. Satria, quoted by Chendra et al. (2020), there are generally two broad categories of family property: (1) Marital Property, i.e., all assets or other benefits received by either or both spouses during the marriage, including their respective earnings, income, etc., and (2) Personal Property, i.e., those that belong to one spouse or the other before the marriage, or property received as a gift or inheritance during the marriage, unless expressly stipulated otherwise as part of the marital property.

According to Yahya Harahap (2017), the scope of property within marriage extends beyond formal registration. To begin with, all assets acquired during the marriage are, by law, automatically classified as marital property, irrespective of whether they are registered in the name of the husband or the wife. Secondly, property established to have been acquired within the marriage period, though in the name of another human being (such as a relative), is maintained as marital property in case it was acquired in consequence of the joint efforts of the spouses. Third, any property bought or built after the divorce may still be regarded as the marital property if financed by the assets or the efforts acquired in the marriage (e.g., a house constructed after the end of a marriage using the marital funds). Lastly, not only the main assets themselves but also the revenues that marital property earned become a part of it. Notably, such income is also subject to its own rule of accessory called regarding income source non-real and entrusted inheritance allied personal estate; although the acquisition of the said asset is personal, all proceeds and profits realized by the inheritance are marital property (Siti et al., 2022; Susilawati, 2019; Yusup & Hasan, 2023). In this regard, Harahap emphasizes that marital property encompasses not only directly acquired assets but also their derivatives and assets traceable to marital resources.

In Indonesia, marital property disputes are adjudicated within three principal legal frameworks: the Marriage Law, the Religious Courts Law, and the Compilation of Islamic Law (KHI) (Budi et al., 2024; Sukiati et al., 2023). Of the three legal frameworks, the KHI provides more comprehensive rules than the Marriage Law, not only defining marital property but also indicating the circumstances in which assets may be recognized as such (Akhtar & Manjoo, 2024). The KHI defines it but also proposes the grounds on which the property can become marital: (1) It should be marital property; (2) the effort of this or that spouse, property acquisition during marriage, or the efforts of both spouses secure marital property formation; (3) marital property is acquired even when the property is registered in one partner without his or her spouse; and (4) the KHI specifies that spouses may be subject to exceptional rules

regarding marital property arising from a marriage agreement (Nurunnisa et al., 2023; Rouf, 2024).

The Marriage Act does not provide provisions governing the division of marital property upon dissolution. Article 37 says that, upon divorce, the ownership of marital property is returned under the laws of "their respective laws," which, it is stated, can be taken as applicable religious law (e.g., Islamic law), customary law, or otherwise relevant law. In the case of Muslim couples, the KHI contains the needed clarification: Article 97 makes it clear that when a marriage ends by divorce (or the death of either spouse), the husband and wife (or the estates of the respective parties) should have an equal share of the marital property, unless the agreement between the spouses foresees some other system of distribution (Miqat et al., 2023). Under this rule, a standard of 50/50 division is created. Notwithstanding, in some cases the division can be made under the conditions of the amount of contribution between the husband and wife (Rouf et al., 2023). Disputes concerning the division of marital property are adjudicated by the Religious Courts when the parties are Muslim, and by the District Courts in all other cases (Susilawati, 2019).

The Best Interest of the Child Principle: Legal Foundations in Indonesia's Child Protection Act

The principle of the best interests of the child constitutes a fundamental foundation of the Child Protection Act and is firmly embedded in both international and Indonesian law (Budi et al., 2024; Nasution & Nasution, 2021). This principle should be the most significant factor the court should consider when resolving a family dispute (Kaldal et al., 2024; Revheim et al., 2025).

The core principle derives from the United Nations Convention on the Rights of the Child (CRC) of 1989, which stipulates that the best interests of the child must serve as the guiding principle in all actions concerning them (Atakpo & Owhe-Ureghe, 2025; Rejmer, 2024). In this context, Indonesia has ratified the CRC, ensuring children's rights in civil, political, economic, social, health, and cultural spheres (Gunawan & Bahri, 2023). The Indonesian Child Protection Act incorporates this principle on the basis that the best interests of the child must be prioritized in all policies and actions concerning children (Hariyanto et al., 2024).

The provision of such guarantees is because they are children; they cannot defend their rights, do not know how to make their voices heard, and are not ready to become involved in making decisions that affect their lives because of their age and lack of maturity. As a result, there are many cases when their voices are unheard (Eriksson, 2024; Veselov, 2020). Accordingly, the law categorizes children as part of vulnerable groups. Act No. 39 of 1999 on Human Rights places children alongside other vulnerable populations, including the elderly, the poor, pregnant women, and persons with disabilities (Rudy et al., 2023).

Moreover, in the Constitution of 1945, fundamental rights of children are guaranteed: Article 28B (2) confirms children's rights to survival, growth, development, and protection against violence and discrimination, and Article 34(1) presupposes state care concerning impoverished and neglected children

(Dewi et al., 2022). Under the Child Protection Act (Article 1(2)), child protection refers to all measures to establish an environment allowing children to enjoy their rights and realize their roles and responsibilities to grow well with human dignity (O'Leary et al., 2019). This principle also affirms the child's right to participate in decision-making processes that affect their lives.

Protecting the children is everyone's business; the state, communities, families, and individuals must work harmoniously to develop a protective and conducive environment (O'Leary et al., 2019; Purnamawati et al., 2024). Arif Gosita, a legal scholar, notes that the importance of law cannot be overestimated because, without legal certainty, the continuation of child protection and the elimination of abuse in the system will not be possible (Riyadi, 2024; Suadi et al., 2024). The Child Protection Act operationalizes this principle by clearly delineating the roles and responsibilities of the state, the community, and families, reflecting its whole-unit character (Yusup & Hasan, 2023).

The legislation establishes two complementary procedures aimed at safeguarding the welfare of children (Suadi & Hasan, 2024). The first one is the systematically attempts by people and governmental and non-governmental organizations to protect the physical, mental, and social welfare of children using their rights and interests (Simatupang et al., 2023). Supplementing this, the second strategy involves the collective effort of people, families, neighbourhoods, government institutions, and non-governmental organizations in accomplishing children's spiritual and material wants, thus their growth as entitlements (O'Leary et al., 2019). These models establish a coherent system in which institutional accountability and the collective good of society work together to safeguard children's integrity and potential.

These two parallel strategies serve to operationalize the approaches (Yusup & Hasan, 2023). Direct protection thinks directly about children and intervenes: they protect them against violence, offer education and assistance in care, and deliver basic life needs such as healthcare and safe living conditions (Revheim et al., 2025). At the same time, indirect protection targets the society base by including changes in systems like decreasing poverty, access to modernized healthcare practices, and child-friendly justice systems (Connolly & Katz, 2019). This two-pronged approach, which integrates frontline focusing with long-term contextual transformation, is the commitment of Indonesia to ensuring children are secure at both personal and environmental levels, the approach of holistic safeguarding against all types of rights violations (O'Leary et al., 2019). Finally, the child's best interest stipulates that the child's welfare and rights should not only be considered but must also form the first and exclusive priority in all decision-making processes regarding children's lives and growth.

Determining the Child's Best Interests in Marital Property Disputes

The two parallel strategies function to operationalize these approaches (Budi et al., 2024). According to this principle, all decisions must be made keeping the interests of a child in mind, where the child's welfare should not be penalized in any case (Kaldal et al., 2024; Revheim et al., 2025). In adjudicating the division of property, courts must take into account its

potential impact on the child's access to essential needs such as education, healthcare, and emotional stability, recognizing that parental conflict often has adverse emotional and psychological effects on children (Kaldal et al., 2024).

In resolving matrimonial property disputes, courts should critically and thoroughly examine the child's social and economic circumstances (Agustina, 2023; Budi et al., 2024). The long-term implications of any ruling need to be considered. To illustrate, when a property division thwarts a child's access to quality education or healthcare, such a move contradicts the principle of best interest, which is why courts should not take these rights lightly (Yusup & Hasan, 2023).

Consideration should also be given to the social and cultural background in which the child is raised. Every child lives in a particular community with its values and norms (Revheim et al., 2025). These contexts should be respected in court since legal judgment alone can miss some serious elements of culture that present a significant emotional burden to the child. Hence, decision-making shall incorporate a macro and culturally tolerant understanding for the child's benefit (Suadi & Hasan, 2024).

Ultimately, rulings on marital property disputes should be grounded in the principle of child welfare, ensuring the child's growth in a stable and healthy environment. This norm reinforces the protection of children's rights and supports the development of their future (Musaddad et al., 2025; Syukrawati et al., 2024). It is also essential to make the legal fraternity and society aware and knowledgeable of such a method to provide the affected children with ample justice and a chance to give them a better future.

Judicial Application of the Child's Best Interests Principle: Case 377 K/Ag/2023

A clear illustration of the application of the best interests of the child in resolving marital property disputes can be found in Cassation Decision No. 377 K/Ag/2023. The court in this case felt that property division is supposed to consider the child's basic needs by providing a decent place to stay until he or she reaches adulthood or age 21. This cassation decision nullifies the decision of the Makassar Religious High Court Number 97/Pdt.G/2022/PTA. It upholds the Decision of the Sungguminasa Religious Court Number 334/Pdt.G/2022/PA, albeit with certain corrections.

The considerations regarding the provision of a proper residence until the child matures or is 21 years old are as follows:

Based on the assessment of the results of the evidence by the Judex Facti/Makassar Religious High Court, the Plaintiff can prove his claim that the object of dispute is marital property belonging to the Plaintiff and the Defendant, which has not been divided after they divorced. In contrast, the Defendant cannot prove his rebuttal. Because the object of dispute is the marital property of the Plaintiff and the Defendant during the marriage as stipulated in Article 35 paragraph (1) of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 jo. Article 1 letter (f) of the Compilation of Islamic Law, then by the provisions of Article 97 of the Compilation of Islamic Law, namely, the Plaintiff and the Defendant are each entitled to ½ (one-half) of the Marriage Property;

Considering, however, that the Supreme Court thinks that the Decision of the Judex Facti/High Court of Religion of Makassar, which upholds the Decision of the Sungguminasa Religious Court, must be corrected insofar as it concerns a plot of land and building with an area of ..., with the following considerations:

That morally and juridically, the Defendant as a father is obliged to provide a proper residence for the 2 (two) children of the Plaintiff and the Defendant who are currently in the care of the Plaintiff as their mother, so to protect the children's rights to a proper residence, the Supreme Court determines that the disputed object in the form of a plot of land and building with an area of ... is defined for the residence of the two children. Therefore, the division of the disputed object will be carried out after the two children are adults or 21 (twenty-one) years old. This is in the best interest of the child as stipulated in Article 12, paragraphs (1) and (2), of Law Number 35 of 2014 Concerning the Amendment to Law Number 23 of 2002 Concerning Child Protection as amended by Law Number 17 of 2016 Concerning the Stipulation of Government Regulation instead of Law Number 1 of 2016 Concerning the Second Amendment to Law Number 23 of 2002 Concerning Child Protection into Law. On that basis, the Judgment of the Judex Facti/Makassar Religious High Court must be corrected as stated in this Decision;

The application of the best interests of the child aspect in this decision is reflected in the following verdict: *Determine that the marital property as dictum number 2.1 above in the form of a plot of land and building with an area of 98 (ninety-eight) square meters located at, the division will be carried out after the two children of the convention plaintiff and convention defendant have reached adulthood or 21 (twenty-one) years of age;*

In actual implementation, this principle can be applied through measurable indicators such as securing adequate housing, access to education and health services, and consistent financial support. Through these indicators, the principle, a guideline for both ethics and law, becomes not merely a moral imperative but a concrete judicial standard. Cassation Decision No. 377 K/Ag/2023 illustrates this transformation. The Supreme Court, in its ruling, not only affirmed the existence of marital property but also postponed its division until the child reached adulthood. By prioritizing the welfare of children over the pursuit of immediate legal certainty, the Court underscored a significant doctrinal shift in Indonesian family law.

In its analysis of Cassation Decision No. 377 K/Ag/2023, the Court carefully and comprehensively took into account the best interests of the child. The Panel of Judges at the Cassation level has made *progressive ijtihad* by applying new norms in the division of marital property as stated in Supreme Court Circular Letter Number 1 of 2022 (Budi et al., 2024; Hamid, 2024; Rais, 2019). In the formulation of the religious chamber number 1 letter, it states that *"to ensure the realization of the principle of the best interests of the child in the case of marital property whose object is proven to be the only house where the child lives, the lawsuit can be granted, but the division will be carried out after the child is an adult (21 years old) or is married."*

This formulation complements the provisions on the division of marital property as regulated in Article 35(1) of the Marriage Act and Article 97 of the

KHI (Nurnazli, 2018). If only based on these two provisions, the object in the form of the disputed house should have been divided directly as marital property as determined by the judges at first instance and on appeal (Kurniawan, 2018; Yusup & Hasan, 2023).

The steps taken by the judges at the Cassation level merit appreciation, as Cassation Decision No. 377 K/Ag/2023 represents a significant legal breakthrough in safeguarding the rights of children who are often neglected. This decision demonstrates a strong judicial commitment to ensuring that every child receives substantive justice, even in the absence of active claims. This effort is essential because the obligation to protect children is not only an individual responsibility but a collective responsibility involving the family, community, and state (O'Leary et al., 2019; Purnamawati et al., 2024). In this context, if the family and community cannot protect children, the state must protect these children.

In this case, the Plaintiff, as a parent, does not appear to have suffered adverse consequences from the ruling that authorized the separation of the disputed house. Separation of the marriage property proceedings might lead to selling the house, and thus, the two children might need a new environment. This case may make havoc in the lives of children who may also lose their education when relocating to another place. The adjustment to a new environment may also be tricky. The procedure can disturb their emotional as well as psychological balance. The impact of the divorce of both parents cannot be ignored, as this can add to the psychological burden they have to bear (Agustina, 2023; Suadi et al., 2024). This gives the impression that, in dividing the marital property, the Plaintiffs failed to adequately prioritize the best interests of their children.

Based on these considerations, the court, as part of the state, is present to protect decisions oriented towards the child's best interests. *The* presence of the state in protecting the interests and rights of children is a responsibility carried out by the provisions of the *Convention on the Rights of the Child* (Atakpo & Owhe-Ureghe, 2025; Budi et al., 2024; Nasution & Nasution, 2021). This responsibility must be realized through various concrete actions, such as formulating rules that reinforce international law relating to children. In addition, the state also needs to change, improve, or even abolish international legal rules that are no longer relevant to the interests of children. The establishment of new international legal norms is also necessary to guarantee that the best interests of the child are consistently prioritized in all legal decisions (Kaldal et al., 2024; Revheim et al., 2025).

In this context, Cassation Decision Number 377 K/Ag/2023 is a legal decision and part of the state's efforts to create new legal rules more responsive to protecting children's rights. This decision demonstrates that the courts are not just law enforcers but also agents of change who are determined to ensure that every child has the protection needed. Therefore, the measures executed by the Panel of Judges in this suit catalyze the justice of the concerned children and serve as a pretext for other courts to be more responsive towards the cause of child protection in the future.

Among the rights of children, which were defended by the decision, are the right to life and safety and the right to grow and develop (Alifiyah & Anshori, 2023; Gadda et al., 2020). These rights are core posts of child protection whereby any child can live well and develop best. Through the decision, children are guaranteed protection that enables them to live safely and decently and minimizes the risk of homelessness. The child's development depends on a secure and nurturing environment that addresses physical, emotional, and social needs, including adequate access to education, health services, and psychological support (Gunawan & Bahri, 2023; Haugli & Sigurdson, 2024). With this protection, children are expected to grow up in an environment that suits their needs and expectations so that they can reach their full potential.

The protection provided in this decision is part of the two forms of protection the state provides to children, namely juridical child protection and non-juridical child protection (Hanifah & Ishaq, 2020). Juridical protection focuses on the legal aspect, where the state provides legal guarantees to protect children's rights through a fair justice system. This protection is sought by creating a justice system that favors children in this context, including making clear and firm regulations and consistent application of the law in every case involving children (Falch-Eriksen & Skivenes, 2019). Thus, children are protected physically and legally, so their rights are recognized and respected in every aspect of life (Yusup & Hasan, 2023).

Decisions that prioritize the interests of children are inseparable from the central role of judges, who receive, examine, adjudicate, and resolve each case brought before them. Judges as enforcers of law and justice have a great responsibility to explore, follow, and understand the legal values that live in society (Candra et al., 2023). This process is critical so that the decisions taken are not only based on rigid legal rules but also consider the values of justice prevailing in society. This obligation is as stated in the provisions of Article 5, paragraph (1) of Act Number 48 of 2009 concerning Judicial Power, which emphasizes that every judge must pay attention to the values that live in society (Alfiander, 2022; Imran, 2021). Thus, the decision made by the judge can reflect the sense of justice expected by the community, by the provisions of Article 229 KHI, which regulates the importance of justice in the judicial process.

The law applied in Cassation Decision Number 377 K/Ag/2023 departs from several other Cassation Decisions, including Decision Number 159 K/Ag/2018 Jo. Decision Number 6 PK/Ag/2019 became the forerunner of the Supreme Court Circular Letter Number 1 Year 2022 provisions. The formulation of the religious chamber in the provisions of the SEMA reinforces the judiciary's guarantee of fulfilling children's rights in the division of marital property.

The establishment of the formulation of the chamber is a consequence of the principle of civil law applicable in Indonesia, which adheres to the principle of an open legal system policy (Al-Fatih, 2021). This principle gives judges space to make legal discoveries in resolving cases. Therefore, judges must be able to adapt and apply moral values prevailing in society as a reference in legal justification (Candra et al., 2023). This becomes very

important, especially in cases where the existing law is unclear, incomplete, or requires updating. The legal discovery in question is the process of law formation by judges or other parties tasked with applying general legal regulations to concrete legal events (Pradikta et al., 2021). This process not only involves the application of existing laws but also requires creativity and a deep understanding of the social context behind the case. Accordingly, legal discovery functions as an intermediary between abstract legal principles and practical realities, with the aim of delivering decisions that are fair and socially responsive.

Legal discoveries must be made by every judge, considering that every day they face concrete problems that must be examined, decided, and resolved. In facing this challenge, judges must use various general rules as guidelines but must also be able to consider specific aspects relevant to the case being handled. The results of the discovery of the law will become binding law and are contained in a decision on the case being examined. In addition, this legal discovery can also function as a source of law through jurisprudence, which can be a reference for future judicial processes (Hamid, 2024). Thus, legal discovery not only contributes to the resolution of individual cases but also enriches the legal system as a whole, creating a legal framework that is more responsive and adaptive to the dynamics of society.

Applying law that departs from *rechtsvinding* in Cassation Decision Number 377 K/Ag/2023 emphasizes that a broader and deeper range of aspects must be considered in examining disputes over marital property. In this context, not only are the time of acquisition of property, the origin of property acquisition, and the provisions of the marriage agreement the focus, but also the interests of children, often overlooked in the legal process. The importance lies in the fact that judges' rulings extend beyond the litigating parties, exerting a direct influence on the welfare and future of the children concerned. In this case, attention to children's interests becomes crucial, especially in considering how the division of property can affect their living conditions after the divorce experienced by both parents.

On this basis, applying the law in the division of marital property must go beyond mere technical and formal aspects. In this way, the law serves not only as a tool to resolve disputes but also as an instrument that protects the rights and welfare of children. Integrating children's interests into every legal decision fosters a more supportive environment for them and ensures that their rights are not overlooked in the judicial process. Therefore, it is essential to continue developing a child-oriented understanding and practice of law so that every decision can reflect a commitment to protect future generations.

From a forward-looking perspective, this decision represents a major advancement as it applies the best interests of the child to disputes over joint property. Yet, critical observations are also necessary. Firstly, the decision does not provide explicit technical guidelines to prevent assets from being reallocated or dissipated throughout the postponement period. Secondly, deferring division may create uncertainty in law for former spouses who anticipate immediate settlement of their economic rights. Thirdly, the lack of explicit regulation in the KHI allows for variations in judicial interpretation from one case to another.

Despite these shortcomings, the novelty of this ruling is undeniable. For the first time, child welfare was explicitly recognized as a decisive factor in the adjudication of marital property. This marks a crucial turning point, shifting the focus from mere ownership and division of property to ensuring that children maintain decent living conditions after divorce.

Decision No. 377 K/Ag/2023, doctrinally, enlarges the best interests of the child principle into economic relations. This illustrates that children's welfare encompasses not only custody and support but also the allocation and timing of marital property. In practice, the decision carries several implications. As a first step, to prevent concealment or illegal transfers during the postponement, lower courts must initiate a systematic inventory of assets. Another step is for judges to establish interim mechanisms, such as supervised asset management, to ensure that children's needs are met while division is deferred. The third recommendation is that policymakers codify this doctrinal advancement in a Supreme Court regulation to secure consistent and predictable outcomes in all courts.

Viewed through the lens of Islamic legal theory, this judicial development reflects alignment with the objectives of *Maqāṣid al-Sharī'ah*. The postponement of asset distribution in order to secure children's welfare reflects the protection of life and lineage, *ḥifẓ al-nafs* and *ḥifẓ al-nasl*, which are two of the core objectives of Islamic law. In this sense, SEMA No. 1/2022 and Cassation Decision No. 377 K/Ag/2023 do not merely reformulate statutory interpretation but also substantiate the higher purposes of Islamic Family Law.

Benchmark Analysis: Child's Best Interests in Cassation Decision 377 K/Ag/2023

In examining Cassation Decision No. 377 K/Ag/2023, the Court gave careful and comprehensive consideration to the best interests of the child. The Panel of Judges at the Cassation level has made *progressive ijtihad* by applying new norms in the division of marital property as stated in Supreme Court Circular Letter Number 1 of 2022 (Budi et al., 2024; Hamid, 2024; Rais, 2019). In the formulation of the religious chamber number 1 letter, it states that "*to ensure the realization of the principle of the best interests of the child in the case of marital property whose object is proven to be the only house where the child lives, the lawsuit can be granted, but the division will be carried out after the child is an adult (21 years old) or is married.*"

It serves as a complement to the rules governing the division of marital property under Article 35, paragraph (1) of the Marriage Act and Article 97 of the KHI (Nurnazli, 2018). If only based on these two provisions, the object in the form of the disputed house should have been divided directly as marital property as determined by the judges at first instance and on appeal (Kurniawan, 2018; Yusup & Hasan, 2023).

The steps taken and pursued by the judges at the Cassation level should be appreciated, because Cassation Decision Number 377 K/Ag/2023 contains a significant legal breakthrough to protect the rights of children who are often neglected. The ruling demonstrates a firm commitment to guaranteeing each child's right to genuine justice, irrespective of their active involvement in

pursuing it. This effort is essential because the obligation to protect children is not only an individual responsibility but a collective responsibility involving the family, community, and state (O'Leary et al., 2019; Purnamawati et al., 2024). In this context, if the family and community cannot protect children, the state must protect these children.

In this context, the Plaintiff, in their capacity as a parent, does not appear to have experienced negative effects from the ruling authorizing the separation of the disputed house. Separation of the marriage property proceedings might lead to selling the house, and thus, the two children might need a new environment. This case may make havoc in the lives of children who may also lose their education when relocating to another place. The adjustment to a new environment may also be tricky. The procedure can disturb their emotional as well as psychological balance. The impact of the divorce of both parents cannot be ignored, as this can add to the psychological burden they have to bear (Agustina, 2023; Suadi et al., 2024). Therefore, there is an impression that the Plaintiffs did not fully consider the best interests of their children in the process of dividing the marital property.

Based on these considerations, the court, as part of the state, is present to protect decisions oriented towards the child's best interests. *The* presence of the state in protecting the interests and rights of children is a responsibility carried out by the provisions of the *Convention on the Rights of the Child* (Atakpo & Owhe-Ureghe, 2025; Budi et al., 2024; Nasution & Nasution, 2021). This responsibility must be realized through various concrete actions, such as formulating rules that reinforce international law relating to children. Furthermore, the state has a responsibility to amend, improve, or, where necessary, repeal international legal provisions that fail to serve the best interests of children. Establishing new international legal rules is also necessary to ensure that children's best interests are always prioritized in every legal decision (Kaldal et al., 2024; Revheim et al., 2025).

In this context, Cassation Decision Number 377 K/Ag/2023 is a legal decision and part of the state's efforts to create new legal rules more responsive to protecting children's rights. This decision demonstrates that the courts are not just law enforcers but also agents of change who are determined to ensure that every child has the protection needed. Therefore, the measures executed by the Panel of Judges in this suit catalyze the justice of the concerned children and serve as a pretext for other courts to be more responsive towards the cause of child protection in the future.

Among the rights of children, which were defended by the decision, are the right to life and safety and the right to grow and develop (Alifiyah & Anshori, 2023; Gadda et al., 2020). These rights are core posts of child protection whereby any child can live well and develop best. The decision guarantees protection for children, ensuring their right to a safe and decent life and minimizing the possibility of homelessness. A safe and supportive environment is key to a child's development, including physical but also emotional and social aspects, and includes access to education, health, and psychological support necessary for their development (Gunawan & Bahri, 2023; Haugli & Sigurdson, 2024). With this protection, children are expected

to grow up in an environment that suits their needs and expectations so that they can reach their full potential.

The protection provided in this decision is part of the two forms of protection the state provides to children, namely juridical child protection and non-juridical child protection (Hanifah & Ishaq, 2020). Juridical protection focuses on the legal aspect, where the state provides legal guarantees to protect children's rights through a fair justice system. This protection is pursued through the establishment of a justice system that prioritizes children, which entails the formulation of clear and firm regulations and the consistent application of the law in every child-related case (Falch-Eriksen & Skivenes, 2019). Thus, children are protected physically and legally, so their rights are recognized and respected in every aspect of life (Yusup & Hasan, 2023).

The presence of decisions that favor the interests of children cannot be separated from the central role of judges who receive, examine, decide, and resolve every case submitted to them. Judges as enforcers of law and justice have a great responsibility to explore, follow, and understand the legal values that live in society (Candra et al., 2023). Such a process is essential so that decisions are grounded not merely in strict legal provisions but also in the broader principles of justice recognized by society. This obligation is as stated in the provisions of Article 5, paragraph (1) of Act Number 48 of 2009 concerning Judicial Power, which emphasizes that every judge must pay attention to the values that live in society (Alfiander, 2022; Imran, 2021). Thus, the decision made by the judge can reflect the sense of justice expected by the community, by the provisions of Article 229 KHI, which regulates the importance of justice in the judicial process.

The law applied in Cassation Decision Number 377 K/Ag/2023 departs from several other Cassation Decisions, including Decision Number 159 K/Ag/2018 Jo. Decision Number 6 PK/Ag/2019 became the forerunner of the Supreme Court Circular Letter Number 1 Year 2022 provisions. The formulation of the religious chamber in the SEMA provisions affirms the judiciary's guarantee to uphold children's rights in the division of marital property

The establishment of the formulation of the chamber is a consequence of the principle of civil law applicable in Indonesia, which adheres to the principle of an open legal system policy (Al-Fatih, 2021). This principle gives judges space to make legal discoveries in resolving cases. Therefore, judges must be able to adapt and apply moral values prevailing in society as a reference in legal justification (Candra et al., 2023). This becomes particularly important in cases where the existing law is ambiguous, incomplete, or in need of reform. The legal discovery in question is the process of law formation by judges or other parties tasked with applying general legal regulations to concrete legal events (Pradikta et al., 2021). This process not only involves the application of existing laws but also requires creativity and a deep understanding of the social context behind the case. Thus, legal discovery is a bridge between the general law and the reality faced in everyday life, to produce decisions that are fairer and in line with the needs of society.

Legal discoveries must be made by every judge, considering that every day they face concrete problems that must be examined, decided, and resolved.

In facing this challenge, judges must use various general rules as guidelines but must also be able to consider specific aspects relevant to the case being handled. The results of the discovery of the law will become binding law and are contained in a decision on the case being examined. In addition, this legal discovery can also function as a source of law through jurisprudence, which can be a reference for future judicial processes (Hamid, 2024). Accordingly, legal discovery serves not only to resolve specific disputes but also to enrich the legal system, shaping a framework that better responds and adapts to the evolving needs of society.

Applying law that departs from *rechtsvinding* in Cassation Decision Number 377 K/Ag/2023 emphasizes that a broader and deeper range of aspects must be considered in examining disputes over marital property. In this context, not only are the time of acquisition of property, the origin of property acquisition, and the provisions of the marriage agreement the focus, but also the interests of children, often overlooked in the legal process. This is of great importance, as judicial decisions affect not only the disputing parties but also directly shape the future and welfare of the children involved. In this case, attention to children's interests becomes crucial, especially in considering how the division of property can affect their living conditions after the divorce experienced by both parents.

Accordingly, applying the law to marital property division should not be confined to technical and formal aspects alone. In this way, the law serves not only as a tool to resolve disputes but also as an instrument that protects the rights and welfare of children. Efforts to integrate children's interests in every legal decision will create a better environment for them and ensure that their rights are not overlooked in the legal process. Therefore, it is essential to continue developing a child-oriented understanding and practice of law so that every decision can reflect a commitment to protect future generations.

Conclusion

The best interests of the child are integrated into Indonesian family law and realized through two core legal instruments: SEMA No. 1 of 2022, serving as a normative foundation, and Cassation Decision No. 377 K/Ag/2023, translating the principle into practice by postponing marital property distribution until the children reach adulthood.

This development not only supplements previous studies that focused primarily on custody and child support but also extends the scope of child protection into the financial domain. Viewed through the lens of *maqāṣid al-sharī'ah*, this approach corresponds to the preservation of lineage (*ḥifẓ al-nasl*) and the safeguarding of life (*ḥifẓ al-nafs*), underscoring that safeguarding children's well-being represents both a juridical duty and a moral imperative in Islamic law.

What this implies is that the Supreme Court must devise procedural directives to guarantee uniform enforcement of this principle throughout the judicial hierarchy. Further research is also required to evaluate the effectiveness of SEMA No. 1 of 2022 in practice. Strengthening the normative foundation and *maqāṣid* orientation of the religious court system in Indonesia

enables it to deliver fair judgments for the parties and ensure the protection of children's future.

References

- Abubakar, A. (2019). The Chance on Islamic Family Law Study in Indonesia. *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah*, 4(1), 42–55. <https://doi.org/10.22373/petita.v4i1.13>
- Agustina, F. (2023). Fulfilling Children's Rights Through Post-Divorce Relationships: An Investigation from Bima. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 16(1), 158–179. <https://doi.org/10.14421/ahwal.2023.16108>
- Ahmed, A. R. M., Zaghoul, S. G. G., & Bakar, M. A. (2021). Matrimonial property disputes. *Linguistics and Culture Review*, 5(S4), 2154–2160. <https://doi.org/10.21744/lingcure.v5nS4.1915>
- Akhtar, R. C., & Manjoo, F. A. (2024). Matrimonial property in Islamic law. In *Research Handbook on Family Property and the Law* (pp. 77–91). Edward Elgar Publishing. <https://doi.org/10.4337/9781802204681.00012>
- Al-Fatih, S. (2021). Interpretation of Open Legal Policy by The Constitutional Judges in Judicial Review of Parliamentary Thresholds. *Diponegoro Law Review*, 6(2), 231–246. <https://doi.org/10.14710/dilrev.6.2.2021.231-246>
- Alfiander, D. (2022). Disparity in the Considerations of Judges in Deciding Divorce Disputes in Religious Courts and District Courts. *Juris: Jurnal Ilmiah Syariah*, 21(1), 109–119. <https://doi.org/10.31958/juris.v21i1.5716>
- Alifiyah, R., & Anshori, I. (2023). Legal Protection for Children in Cases of Domestic Violence in the Indonesian Households. *El-Usrah: Jurnal Hukum Keluarga*, 6(2), 348. <https://doi.org/10.22373/ujhk.v6i2.19153>
- Atakpo, T. E., & Owhe-Ureghe, A. O. (2025). Challenges In Prioritizing the Best Interest of The Child in Child Protection. *European Journal of Education Studies*, 12(5). <https://doi.org/10.46827/ejes.v12i5.5972>
- Awiet, J., & Riyadi, A. K. (2020). تاريخ الأموال الزوجية المشتركة في إندونيسيا وتقنيته. *Malaysian Journal of Syariah and Law*, 8(2), 94–112. <https://doi.org/10.33102/mjssl.vol8no2.256>
- Budi, K. P., Anand, G., Septiningrum, S. Y., Rahmat, N. E., & Nugraha, X. (2024). Adjudicating Joint Property Dispute in Islamic Jurisprudence: Balancing The Best Interests of The Child With A Focus on Residency. *Syariah: Jurnal Hukum Dan Pemikiran*, 23(2), 245–266. <https://doi.org/10.18592/sjhp.v23i2.12278>
- Candra, M., Sinaulan, R., Al Hasan, F., & Ramadhan, J. (2023). The Religious Court Trial Of Wali Adhal Cases In The Indonesian Legal System: A Legal Analysis. *Jurnal Hukum Dan Peradilan*, 12(1), 77. <https://doi.org/10.25216/jhp.12.1.2023.77-96>
- Chendra, J. E. P., Said, N., & Lahae, K. (2020). Kepastian Hukum dalam Pembuatan Hukum Atas Harta Bersama pada Pembelian dan Penjaminan Hak atas Tanah. *Mimbar Hukum-Fakultas Hukum*

- Universitas Gadjah Mada*, 32(2), 308.
<https://doi.org/10.22146/jmh.50865>
- Connolly, M., & Katz, I. (2019). Typologies of Child Protection Systems: An International Approach. *Child Abuse Review*, 28(5), 381–394.
<https://doi.org/10.1002/car.2596>
- De Coninck, D., Van Doren, S., & Matthijs, K. (2021). Attitudes of Young Adults Toward Marriage and Divorce, 2002–2018. *Journal of Divorce & Remarriage*, 62(1), 66–82.
<https://doi.org/10.1080/10502556.2020.1833292>
- Dewi, A. A. I. A. A., Dharmawan, N. K. S., Krisnayanti, A. A. I. E., Samsithawrati, P. A., & Kurniawan, I. G. A. (2022). The Role of Human Rights and Customary Law to Prevent Early Childhood Marriage in Indonesia. *Sriwijaya Law Review*, 268–285.
<https://doi.org/10.28946/slrev.Vol6.Iss2.1885.pp268-285>
- Directorate General of Religious Courts. (2024). *Annual Report Year 2023*.
<https://badilag.mahkamahagung.go.id/laptah/laptah/laptah>
- Eriksson, M. (2024). Children's Participation and Perspectives in Family Disputes. In *Children in Custody Disputes* (pp. 85–106). Springer Nature Switzerland. https://doi.org/10.1007/978-3-031-46301-3_5
- Falch-Eriksen, A., & Skivenes, M. (2019). Right to Protection. In *Children's Rights in Norway* (pp. 107–135). Universitetsforlaget.
<https://doi.org/10.18261/9788215031415-2019-04>
- Gadda, A., Harris, J., Tisdall, E. K. M., Millership, E., & Kilkelly, U. (Eds.). (2020). *Human Rights Monitoring and Implementation*. Routledge.
<https://doi.org/10.4324/9781003056249>
- Gunawan, S. O., & Bahri, S. (2023). Impacts of Early Childhood Marriage in Indonesia Viewed from Child Protection Laws Perspectives. *El-Usrah: Jurnal Hukum Keluarga*, 6(2), 362.
<https://doi.org/10.22373/ujhk.v6i2.20262>
- Hamid, A. (2024). Abdullah Saeed's Progressive Ijtihad in the Application of Rechtsvinding Judges in Religious Courts. *Indonesian Journal of Islamic Law*, 5(2), 1–17. <https://doi.org/10.35719/ijil.v5i2.824>
- Hanifah, L., & Ishaq, M. (2020). Legal Protection for Children: A Conceptual Paper. *Proceedings of the 6th International Conference on Education and Technology (ICET 2020)*.
<https://doi.org/10.2991/assehr.k.201204.043>
- Harahap, M. Y. (2017). *Hukum acara perdata: tentang gugatan, persidangan, penyitaan, pembuktian, dan putusan pengadilan*. Sinar Grafika.
- Haris, A., Lisdiyono, E., & Setiyowati. (2024). The Reconstruction of Religious Court Decision Execution on the Fulfilment of Children's Rights Post-Divorce in Indonesia. *Revista de Gestão Social e Ambiental*, 18(7), e5564. <https://doi.org/10.24857/rgsa.v18n7-035>
- Hariyanto, H., Meidina, A. R., & Azizah, M. (2024). Decentralization and the Fulfilments of Children's Rights: Challenges and Opportunities for Local Government in Indonesia. *Lex Scientia Law Review*, 8(2), 677–706. <https://doi.org/10.15294/lslr.v8i2.14373>
- Haugli, T., & Sigurdson, R. (2024). Children's Health Matters in Custody Conflicts: Best Interests of the Child and Decisions on Health Matters.

- In *Children in Custody Disputes* (pp. 147–168). Springer Nature Switzerland. https://doi.org/10.1007/978-3-031-46301-3_8
- Hidayat, R., Jayusman, J., Efrinaldi, E., & Sari, R. (2022). Review of Maqāsid al-Syarī'ah Concerning the Fulfillment of Child Rights Post-Divorce in Budi Aji Village, Simpang Pematang District, Mesuji Regency. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 22(2), 213–228. <https://doi.org/10.30631/alrisalah.v22i2.1254>
- Imran, S. Y. (2021). The Urgency of Regulation of the Ultra Qui Judicat Principle in Criminal Judgments. *Jambura Law Review*, 3(2), 395–410. <https://doi.org/10.33756/jlr.v3i2.11154>
- Kaldal, A., Hellner, A., & Mattsson, T. (2024). Introduction: Matching Legal Proceedings to Problems in Custody Disputes. In *Children in Custody Disputes* (pp. 1–20). Springer Nature Switzerland. https://doi.org/10.1007/978-3-031-46301-3_1
- Khairina, K., Khairani, K., Efendi, R., Kasmuri, K., & Afrianto, O. (2024). Reforming the Rules on the Division of Joint Property: A Progressive Legal Approach. *JURIS (Jurnal Ilmiah Syariah)*, 23(1), 193. <https://doi.org/10.31958/juris.v23i1.11565>
- Kurniawan, M. B. (2018). Pembagian Harta Bersama Ditinjau Dari Besaran Kontribusi Suami Istri dalam Perkawinan. *Jurnal Yudisial*, 11(1), 41–52. <https://doi.org/https://doi.org/10.29123/jy.v11i1.224>
- Kusmayanti, H., Fakhriah, E. L., & Nugroho, B. D. (2021). The Settlement of Disputes Regarding Division of Joint Property After a Divorce In The Central Aceh Regency. *Jurnal Ilmiah Islam Futura*, 21(2), 170-182. <https://doi.org/10.22373/jiif.v21i2.6599>
- Mahdianur, Mashdurohatun, A., Busro, A., & Mahmutarom. (2024). Settlement of Joint Property Disputes Resulting from Divorce in the Religious Courts. *Journal of Law, Policy and Globalization*, 144, 1–9. <https://doi.org/10.7176/JLPG/141-01>
- Miqat, N., Bakhtiar, H. S., Salam, S., Tridewiyanti, K., & Ibrahim, K. M. (2023). The Development of Indonesian Marriage Law in Contemporary Era. *De Jure: Jurnal Hukum Dan Syar'iah*, 15(1), 54–66. <https://doi.org/10.18860/j-fsh.v15i1.17461>
- Musaddad, E., Ishom, M., Mat Hussin, M. N., & Jambunanda, A. J. (2025). Guaranteeing the Rights of Children and Women Post-Divorce: A Comparative Study Between Indonesia and Malaysia. *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 1–14. <https://doi.org/10.24090/volksgeist.v8i1.12214>
- Nafisah, D., Nasrudin, N., Meidina, A. R., & Zain, M. F. (2024). Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 8(2), 847. <https://doi.org/10.22373/sjhg.v8i2.16825>
- Nasution, K., & Nasution, S. (2021). Implementation of Indonesian Islamic Family Law to Guarantee Children's Rights. *Al-Jami'ah: Journal of Islamic Studies*, 59(2), 347–374. <https://doi.org/10.14421/ajis.2021.592.347-374>
- Nurnazli. (2018). Transformasi Hukum Harta Bersama di Indonesia Melalui

- Putusan Mahkamah Agung. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 11(2), 184–198. <https://doi.org/10.14421/ahwal.2018.11207>
- Nurunnisa, N., Erliyani, R., Hermawan, G. F., & Abdelhadi, Y. M. M. (2023). Implications of Annulment of Marriage on the Distribution of Joint Assets according to the Compilation of Islamic Law and National Law. *Syariah: Jurnal Hukum Dan Pemikiran*, 23(1), 1–23. <https://doi.org/10.18592/sjhp.v23i1.9523>
- O’Leary, P. J., Young, A., McAuliffe, D., & Wismayanti, Y. (2019). Developing the social work role in the Indonesian child protection system. *International Social Work*, 62(2), 814–828. <https://doi.org/10.1177/0020872817747028>
- Pelu, I. E. A., & Dakhoir, A. (2021). Marital Property within the Marriage Law: A Debate on Legal Position and Actual Applications. *Al-Jami’ah: Journal of Islamic Studies*, 59(2), 287–316. <https://doi.org/10.14421/ajis.2021.592.287-316>
- Pradikta, H. Y., Faisal, F., Pane, E., & Muafiah, E. (2021). The Paradigm of Judge’s Thoughts in The Settlement of Islamic Inheritance Cases and Their Implications on Family Law Renewal in Indonesia (Study on Supreme Court Decision Number 721 K/Ag/2015, Supreme Court Decision Number 218 K/Ag/2016, and Supreme Court. *SMART: Journal of Sharia, Traditon, and Modernity*, 1(2), 161. <https://doi.org/10.24042/smart.v1i2.11037>
- Purnamawati, S. A., Aprilianda, N., Endrawati, L., & Sulistiyo, F. (2024). Child-friendly justice and children’s rights from criminal cases; Islamic Law notes. *Legality: Jurnal Ilmiah Hukum*, 32(1), 141–154. <https://doi.org/10.22219/ljih.v32i1.31681>
- Rais, I. (2019). The Settlement of Joint Property in Religious Courts of Indonesia (A Case in the Religious Court of South Jakarta). *Al-Adalah*, 15(2), 234. <https://doi.org/10.24042/adalah.v15i2.2484>
- Rejmer, A. (2024). Custody Disputes From a Socio-Legal Perspective. In *Children in Custody Disputes* (pp. 67–83). Springer Nature Switzerland. https://doi.org/10.1007/978-3-031-46301-3_4
- Revheim, C., Jørgensen, T., & Heggdalsvik, I. K. (2025). The best interests of the child in professional assessments of contact rights when children are taken into care – An analysis. *Children and Youth Services Review*, 171, 108194. <https://doi.org/10.1016/j.childyouth.2025.108194>
- Riyadi, P. (2024). Legal Protection for Child Victims of Crimes According to The Child Criminal Justice System in Indonesia. *Protection: Journal Of Land And Environmental Law*, 2(2), 73–83. <https://doi.org/10.38142/pjlel.v2i2.1207>
- Rouf, A. (2024). Jurimetrics in the Reconstruction of the Joint Property Division Model for Wage-Earner Wives in Indonesia. *Al-Ahkam*, 34(1), 1–32. <https://doi.org/10.21580/ahkam.2024.34.1.17937>
- Rouf, A., Ch, M., & Mahmudi, Z. (2023). Joint Property Division in Indonesia: A Gender Equality Viewpoint. *De Jure: Jurnal Hukum Dan Syar’iah*, 15(2), 230–250. <https://doi.org/10.18860/j-fsh.v15i2.23050>
- Rudy, R., Natamiharja, R., Serna, J. A. M., & Syofyan, A. (2023). Implementation of Civil Rights against Vulnerable Groups in the Legal

- and Constitutional System in Indonesia. *Hasanuddin Law Review*, 8(3), 299. <https://doi.org/10.20956/halrev.v8i3.4229>
- Simatupang, T. H., Supriyatni, R., Muttaqin, Z., & Judiasih, S. D. (2023). Paradox of state authority in supervision of child trust assets in Indonesia. *Cogent Social Sciences*, 9(1). <https://doi.org/10.1080/23311886.2023.2209992>
- Siti, B., Sjarif, F. A., & Tardjono, H. (2022). Practice in Making Notarial Agreements in Unregistered Marriage in Indonesia. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 22(1), 145–158. <https://doi.org/10.19109/nurani.v22i1.10226>
- Suadi, A., Candra, M., Al Hasan, F. A., & Gumilar, G. (2024). Legal protection of women's and children's rights after divorce through the E-MOSI CAPER App. *Jurnal Hukum Novelty*, 15(1), 35. <https://doi.org/10.26555/novelty.v15i1.a27347>
- Suadi, A., & Hasan, F. A. Al. (2024). *Problematisasi Hadlanah dan Alimentasi Anak Pasca Perceraian*. Pr.
- Sukiati, Nurasih, & Milhan. (2023). Approaches of the Religious Court Judges in Indonesia to Settle Joint Marital Property Disputes. *Manchester Journal of Transnational Islamic Law & Practice*, 19(3), 71–81.
- Sururie, R. W., Athoillah, M., & Ulhaq, M. I. Z. (2023). Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 7(2), 734. <https://doi.org/10.22373/sjkh.v7i2.14819>
- Susilawati, O. (2019). Collective Property in Marriage According to Legislation and its Implementation in Jurisdictions. *International Journal of Nusantara Islam*, 7(2), 278–285. <https://doi.org/10.15575/ijni.v7i2.12532>
- Syukrawati, S., Sidqi, I., Nisa, S. M., Zufriani, Z., & Witro, D. (2024). Post-Divorce Rights of Women and Children in Pekalongan City, Central Java: Challenges in Islamic Law Analysis. *Al-Ahkam*, 34(1), 121–146. <https://doi.org/10.21580/ahkam.2024.34.1.20624>
- Veselov, M. (2020). Administrative and Legal Ensuring of “The Best Interests of The Child” in The Field of Junior Justice. *Public Administration And Law Review*, 3, 49–56. <https://doi.org/10.36690/2674-5216-2020-3-49>
- Yusoff, A. F. J. (2024). Reassessment of Islamic Legal Bases for Matrimonial Property in Malaysia. *El-Usrah: Jurnal Hukum Keluarga*, 7(2), 541. <https://doi.org/10.22373/ujhk.v7i2.26374>
- Yusup, D. K., & Hasan, F. A. Al. (2023). Perlindungan Hukum Terhadap Hak Anak Dalam Sengketa Harta Bersama. *Jurnal Yudisial*, 15(3), 317–335. <https://doi.org/https://doi.org/10.29123/jy.v15i3.536>