

Limiting the Right of Marriage Prevention by Negligent Fathers: A Reconstruction of Article 62 of the Islamic Law Compilation from the Perspectives of Al-Qurtubi's Exegesis and Sadd Al-Dzari'ah

Naela Rosita^{1*}, Muhammad Hafis², Rafi'aturrahmah³, Mukhlisah Amih⁴

^{1,2} Universitas Islam Negeri Sunan Kalijaga, Yogyakarta, Indonesia

³ Al-Azhar University, Cairo, Egypt

⁴ University of Birmingham, Birmingham, United Kingdom

¹25203011012@student.uin-suka.ac.id, ²muhammadhafis1505@gmail.com,

³rafiaturrahmah@gmail.com, ⁴mxal691@student.bham.ac.uk

Submitted: 11 February 2026

Revision: 11 April 2026

Accepted: 18 April 2026

Published: 8 May 2026

*) Corresponding Author

Copyright ©2026 Authors

Abstract

Article 62, paragraph (2) of the Compilation of Islamic Law provides legitimacy for the right to prevent marriage to fathers who do not perform their duties as family members, or what could be called neglectful fathers. This raises legal issues if this right is abused by fathers to prevent their children from marrying for selfish or materialistic reasons. This study aims to critique Article 62(2) of the Compilation of Islamic Law (KHI) and provide supporting arguments for the reconstruction of the article based on the interpretive perspectives of Al-Qurtubi and Sadd Dzari'ah. The research method applied is juridical-normative with a legislative and conceptual approach. The findings show that there is a legal disharmony between Article 62 Paragraph (2) of the KHI and Article 49 Paragraph (1) of the Marriage Law, which regulates the revocation of parental authority if the parent seriously neglects their obligations to their children and behaves very badly. From the perspective of Imam Al-Qurtubi's interpretation of Surah An-Nisa:34, the principle of *qiwamah* interpretation is conditional on financial support and protection, which then implies a basis for limiting guardianship. Meanwhile, from the perspective of Sadd Dzari'ah, granting the right to prevent marriage must be prohibited as a way to close loopholes for abuse of authority and prevent harm (*mafsadah*) to children. The reconstruction is carried out by removing the permission to grant legitimacy to fathers who do not perform the function of head of the family or by requiring the guardian to prove neglect in court so that the right to prevent marriage can be revoked.

Keywords: Legitimacy of the Right to Prevent Marriage, Abandoning Father, Islamic Law, Interpretation, Sadd Dzari'ah.

Abstrak

Pasal 62 ayat (2) Kompilasi Hukum Islam memberikan legitimasi hak pencegahan perkawinan kepada ayah yang tidak melakukan fungsinya sebagai keluarga atau dapat disebut ayah penelantar. Hal ini memunculkan problematika hukum apabila hak tersebut disalahgunakan oleh ayah untuk menghalangi perkawinan anak demi kepentingan egoistik atau materiil. Penelitian ini bertujuan untuk mengkritik Pasal 62 ayat (2) Kompilasi Hukum Islam (KHI) dan memberikan dalil-dalil penguat untuk rekonstruksi pasal berdasarkan perspektif tafsir Al-Qurtubi dan Sadd Dzari'ah. Metode penelitian yang diterapkan adalah yuridis-normatif dengan pendekatan perundang-undangan dan konseptual. Temuan

How to Cite this Article

Rosita, Naela, Muhammad Hafis, Rafi'aturrahmah Rafi'aturrahmah, and Mukhlisah Amin. "Limiting the Right of Marriage Prevention by Negligent Fathers: A Reconstruction of Article 62 of the Islamic Law Compilation from the Perspectives of Al-Qurtubi's Exegesis and Sadd Al-Dzari'ah." *Al-Rasikh: Jurnal Hukum Islam*, ahead of print, 2026. <https://doi.org/10.38073/rasikh.4465>.

penelitian menunjukkan bahwa terdapat disharmonisasi hukum pada Pasal 62 ayat (2) KHI dengan Pasal 49 ayat (1) UU Perkawinan yang mengatur tentang pencabutan kekuasaan orang tua apabila ia sangat melalaikan kewajiban terhadap anak dan berkelakuan sangat buruk. Dalam perspektif tafsir Imam Al-Qurtubi surat An-Nisa:34, prinsip tafsir qiwamah bersyarat pada nafkah dan perlindungan, lalu berimplikasi sebagai dasar pembatasan wali. Adapun dalam perspektif Sadd Dzari'ah, pemberian hak pencegahan perkawinan ini haruslah dilarang sebagai bentuk penutupan celah penyalahgunaan wewenang dan pencegahan keburukan (mafsadah) bagi anak. Rekonstruksi dilakukan dengan menghapuskan perizinan pemberian legitimasi pada ayah yang tidak melakukan fungsi kepala keluarga atau dengan mensyaratkan kelayakan wali melalui pembuktian penelantaran di pengadilan sehingga hak pencegahan perkawinan dapat digugurkan.

Kata Kunci: Legitimasi Hak Pencegahan Perkawinan, Ayah Penelantar, Hukum Islam, Tafsir, Sadd Dzari'ah.

INTRODUCTION

The marriage guardian is one of the pillars and requirements of marriage under Indonesian Islamic law. The guardian plays an important role in the marriage contract, namely as the party who recites the *ijab* (offer of marriage) and is then followed by the *kabul* (acceptance) recited by the groom.¹ The role of guardian is a mandate that involves religious and legal responsibilities. The state is involved as a party that balances religious norms with legal justice to protect individual rights.² The urgency of having a guardian means that every Muslim woman who wants to marry must first convey her intention to marry to her father.³ However, current issues based on data from the United Nations Children's Fund (UNICEF) show that around 20.9% do not have a father figure present. Meanwhile, according to data from the Central Statistics Agency, only 37.17% of children aged 0-5 years are cared for by both parents.⁴ This phenomenon shows that there are many fathers who do not fulfil their role as head of the family.

Article 62 paragraph (2) The Compilation of Islamic Law states that 'a biological father who has never fulfilled his role as head of the family does not lose his right of guardianship to prevent a marriage that will be conducted by another guardian.' This article has sparked debate because it has the potential to open the door to injustice or

¹ Mughni Labib Ilhamuddin Is Ashidiqie, "Kritik Atas Peraturan Wali Nikah Dalam KHI dan Fikih Perspektif Gender," *Al-Mazaahib* 9, no. 1 (Juni 2021), <https://doi.org/https://doi.org/10.14421/al-mazaahib.v9i1.2304>.

² Theresia Dyah Wirastri dan Stijn Cornelis Van Huis, "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms," *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (Desember 2024): 215–32, <https://doi.org/10.15408/ajis.v24i2.38424>.

³ Redwan Yasin dkk., "Guardian's Responsibility For The Welfare of Children in Marriage: A Study According to Islamic Law," *Malaysian Journal of Syariah and Law* 12, no. 3 (Desember 2024): 778–89, <https://doi.org/https://doi.org/10.33102/mjssl.vol12no3.765>.

⁴ Beredukasi.com, "Data 'United Nations Children's Fund (Unicef)', Menunjukkan Sekitar 20,9 Persen Anak di Indonesia Tidak Memiliki Figur Ayah," *April 2025*, t.t., <https://beredukasi.com/data-united-nations-childrens-fund-unicef-menunjukkan-sekitar-209-persen-anak-di-indonesia-tidak-memiliki-figur-ayah/>.

abuse of authority by an irresponsible father/abandoning father towards his daughter.⁵ An absent father is someone who is physically present and still alive but has never fulfilled his duties by neglecting his children, not providing for them financially, and not being involved in their upbringing. In this situation, granting the right to prevent marriage to an absent father is contrary to the concepts of *maslahat* (public interest) and justice. The prevention of marriage referred to here is an attempt to annul the marriage before it takes place.⁶ The legitimisation of preventing marriage opens up opportunities for abusive fathers to make it difficult to obtain marriage permits or to blackmail their children. It cannot be denied that in communities, especially rural areas with low levels of religious education, there have been cases of marriage guardians with poor reputations in terms of morals and religion.⁷ Therefore, in this case, there is a need for legal criticism of the validity of Article 62, paragraph (2) of the Compilation of Islamic Law.

The granting of authority to prevent marriage should be in line with the implementation of a father's functional role, so that this right does not become an empty privilege without the fulfilment of parenting responsibilities. Based on the KPAI report in 2024, there were 2,057 complaints, 1,097 of which were related to cases in the family environment and alternative care. In these cases, the majority involved biological fathers, namely 259 cases. Children were victims of sexual crimes, physical and psychological violence, impeded access to education, exploitation of cultural and religious leisure time, and various other cases that threatened child protection. The term 'child' here refers to a person aged 0-17 years.⁸ This report serves as evidence of the large number of biological fathers who are unfit to be granted guardianship authority in their children's marriages. This is exacerbated by the absence of Compilation of Islamic Law (KHI) regulations on moral or fair requirements for marriage guardians, thus opening up broad room for interpretation and potentially leading to legal injustice.⁹ This conflicting reality and granting of rights demonstrates the need for legal criticism of Article 62, paragraph (2) of the KHI. This criticism requires a strong basis derived from Islamic law. In the tafsir Al-Qurtubi on Surah An-Nisa: 34, the concept of *qiwamah* (leadership) of men is explained

⁵ Fadli Fadli dan Budi Juliandi, "Negosiasi antara Hukum Positif dengan Hukum Islam: Penetapan Wali Nikah di Kantor Urusan Agama Idi Rayeuk, Aceh, Indonesia," *JIL: Journal of Islamic Law* 2, no. 2 (Agustus 2021): 268–83, <https://doi.org/10.24260/jil.v2i2.329>.

⁶ Muhammad Ngizzul Muttaqin dan Nur Fadhilah, "Hak Ijbar Wali Tinjauan Maqashid Syari'ah dan Antropologi Hukum Islam," *De Jure: Jurnal Hukum dan Syar'iah* 12, no. 1 (Juni 2020): 102–19, <https://doi.org/10.18860/j-fsh.v12i1.7923>.

⁷ Lukman Santoso dan Ulvi Rohmatul Musyayyadah, "Challenging Legal Injustice against Children in Incest Cases: A Progressive and Islamic Human Rights Approach," *De Jure: Jurnal Hukum dan Syar'iah* 17, no. 2 (Desember 2025): 675–96, <https://doi.org/10.18860/j-fsh.v17i2.36277>. See also, Mahli Ismail, "Pembaharuan Kedudukan Wali Nikah Fasik Dalam Perspektif Fiqh Klasik dan Modern," *Syarah : Jurnal Hukum Islam* 9, no. 1 (2020), <https://journal.uinsuna.ac.id/index.php/syarah/article/view/239>.

⁸ Humas KPAI, *Laporan Tahunan KPAI, Jalan Terjal Perlindungan Anak: Ancaman Serious Generasi Emas Indonesia* (Informasi Publik, Publikasi, Berita KPAI, PPID, Siaran Pers, 2025), <https://www.kpai.go.id/publikasi/laporan-tahunan-kpai-jalan-terjal-perlindungan-anak-ancaman-serious-generasi-emas-indonesia>.

⁹ Saifuddin Sa'dan dan Ardelia Vidya Riana, "The Quality Of The Chain (Sanad) Of Hadith Concerning The Legal Guardian (Wali) Of The Nikah," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 8, no. 2 (Oktober 2023), <https://doi.org/10.22373/petita.v8i2.175>.

as being causally linked to the fulfilment of financial obligations. If the obligation to provide financial support is neglected, then the legitimacy of male leadership cannot apply, including the authority to prevent the marriage of his daughters.¹⁰ The concept of *qiwamah* is not used to legitimise male domination, but rather as conditional authority dependent on the fulfilment of financial support and protection, making it relevant to test the legitimacy of a father's authority in the context of preventing marriage. Meanwhile, based on the *ushul fiqh* theory of Sadd Dzari'ah, granting the right to prevent marriage to an absent father can open the way to *mafsadah* (harm) because it has the potential to interfere with the child's future.¹¹

An absent father who is not involved in parenting does not truly understand his child's characteristics, needs, and desires. This ignorance gives rise to conflict where a father may forbid a marriage simply because of his own selfish attitude, without considering his child's psychological well-being. Beyond that, there are many cases where a father uses this as a means to blackmail his child or take revenge on his ex-wife. From this, it is clear that Article 62 of the KHI needs to be revoked and reconstructed so as not to violate the principles of benefit and justice.

Previous studies have extensively examined guardianship authority and the prevention of marriage, but there are often gaps in justice for children. This was examined by Nurmaulana in relation to children's rejection of their biological fathers as marriage guardians because they had never felt their fathers' love and presence since childhood, and felt hurt because their fathers were often abusive towards their mothers. As a result, the child felt unworthy of being married by a figure who, in his eyes, had failed to fulfil his role as a father. This refusal was approved by the Tegal Timur Subdistrict KUA, and as a result, the child's marriage guardianship was transferred to a judge.¹² In another study conducted by Rahmawati, it is explained that the determination of marriage prevention is based on aspects of justice, certainty, legal benefits, and *maqasid sharia*.¹³ As a theoretical analysis, this study is based on Al-Qurtubi's interpretation of QS 4:34 and Sadd Dzari'ah, as explained by Nadzrah, that the concept of *qiwamah* (leadership) possessed by men includes functional guardianship and the provision of financial support.¹⁴ This is

¹⁰ Imam Qurtubi, *Tafsir Al Qurtubi : Al-Jami' lil Ahkamil Quran*, 2 ed. (Cairo: Daarul Kutub Al-Masriyah, 1963), <https://app.turath.io/book/20855>.

¹¹ Fajar Rachmadani, Mualimin Mochammad Sahid, dan Muchammad Ichsan, "The Use Of Sadd Al-Dzari'ah In Contemporary Islamic Family Law in Indonesia : Concept and Practice," *Malaysian Journal of Syariah and Law* 12, no. 1 (April 2024): 206–15, <https://doi.org/https://doi.org/10.33102/mjssl.vol12no1.505>.

¹² Muhammad Reza Nugraha, Isa Anshori, dan Gandhung Fajar Panjalu, "Penolakan Permohonan Pencegahan Perkawinan di Surabaya (Studi Analisis Putusan Hakim Nomor 964/Pdt.P/2015/PA.Sby)," *MAQASID : Jurnal Studi Hukum Islam* 8, no. 1 (2019): 45–56, <https://doi.org/https://doi.org/10.30651/mqsd.v8i1.3335>.

¹³ Iskarima Rahmawati, "Pertimbangan Hukum Pada Permohonan Pencegahan Perkawinan yang Diajukan Oleh Orang Tua Kandung (Perspektif Aspek Kepastian, Keadilan dan Kemanfaatan Hukum)," *Journal of Science and Sosial Research* 7, no. 4 (t.t.): 1845–53, <https://doi.org/http://dx.doi.org/10.54314/jssr.v7i4.2337>.

¹⁴ Nadzrah Ahmad dan Muhammad Abdul Rasheed, "The Qur'anic Concept of Qiwamah A Review of Commentaries on The Verse 4:34," *Al-Shajarah : Journal of Islamic Thought and Civilization of IJUM* 23 (2018), <https://doi.org/https://doi.org/10.31436/shajarah.v23i1.663>.

reinforced by Rachmadani's research, which shows that the use of Sadd Dzari'ah in Indonesian family law is very significant in preventing injustice.

The novelty and purpose of this study is to critically examine Article 62 (2) of the KHI concerning the legitimacy of preventing marriage by fathers who neglect their obligations as heads of families using an analysis of the concept of qiwamah interpretation from the perspective of Imam Al-Qurtubi and Sadd Dzari'ah as an effort to close the loophole of abuse of the right to prevent marriage and the basis for reconstructing the granting of conditional guardian authority in accordance with the criteria for eligibility as a marriage guardian.

RESEARCH METHOD

This study is a legal-normative study with a legislative and conceptual approach. As explained by Johnny Ibrahim, the legislative approach is used to critique Article 62(2) of the KHI regarding the granting of the right to prevent marriage to fathers who do not perform their duties. The conceptual approach stems from views and doctrines developed in legal science. This approach is used to construct legal arguments from the perspectives of Tafsir Qurtubi and Saad Dzari'ah and to find solutions to the injustice of the norms in the KHI. This normative legal research has a prescriptive character that aims to study legal objectives, values of justice, the validity of legal rules, concepts, and legal norms. The data collection technique used in this research is a literature study. A literature study is a method of data collection by understanding and studying theories from various literature related to the research, searching for sources, and reconstructing from various sources of books, journals, and existing research. This study uses primary legal materials, namely Law Number 1 of 1974 and the Compilation of Islamic Law. The secondary legal materials used are the book Tafsir Al Qurtubi: Al-Jami' lil Ahkamil Quran in QS 4:34, the book Ushul fiqh Abd. Rahman Dahlan and related scientific journals.

RESULTS AND DISCUSSION

Legal Criticism of Article 62 Paragraph (2) of the Compilation of Islamic Law (KHI)

In the Compilation of Islamic Law, there is a problematic article that needs to be highlighted, namely Article 62, paragraph (2), which reads, 'A biological father who has never performed his function as head of the family does not lose his right of guardianship to prevent a marriage that will be performed by another marriage guardian.' This article explicitly legitimises the prevention of marriage by an absent father. Legally, a father who has never fulfilled his role as head of the family can be referred to as an absent father, as stated in Article 34 (1) of Law No. 1 of 1974.¹⁵ and the father's actions constitute domestic neglect based on Article 9 Paragraph (1) of Law No. 23 of 2004, and resulting

¹⁵ It reads: "The husband is obligated to protect his wife and provide everything necessary for household living according to his ability". See, Ade Jamarudin dkk., "Prisoners' Obligations to Provide Support for Their Family According to Islamic Law and Positive Law," *Al-'Adalah* 20, no. 2 (Desember 2023): 309, <https://doi.org/10.24042/adalah.v20i2.19482>; Muhammad Hafis dan Jumni Nelli, *Hukum keluarga Islam Indonesia: konsep masalah terhadap perkembangan hukum keluarga Islam di Indonesia*, Cetakan pertama (Yogyakarta: Deepublish, 2023).

in the failure to fulfil the basic needs of children in a reasonable manner in accordance with Article 1(6) of Law No. 35 of 2014 on Child Protection. This makes Article 62 paragraph (2) contradictory to other articles of law. The phrase ‘has never performed the function of head of the family’ is a form of positive legal recognition of the reality that a father’s neglect of his responsibilities does not imply his right to intervene in his child’s marriage. Granting the right to prevent marriage to an absent father violates the principles of justice and public interest.¹⁶

A husband/father in a family is obliged to provide for his family both physically and emotionally, based on Article 80 paragraphs (2) and (4) of the Compilation of Islamic Law. If a father is economically absent in providing for his family, protecting his family, and being involved in raising his children, he can be classified as a head of family who is neglecting his obligations. The phenomenon of fathers being irresponsible towards their children is referred to as fatherlessness. Fatherlessness is a situation where the father is absent from parenting, both physically and psychologically. This cannot be taken lightly because the physical and psychological growth of every child requires the guidance of both parents.¹⁷ The existence of Article 62 (2) of the KHI provides legal justification that systematically normalises the functional absence or neglect of a father’s physical and emotional support. This allows a father who has been absent to suddenly reappear and take advantage of the situation, imposing his will or engaging in abusive practices, while the psychological and material burdens caused by the child’s neglect are overlooked by a legal system that prioritises the rights of the father over justice for the child.

In the hierarchy of legislation, the position of the Compilation of Islamic Law as a Presidential Instruction (Inpres No. 1 of 1991) is below Law No. 1 of 1974 on Marriage. Based on the principle of *lex superior derogat legi inferiori*, the KHI should not conflict with the Marriage Law, but in fact, there is a legal disharmony between Article 62 Paragraph (2) of the KHI and Article 49 Paragraph (1) of the Marriage Law, which regulates the revocation of parental authority if the parent seriously neglects their obligations towards their child and behaves very badly. The Marriage Law emphasises that parental authority is not absolute and can be revoked at any time when the parent is proven to be negligent. However, this contradicts Article 62(2) of the KHI, which seems to preclude the court’s authority to assess the father’s misconduct by stipulating that the right of prevention is not lost even if the father does not fulfil his obligations as head of

¹⁶ Alfitri dkk., “Constitutionalizing Islamic Law in Indonesia: Sharia Courts & the Legitimate Child Clause,” *AHKAM: Jurnal Ilmu Syariah* 25, no. 2 (Desember 2025): 395–414, <https://doi.org/10.15408/ajis.v25i2.41896>; Ali Abubakar, Juliana Juliana, dan Maisyarah Rahmi Hasan, “The Right of a Child Outside the Legal Marriage of a Biological Father: The Analysis of *Ḥifẓ Al-Nafs* as Law *‘Illat*,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, no. 1 (Juni 2021): 153, <https://doi.org/10.22373/sjkh.v5i1.9256>.

¹⁷ Yupi Anesti dan Mirna Nur Alia Abdullah, “Fenomena Fatherless: Penyebab dan Konsekuensi Terhadap Anak dan Keluarga,” *WISSEN: Jurnal Ilmu Sosial dan Humaniora* 2, no. 2 (Mei 2024): 200–206, <https://doi.org/https://doi.org/10.62383/wissen.v2i2.101>; Novi Mayangsari dan Muhammad Hafis, “Persepsi Keluarga Sakinah Bagi Pasangan Suami Istri Yang Belum Memiliki Anak (Studi Kasus Di Dusun Lebanisuko Desa Lebanisuko Kecamatan Wringinanom Kabupaten Gresik),” *Jurnal Ilmiah Ahwal Syakhshiyah (JAS)* 4, no. 2 (Desember 2022): 265–84, <https://doi.org/10.33474/jas.v4i2.19007>.

the family. This inconsistency proves that the provisions of Article 62, paragraph (2) of the KHI contradict the concept of child protection as regulated in the Marriage Law. The legal consequence of this conflict is the need to amend the article to limit the right of the father who has abandoned his family to prevent the marriage, or if the father files a lawsuit in court, the judge must use his authority to override Article 62 paragraph (2) of the KHI and apply Article 49 of the Marriage Law, which has a higher hierarchical position in the legislation.

In Islamic jurisprudence, the father's authority as guardian relates to his obligation to provide financial support. A father is obliged to provide financial support for his biological children as long as they need such support. However, a father is not obliged to provide financial support for his children if they can support themselves. A father who can provide financial support but does not do so, even though the child is in need, may be compelled or imprisoned until he is willing to fulfil his obligation. A father's obligation to provide for his son ceases when the son reaches puberty and can earn a living, but a father is obliged to provide for his daughter until she marries. However, if the child is sick or insane, her maintenance becomes the responsibility of her father.¹⁸ Therefore, a father who neglects his child by failing to provide financial support has lost the moral basis of his legal right as a guardian to prevent the child from marrying.

Islamic law grants fathers the right to prevent their daughters from marrying based on the assumption that fathers will always love and care for their children. Furthermore, according to Islamic culture, the role of the guardian is necessary to protect the dignity of women and avoid potential fraud or exploitation in marriage. This guardianship is expected to serve as a moral protector that shields women from unfair marriages.¹⁹ However, on the other hand, there is a fact that there are many cases of child neglect, sexual abuse of children by fathers, and fatherlessness (emotional absence of fathers) in society. Based on Andrina's findings, child neglect in Indonesia does not only occur in the form of direct physical neglect, but also through the transfer of parenting responsibilities to orphanages on economic grounds.²⁰ These cases make the absolute and unconditional authority of an absent father dangerous and unfair to the child. The neglectful attitude of the father can lead to a disharmonious father-child relationship and a lack of emotional bond. Often, in society, neglectful fathers take advantage of this situation to blackmail their children, take revenge on their ex-wives, or act selfishly in

¹⁸ Syaifuddin Zuhdi dkk., "The Confiscation of Husbands' Wealth as A Collateral for Post-Divorce Child Support: Perspective of Maqāsid Al-Sharī'ah," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 2 (Juni 2024): 912, <https://doi.org/10.22373/sjkh.v8i2.17326>; Muhammad Hafis, Nia Elmiati, dan Juliani Syafitri, "Contemporary Issues of Islamic Family Law: The Waithood Phenomenon and the Impact of the Sex Recession in Indonesia in Review of Sadd al-Dzari'ah," *Legitima: Jurnal Hukum Keluarga Islam* 7, no. 1 (Desember 2024): 18–39, <https://doi.org/10.33367/legitima.v7i1.6178>.

¹⁹ Muhammad Tang dan Nilfatri, "The Law of Guardianship in Marriage According to Madhhab Scholars," *Zabags International Journal of Islamic Studies* 2, no. 1 (Mei 2025), <https://doi.org/https://doi.org/10.61233/zijis.v2i1.12>.

²⁰ Michelle Andrina dkk., "Parental education and attitudes towards institutionalization of children in West Java, Indonesia," *Child Protection and Practice* 3 (Desember 2024): 100072, <https://doi.org/10.1016/j.chipro.2024.100072>.

accordance with their own interests. Therefore, from a legal perspective, this article is clearly problematic because it has changed the function of the guardian, who was originally a protector, into an obstacle who exploits children in the name of the law.

The Loss of Legitimacy of Preventing Marriage by Abandoning Fathers: The Perspective of Al-Qurtubi's Interpretation of QS. An-Nisa:34

Guardianship is a fundamental pillar of marriage, with its main role being to ensure that the welfare of children is fully protected before the marriage takes place.²¹ The basis for guardianship authority in Islam can be found in one of the verses, namely Q.S. An-Nisa: 34.

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ

“Men are responsible for women based on what Allah has given to one of them and what they spend (for maintenance) from their wealth...”

In his exegesis *Al-Jami' li Ahkam al-Qur'an*, Imam Al-Qurtubi explains that scholars interpret “...and what they spend from their wealth...” to mean that if he is unable to provide for his wife, then his wife has the right to annul the marriage contract because the purpose of marriage has been lost. This indicates that a marriage may be dissolved in cases of inability to provide financial support and clothing.²² Imam Al-Qurtubi clearly explains that a man's right to leadership is bound to his obligation to provide financial support, so that his inability to do so may result in his wife's right to *fasakh* (annulment) of the marriage. Imam Qurtubi's statement can be applied to the relationship between an absent father and his children. In this case, the leadership of husband and wife in QS 4:34 can be revoked if the provision of financial support is not fulfilled as the *asl* (main case), while the authority of guardianship or prevention of marriage by an absent father as *far'* (branch case) both have the same 'illah, namely the causality between the right of authority, the obligation of financial support, and protection. In essence, the provision of financial support to children is more *awlawiyah* (primary) because the relationship between father and child is biological and permanent, unlike the contractual and temporal relationship between husband and wife during their marriage. The concept of *qiwamah* (leadership), according to Imam Qurtubi's interpretation, is conditional on the provision of financial support and protection, and is not automatically granted without any responsibility. Based on the *qiyas* explained earlier, this conditional *qiwamah* (leadership) implies a basis for limiting guardianship.

One of the modern scholars, Al-Sharawi, argues that the concept of leadership applies not only between husband and wife but also between father and daughter, as well as between brothers and sisters.²³ This means that a father is obliged to provide protection

²¹ Yasin dkk., “Guardian's Responsibility For The Welfare of Children in Marriage: A Study According to Islamic Law”; Muhammad Hafis, *Konkritisasi Aturan Munakahat Di Indonesia: (Keselarasan Antara “Hukum Islam” Dan “Hukum Nasional”)* (PT. Penamuda Media, 2024).

²² Qurtubi, *Tafsir Al Qurtubi : Al-Jami' lil Ahkamil Quran*.

²³ Ahmad dan Rasheed, “The Qur'anic Concept of Qiwamah A Review of Commentaries on The Verse 4:34.”

and sustenance for his children, just as a husband provides both for his wife. In the Qur'an, Surah Al-Baqarah: 233, it is written, 'And the father's duty is to provide for their sustenance and clothing in a reasonable manner.' This means that every child who is born has the right to receive what they need, such as clothing and food, in a good and sufficient manner. A child's basic needs are rights that they are entitled to upon birth.²⁴ This reinforces the argument that the guardianship of an absent father can be revoked if he does not fulfil the element of *qawwam* (protection and provision of maintenance). In Islamic law, the granting of guardianship rights by the Sharia is not solely based on biological factors, but rather on the basis of providing welfare and benefits for the child.²⁵ A father's obligation to provide for his child is an obligation that cannot be severed, unlike a husband's obligation to provide for his wife. Therefore, by analogy, neglect of a child can revoke the authority of an absent father in preventing marriage.

Physical or emotional neglect by a father can cause psychological, social, and moral problems for children. This neglect is a form of irresponsibility that oppresses and harms children. According to Imam Al-Qurtubi's perspective, granting legitimacy to prevent marriage to an abandoning father can open the door to *adhli* (preventing marriage without a valid reason), which should be countered by a court decision to grant permission for marriage. However, Article 62 (2) of the KHI clearly legitimises the prevention of marriage by a father who does not fulfil his function as head of the family. This contradicts the principles of public interest and justice. This legitimisation also has the potential for neglectful fathers to abuse their rights over their children.

In conclusion, the conditional nature of *qiwamah* as expounded by Imam Al-Qurtubi establishes an unequivocal causal link between authority and responsibility. The exegetical analysis of Q.S. An-Nisa: 34 demonstrates that leadership and guardianship rights—whether in marriage or parenthood—are derivative of the fulfillment of core obligations, primarily provision and protection. By analogy (*qiyas*), a father who neglects these fundamental duties severs the ethical and legal basis for his guardianship authority, particularly the right to prevent his child's marriage. Therefore, maintaining Article 62 Paragraph (2) of the KHI, which unconditionally grants such preventive rights to neglectful fathers, not only contradicts the Quranic principle of conditional *qiwamah* but also perpetuates a legal formalism that undermines substantive justice and the higher objectives of Sharia (*maqāṣid al-sharī'ah*) in safeguarding the welfare of children.

The Problem of Legitimacy in Preventing Marriage by Abandoning Fathers from the Perspective of Saad Dzari'ah

Sadd dzari'ah comes from two words, namely *sadd* and *dzari'ah*. *Sadd* means to close, block, or obstruct. As for *adz-dzari'ah*, it is a means to achieve the objectives of Sharia law, whether it leads to what is forbidden or permissible, and to obedience or

²⁴ Darmawan, "Nafkah Sebagai Konsekuensi Logis Pernikahan," *Al-Hukama: The Indonesian Journal of Islamic Family Law* 10, no. 2 (Desember 2020), <https://doi.org/https://doi.org/10.15642/alhukama.2020.10.2.218-242>.

²⁵ Erfaniah Zuhriah dkk., "Dimensions of The Islamic Law and Human Rights in The Protection of Children from Convicted Parents," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 2 (Desember 2024): 432–55, <https://doi.org/10.18860/j-fsh.v16i2.25150>.

disobedience. Therefore, sadd dzari'ah means preventing something from an act that can cause harm (mafsadah).²⁶ The purpose of sadd dzari'ah is to maintain the integrity of Sharia law and prevent transgressions or violations by considering public interest and justice. Sadd Dzari'ah can be used as a tool to determine the law based on its potential consequences. If a law is expected to have detrimental consequences for religious processes or social life in general, then it must be prevented even if it has the potential to provide benefits.²⁷

Granting legitimacy to prevent marriage to an abandoning father, as stated in Article 62 paragraph (2) of the Compilation of Islamic Law, is considered problematic because it contains elements of injustice to the interests of the child. The actions of a father who neglects to provide protection and financial support can be categorised as sinful and a grave offence. There is a hadith of the Prophet Muhammad SAW narrated by Ibn Majah: 'It is sufficient for a person to be considered sinful if he neglects those under his care.' When the law protects negligent fathers, this is where the mafsadah or damage lies.²⁸ Based on the perspective of Sadd Dzari'ah, a rule that provides opportunities for mafsadah and harms the public interest and justice must be restricted, and this is in accordance with the principle of ushul fiqh dar'ul mafasid muqoddamun ala jalbil masolih (preventing harm must take precedence over seeking benefit). Granting legitimacy to prevent marriage to an absent father has the potential to cause harm (mafsadah), such as adhal on the basis of revenge, economic extortion of children, and arbitrariness in making children victims of the absent father's debts and various other possibilities of abuse of authority. This situation of injustice will cause unfairness to the child due to the obstruction of marriage and can cause psychological, social, and moral harm.²⁹

The error in Article 62(2) of the KHI is the disregard for the qualifications required to file for a marriage prevention order. This article has the potential to become a loophole for fathers to exploit their children who are about to get married. If the KHI continues to grant the right of prevention to fathers who are neglectful or who do not perform their duties as heads of the family, then the state has neglected the principles of protection and justice for children. The essence of the father-child relationship is the fulfilment of the child's basic rights. If Article 62(2) of the KHI continues to legitimise the prevention of marriage by irresponsible fathers or fathers who have abandoned their children, then there is a legal contradiction regarding the protection of the child's life.³⁰

²⁶ Abd. Rahman Dahlan, *Ushul Fiqh* (Jakarta: Amzah, 2011), 37.

²⁷ Rachmadani, Sahid, dan Ichsan, "The Use Of Sadd Al-Dzari'ah In Contemporary Islamic Family Law in Indonesia : Concept and Practice."

²⁸ Nabila Rahmadani dan Tajul Arifin, "Hukuman Bagi Ayah yang Tidak Menafkahi Anak Kandungnya dalam Perspektif Hadis HR. Ibnu Majah dan Pasal 77 UU No. 23 Tahun 2022.," *Hidayah : Cendekia Pendidikan Islam dan Hukum Syariah* 2, no. 2 (Juni 2025): 306–30, <https://doi.org/https://doi.org/10.61132/hidayah.v2i2.1065>.

²⁹ Fazlon Umar dan Muhammad Fazlurrahman Syarif, "Reformulating the Concept of Guardianship in Marriage: Between Classical Fiqh Traditions and The Demands of Modern Law," *Journal of Mujaddid Musantara* 2, no. 2 (2025), <https://doi.org/https://doi.org/10.62568/jomn.v2i2.373>.

³⁰ Ali Abubakar, Juliana, dan Maisyarah Rahmi Hasan, "The Right of A Child Outside the Legal Marriage of a Biological Father: The Analysis of Hifz Al-Nafs as Law 'Illat," *Samarah Jurnal Hukum Keluarga dan Hukum Islam* 5, no. 1 (Juni 2021), <https://doi.org/10.22373/sjhk.v5i1.9256>.

When a father abandons and is irresponsible towards his child, it can be assumed that the father has also neglected the welfare of the child's life. If the legitimacy of preventing this marriage is still granted, it will cause greater harm, such as psychological trauma to the child, the marriage not taking place, and the potential for a secret marriage.³¹ Although Islam grants fathers the right as guardians to make decisions on behalf of their children in marriage agreements, if guardians fail or neglect to protect the welfare of their children, their rights and authority as guardians will be transferred to the government.³² Removing the legitimacy of preventive measures against neglectful fathers must be prioritised to ensure justice and welfare within the family. Abuse of guardianship authority often hides behind the legitimacy of religious texts that are interpreted rigidly. If preventing marriage by an abusive father remains permissible in the name of guardianship rights, then Islamic law is being used as a tool to legitimise oppression. Hence, the need for a Sadd Dzari'ah approach to ensure that guardianship rights do not become a means of moral and social harm to children.³³ Preventive measures that can be taken to prevent abuse of authority in granting legitimacy for the prevention of marriage by an absent father are to reconstruct Article 62 (2) of the Compilation of Islamic Law by removing the authorisation for fathers who do not perform the function of head of the family to grant legitimacy, or by requiring proof of neglect in court to establish the eligibility of a guardian, thereby revoking the right of prevention, and/or by clarifying in the article that the right of prevention is only granted to responsible fathers. To provide relief and support for girls, there should be cost- and time-efficient legal procedures, such as the application of the concept of the burden of proof being reversed, whereby a father seeking to be appointed as a guardian to prevent divorce must demonstrate his responsibility towards the child by providing evidence of financial support or visitation rights. In addition, expedited litigation procedures and the optimisation of legal aid services for neglected girls could be implemented. By doing these things, it is hoped that the law can act as a protector and provider of justice for parties who are vulnerable to discrimination.

CONCLUSION

Based on the results of the analysis, a disharmony was found between Article 62 paragraph (2) of the KHI and Article 49 paragraph (1) of the Marriage Law. The existence of this article provides legal justification that systematically normalises the functional absence of a father, thereby contributing to the escalation of the increasingly massive fatherless crisis in society. According to Imam Al-Qurtubi's interpretation in Surah An-

³¹ Sukataman dkk., "Maqasid Al-Shariah and The Prohibition of Incest in Indonesian Legislation: An Analysis of The Protection of Lineage and Public Morals," *Al-Manahij : Jurnal Kajian Hukum Islam* 19, no. 2 (Desember 2025): 205–26, <https://doi.org/https://doi.org/10.24090/mnh.v19i2.14989>.

³² Hasnizam Hashim dkk., "Perkahwinan Bawah Umur menurut Perspektif Undang-Undang Jenayah Islam dan Undang-Undang Sivil di Malaysia," conf. paper presented pada 5th Muzakarah Fiqh & International Fiqh Conference (MFIFC 2019), 2019, https://conference.uis.edu.my/mfifc/images/E-Proceeding-2019/08-Kahwin_bawah_umur-Hasnizam_Hashim.pdf.

³³ M. Khalifaoui, "Is Child Marriage Lawful in Islam? Modern and Classical Positions in the Mirror of Modern International Human Rights," *Legal Transformation in Muslim Societies* 1, no. 3 (2024): 1–13.

Nisa: 34, the granting of leadership authority, which is analogous in this case to guardianship, must be based on the fulfilment of the obligations of protection and financial support; there can be no granting of rights without the fulfilment of obligations. If the father neglects his child, then the illat (legal cause) for granting guardianship to prevent marriage must be revoked. Granting legitimacy to prevent marriage to an abandoning father has the potential to cause harm that should be prevented based on the Sadd Dzari'ah method and the ushul fiqh principle of dar'ul mafasid muqoddamun ala jalbil masolih (preventing harm takes precedence over bringing benefit). This principle requires protection for children from potential abuse of authority without Sharia grounds, economic extortion, or revenge. There is a need to reconstruct Article 62 paragraph (2) of the KHI by revising articles that contradict the principles of justice and public interest, and making the court the determiner of whether the father has the right to prevent his child from marrying or not. Thus, the authority to prevent marriage is not automatically vested in the biological father but is conditional upon the fulfilment of obligations that can be tested through the courts as a state institution that provides protection and justice to vulnerable groups.

This study is limited to a legal-normative analysis and has not yet explored in depth the sociological and psychological dynamics faced by girls who are victims of neglect when they have to face their biological fathers in court or when applying for guardianship. This study is also limited to the interpretative perspective of Al-Qurtubi; had it been interpreted from other perspectives, such as contemporary feminist or comparative inter-school of thought approaches, the findings might have differed. This study remains qualitative in nature and is not yet supported by court rulings or information from the Religious Affairs Office (KUA) regarding objections to appointing the father as guardian. The author recommends that future research utilise field studies to explore methods and evaluate the effectiveness of proving “neglect” and “functional absence/fatherlessness” in court. Furthermore, comparative research could be conducted regarding the conditions for the authority of biological guardians in Muslim countries worldwide.

REFERENCES

- Abubakar, Ali, Juliana, dan Maisyarah Rahmi Hasan. “The Right of A Child Outside the Legal Marriage of a Biological Father: The Analysis of Hifz Al-Nafs as Law ‘Illat.” *Samarah Jurnal Hukum Keluarga dan Hukum Islam* 5, no. 1 (Juni 2021). <https://doi.org/10.22373/sjhc.v5i1.9256>.
- Abubakar, Ali, Juliana Juliana, dan Maisyarah Rahmi Hasan. “The Right of a Child Outside the Legal Marriage of a Biological Father: The Analysis of Hifz Al-Nafs as Law ‘Illat.” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, no. 1 (Juni 2021): 153. <https://doi.org/10.22373/sjhc.v5i1.9256>.
- Ahmad, Nadzrah, dan Muhammad Abdul Rasheed. “The Qur’anic Concept of Qiwamah: A Review of Commentaries on The Verse 4:34.” *Al-Shajarah : Journal of Islamic*

- Thought and Civilization of IIUM* 23 (2018).
<https://doi.org/https://doi.org/10.31436/shajarah.v23i1.663>.
- Alfitri, Muhammad Idzhar, Muhammad Kholil Muqorrobien, dan Devi Kasumawati. “Constitutionalizing Islamic Law in Indonesia: Sharia Courts & the Legitimate Child Clause.” *AHKAM: Jurnal Ilmu Syariah* 25, no. 2 (Desember 2025): 395–414. <https://doi.org/10.15408/ajis.v25i2.41896>.
- Andrina, Michelle, José Ignacio Nazif-Muñoz, Rebecca Smith, Alice Shirley, Tata Sudrajat, Andri Yoga Utami, dan Mónica Ruiz-Casares. “Parental education and attitudes towards institutionalization of children in West Java, Indonesia.” *Child Protection and Practice* 3 (December 2024): 100072. <https://doi.org/10.1016/j.chipro.2024.100072>.
- Anesti, Yupi, dan Mirna Nur Alia Abdullah. “Fenomena Fatherless: Penyebab dan Konsekuensi Terhadap Anak dan Keluarga.” *WISSEN: Jurnal Ilmu Sosial dan Humaniora* 2, no. 2 (Mei 2024): 200–206. <https://doi.org/https://doi.org/10.62383/wissen.v2i2.101>.
- Ashidiqie, Mughni Labib Ilhamuddin Is. “Kritik Atas Peraturan Wali Nikah Dalam KHI dan Fikih Perspektif Gender.” *Al-Mazaahib* 9, no. 1 (Juni 2021). <https://doi.org/https://doi.org/10.14421/al-mazaahib.v9i1.2304>.
- Beredukasi.com. “Data ‘United Nations Children’s Fund (UNICEF)’ menunjukkan sekitar 20,9 persen anak di Indonesia tidak memiliki figur ayah.” *April 2025*, t.t. <https://beredukasi.com/data-united-nations-childrens-fund-unicef-menunjukkan-sekitar-209-persen-anak-di-indonesia-tidak-memiliki-figur-ayah/>.
- Dahlan, Abd. Rahman. *Ushul Fiqh*. Jakarta: Amzah, 2011.
- Darmawan. “Nafkah Sebagai Konsekuensi Logis Pernikahan.” *Al-Hukama: The Indonesian Journal of Islamic Family Law* 10, no. 2 (December 2020). <https://doi.org/https://doi.org/10.15642/alhukama.2020.10.2.218-242>.
- Fadli, Fadli, dan Budi Juliandi. “Negosiasi antara Hukum Positif dengan Hukum Islam: Penetapan Wali Nikah di Kantor Urusan Agama Idi Rayeuk, Aceh, Indonesia.” *JIL: Journal of Islamic Law* 2, no. 2 (August 2021): 268–83. <https://doi.org/10.24260/jil.v2i2.329>.
- Hafis, Muhammad. *Konkritisasi Aturan Munakahat Di Indonesia: (Keselarasan Antara “Hukum Islam” Dan “Hukum Nasional”)*. PT. Penamuda Media, 2024.
- Hafis, Muhammad, Nia Elmiati, dan Juliani Syafitri. “Contemporary Issues of Islamic Family Law: The Waithood Phenomenon and the Impact of the Sex Recession in Indonesia in Review of Sadd al-Dzari’ah.” *Legitima: Jurnal Hukum Keluarga Islam* 7, no. 1 (Desember 2024): 18–39. <https://doi.org/10.33367/legitima.v7i1.6178>.
- Hafis, Muhammad, dan Jumni Nelli. *Hukum keluarga Islam Indonesia: konsep masalah terhadap perkembangan hukum keluarga Islam di Indonesia*. Cetakan pertama. Yogyakarta: Deepublish, 2023.
- Hashim, Hasnizam, Intan Nadia Ghulam Khan, Haliza A. Shukor, dan Nabila Yusuf. “Perkahwinan Bawah Umur menurut Perspektif Undang-Undang Jenayah Islam

- dan Undang-Undang Sivil di Malaysia.” Conf. paper presented pada 5th Muzakarah Fiqh & International Fiqh Conference (MFIFC 2019). 2019. https://conference.uis.edu.my/mfifc/images/E-Proceeding-2019/08-Kahwin_bawah_umur-Hasnizam_Hashim.pdf.
- Humas KPAI. *Laporan Tahunan KPAI, Jalan Terjal Perlindungan Anak: Ancaman Serius Generasi Emas Indonesia*. Informasi Publik, Publikasi, Berita KPAI, PPID, Siaran Pers, 2025. <https://www.kpai.go.id/publikasi/laporan-tahunan-kpai-jalan-terjal-perlindungan-anak-ancaman-serius-generasi-emas-indonesia>.
- Ismail, Mahli. “Pembaharuan Kedudukan Wali Nikah Fasik Dalam Perspektif Fiqh Klasik dan Modern.” *Syarah: Jurnal Hukum Islam* 9, no. 1 (2020). <https://journal.uinsuna.ac.id/index.php/syarah/article/view/239>.
- Jamarudin, Ade, Ofa Ch Pudim, Muh. Said, Ahmad Firman Hidayatullah, dan Syafi’ah Syafi’ah. “Prisoners’ Obligations to Provide Support for Their Family According to Islamic Law and Positive Law.” *Al-’Adalah* 20, no. 2 (Desember 2023): 309. <https://doi.org/10.24042/adalah.v20i2.19482>.
- Khalfaoui, M. “Is Child Marriage Lawful in Islam? Modern and Classical Positions in the Mirror of Modern International Human Rights.” *Legal Transformation in Muslim Societies* 1, no. 3 (2024): 1–13.
- Muttaqin, Muhammad Ngizzul, dan Nur Fadhillah. “Hak Ijbar Wali Tinjauan Maqashid Syari’ah dan Antropologi Hukum Islam.” *De Jure: Jurnal Hukum dan Syariah* 12, no. 1 (Juni 2020): 102–19. <https://doi.org/10.18860/j-fsh.v12i1.7923>.
- Novi Mayangsari dan Muhammad Hafis. “Persepsi Keluarga Sakinah Bagi Pasangan Suami Istri Yang Belum Memiliki Anak (Studi Kasus Di Dusun Lebanisuko Desa Lebanisuko Kecamatan Wringinanom Kabupaten Gresik).” *Jurnal Ilmiah Ahwal Syakhshiyah (JAS)* 4, no. 2 (Desember 2022): 265–84. <https://doi.org/10.33474/jas.v4i2.19007>.
- Nugraha, Muhammad Reza, Isa Anshori, dan Gandhung Fajar Panjalu. “Penolakan Permohonan Pencegahan Perkawinan di Surabaya (Studi Analisis Putusan Hakim Nomor 964/Pdt.P/2015/PA.Sby).” *MAQASID: Jurnal Studi Hukum Islam* 8, no. 1 (2019): 45–56. <https://doi.org/https://doi.org/10.30651/mqsd.v8i1.3335>.
- Qurtubi, Imam. *Tafsir Al Qurtubi: Al-Jami’ lil Ahkamil Quran*. 2 ed. Cairo: Daarul Kutub Al-Masriyah, 1963. <https://app.turath.io/book/20855>.
- Rachmadani, Fajar, Mualimin Mochammad Sahid, dan Muchammad Ichsan. “The Use Of Sadd Al-Dzari’ah In Contemporary Islamic Family Law in Indonesia: Concept and Practice.” *Malaysian Journal of Syariah and Law* 12, no. 1 (April 2024): 206–15. <https://doi.org/https://doi.org/10.33102/mjssl.vol12no1.505>.
- Rahmadani, Nabila, dan Tajul Arifin. “Hukuman Bagi Ayah yang Tidak Menafkahi Anak Kandungnya dalam Perspektif Hadis HR. Ibnu Majah dan Pasal 77 UU No. 23 Tahun 2022.” *Hidayah: Cendekia Pendidikan Islam dan Hukum Syariah* 2, no. 2 (Juni 2025): 306–30. <https://doi.org/https://doi.org/10.61132/hidayah.v2i2.1065>.
- Rahmawati, Iskarima. “Pertimbangan Hukum Pada Permohonan Pencegahan Perkawinan yang Diajukan Oleh Orang Tua Kandung (Perspektif Aspek Kepastian, Keadilan

- dan Kemanfaatan Hukum).” *Journal of Science and Social Research* 7, no. 4 (t.t.): 1845–53. <https://doi.org/http://dx.doi.org/10.54314/jssr.v7i4.2337>.
- Sa’dan, Saifuddin, dan Ardelia Vidya Riana. “The Quality Of The Chain (Sanad) Of Hadith Concerning The Legal Guardian (Wali) Of The Nikah.” *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 8, no. 2 (Oktober 2023). <https://doi.org/10.22373/petita.v8i2.175>.
- Santoso, Lukman, dan Ulvi Rohmatul Musyayyadah. “Challenging Legal Injustice against Children in Incest Cases: A Progressive and Islamic Human Rights Approach.” *De Jure: Jurnal Hukum dan Syariah* 17, no. 2 (Desember 2025): 675–96. <https://doi.org/10.18860/j-fsh.v17i2.36277>.
- Sukataman, Idlofi, Agung Nugroho Reformis Santono, dan Umar Chamdan. “Maqasid Al-Shariah and The Prohibition of Incest in Indonesian Legislation: An Analysis of The Protection of Lineage and Public Morals.” *Al-Manahij: Jurnal Kajian Hukum Islam* 19, no. 2 (Desember 2025): 205–26. <https://doi.org/https://doi.org/10.24090/mnh.v19i2.14989>.
- Tang, Muhammad, dan Nilfatri. “The Law of Guardianship in Marriage According to Madhhab Scholars.” *Zabags International Journal of Islamic Studies* 2, no. 1 (Mei 2025). <https://doi.org/https://doi.org/10.61233/zijis.v2i1.12>.
- Umar, Fazlon, dan Muhammad Fazlurrahman Syarif. “Reformulating the Concept of Guardianship in Marriage: Between Classical Fiqh Traditions and The Demands of Modern Law.” *Journal of Mujaddid Musantara* 2, no. 2 (2025). <https://doi.org/https://doi.org/10.62568/jomn.v2i2.373>.
- Wirastri, Theresia Dyah, dan Stijn Cornelis van Huis. “The State of Indonesia’s Marriage Law: 50 Years of Statutory and Judicial Reforms.” *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (Desember 2024): 215–32. <https://doi.org/10.15408/ajis.v24i2.38424>.
- Yasin, Redwan, Nurul Hidayat Abdul Rahman, Sayuti Ab. Ghani, Dan Mohamed Belal. “Guardian’s Responsibility For The Welfare of Children in Marriage: A Study According to Islamic Law.” *Malaysian Journal of Syariah and Law* 12, no. 3 (Desember 2024): 778–89. <https://doi.org/https://doi.org/10.33102/mjisl.vol12no3.765>.
- Zuhdi, Syaifuddin, Khudzaifah Dimiyati, Kelik Wardiono, Rahma Shofia, dan Abdul Hakim. “The Confiscation of Husbands’ Wealth as A Collateral for Post-Divorce Child Support: Perspective of Maqāṣid Al-Sharī’ah.” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 2 (Juni 2024): 912. <https://doi.org/10.22373/sjhc.v8i2.17326>.
- Zuhriah, Erfaniah, Suud Fuadi, Imam Sukadi, dan Zahrah Salsabillah Ashari. “Dimensions of The Islamic Law and Human Rights in The Protection of Children from Convicted Parents.” *De Jure: Jurnal Hukum dan Syariah* 16, no. 2 (Desember 2024): 432–55. <https://doi.org/10.18860/j-fsh.v16i2.25150>.