

ABSTRAK

Novani Rahmawati Suhandi: *Penerapan Prinsip Kepentingan Terbaik Bagi Anak Dalam Menyelesaikan Sengketa Hak Asuh Anak (Hadhanah) Di Pengadilan Agama Cianjur*

Penelitian ini di latar belakang dengan adanya fakta pasca perceraian bahwa anak sering kali menjadi objek perebutan antara orang tua tanpa mempertimbangkan kepentingan terbaik anak itu sendiri. Hal ini menunjukkan adanya prinsip ideal perlindungan anak dan implementasinya di lapangan.

Penelitian ini bertujuan untuk mengetahui: (1) Bagaimana prinsip kepentingan terbaik bagi anak yang diterapkan dalam sengketa hak asuh anak (*hadhanah*) di Pengadilan Agama Cianjur. (2) Bagaimana penerapan prinsip kepentingan terbaik bagi anak di Pengadilan Agama Cianjur, dan (3) Bagaimana dasar pertimbangan dan dasar hukum hakim dalam menyelesaikan sengketa hak asuh anak (*hadhanah*) di pengadilan agama cianjur.

Penelitian ini menggunakan metode pendekatan yuridis normatif dengan jenis penelitian kualitatif. Data diperoleh melalui wawancara dengan tiga orang hakim, satu panitera, dan dua mediator, serta dilengkapi dengan observasi dan dokumentasi. Analisis data dilakukan secara deskriptif kualitatif.

Pendekatan penelitian ini dengan menggunakan teori *maqasid syariah*, khususnya prinsip *hifz al-nasl* (perlindungan keturunan), yang menekankan pentingnya menjaga keberlangsungan generasi melalui pengasuhan yang layak, sehingga anak dapat tumbuh dan berkembang dengan mendapatkan pendidikan, kasih sayang, dan perlindungan yang baik meskipun orang tuanya telah berpisah

Hasil penelitian menunjukkan bahwa (1) Prinsip kepentingan terbaik bagi anak benar-benar dijadikan dasar utama dalam penyelesaian sengketa hak asuh anak di Pengadilan Agama Cianjur, sebagaimana terlihat dalam contoh Putusan Nomor 764/Pdt.G/2023/PA.Cjr. Prinsip ini diterapkan secara nyata melalui pembuktian menyeluruh, termasuk penilaian fakta dan kondisi psikologis para pihak. Meskipun Pasal 105 KHI mengatur hak asuh anak belum *mumayyiz* kepada ibu, hakim menetapkan hak asuh kepada ayah karena dinilai lebih mampu memenuhi kebutuhan dan kemaslahatan anak. (2) Penerapan prinsip kepentingan terbaik bagi anak di Pengadilan Agama Cianjur menjadi dasar utama dalam putusan *hadhanah*, penerapan prinsip tersebut dilakukan secara kontekstual dan *adaptif*, dengan mempertimbangkan usia, kondisi psikologis, kedekatan emosional, kapasitas orang tua, serta lingkungan yang mendukung tumbuh kembang anak. Hal ini tercermin dalam langkah hakim seperti mendengarkan anak, menilai ikatan emosional, stabilitas pendidikan dan tempat tinggal, serta kelayakan pengasuhan secara menyeluruh. (3) Dasar pertimbangan dan dasar hukum hakim menunjukkan bahwa hakim menggunakan pendekatan integratif dengan menggabungkan hukum positif, asas perlindungan anak, nilai keislaman, dan fakta sosial. Rujukan yang digunakan mencakup KHI, UU Perkawinan, UU Perlindungan Anak, yurisprudensi, serta Surat Edaran MA. Pertimbangan juga didasarkan pada *maqasid syariah*, khususnya perlindungan jiwa dan keturunan, sehingga putusan tidak hanya sah secara hukum, tetapi juga berorientasi pada kemaslahatan anak.

Kata Kunci: *hak asuh anak, kepentingan terbaik bagi anak, Pengadilan Agama, hadhanah, hifz al-nasl*

ABSTRACT

Novani Rahmawati Suhandi, *The Implementation of the Best Interests of the Child Principle in Settling Child Custody (Hadhanah) Disputes at the Cianjur Religious Court.*

This research is motivated by the post-divorce reality in which children often become the object of custody disputes between parents, without adequate consideration of the child's best interests. This situation highlights the gap between the ideal principle of child protection and its practical implementation.

The purpose of this study is to examine: (1) how the principle of the best interests of the child is applied in child custody (hadhanah) disputes at the Religious Court of Cianjur; (2) how this principle is implemented within judicial practice; and (3) the legal and judicial considerations underlying custody decisions in the Religious Court of Cianjur.

This research employs a normative juridical approach with a qualitative method. Data were obtained through interviews with three judges, one court clerk, and two mediators, complemented by observation and documentation. The data were analyzed using descriptive qualitative techniques.

*The study adopts the theory of maqasid syariah, particularly the principle of *hifz al-nasl* (protection of offspring), which emphasizes the importance of ensuring proper parenting to support the continuity of future generations. Even after parental separation, children must be provided with proper care, education, affection, and protection.*

*The findings show that: (1) The principle of the best interests of the child serves as the primary basis in resolving custody disputes at the Cianjur Religious Court, as reflected in Decision Number 764/Pdt.G/2023/PA.Cjr. This principle is applied substantively through comprehensive evidentiary processes, including assessments of factual conditions and psychological evaluations. Although Article 105 of the Compilation of Islamic Law grants custody of non-mumayyiz children to the mother, the judge awarded custody to the father, who was deemed more capable of fulfilling the child's needs and overall welfare. (2) The application of this principle is contextual and adaptive, taking into account the child's age, psychological condition, emotional bonds, the parents' moral and financial capacities, and a supportive living environment. These considerations are evident in the judges' actions, such as listening to the child's opinion, assessing emotional closeness, educational stability, living arrangements, and overall caregiving capability. (3) The judges' legal reasoning demonstrates an integrative approach that combines positive law, child protection principles, Islamic values, and social facts. Legal references include the Compilation of Islamic Law, the Marriage Law, the Child Protection Law, Supreme Court jurisprudence, and Supreme Court Circulars. Judicial considerations are also based on *maqāṣid al-sharī'ah*, especially the protection of life (*hifz al-nafs*) and lineage (*hifz al-nasl*), ensuring that the decision is not only legally valid but also oriented toward the child's substantive welfare.*

Keywords: *child custody, best interest of the child, Religious Court, hadhanah, hifz al-nasl*