

Analysing Child Paternity Cases through the Lens of Maqasid Sharia: A Case Study of Judicial Rulings

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Abstract:

*This study aims to analyze the application of Maqasid Syariah principles in religious court decisions related to child paternity cases, with a focus on Decision Number 123/Pdt.P/2024/PA. Prob. This research is motivated by the importance of protecting the nasab and rights of children in Islamic family law, as well as the need to understand how Indonesia's positive law can accommodate sharia values in the context of the family. This study uses a qualitative method with a type of empirical juridical research that focuses on field research. Data was obtained through interviews with related parties, observation of the trial process, and analysis of court decision documents. The findings show that the religious court's decision to reject part of the application in this case has reflected efforts to uphold the principle of *hifz al-nasl* (protection of offspring), but there are some inconsistencies in the application of *hifz al-mal* (protection of property) regarding the distribution of inheritance and protection of guardians of children. The findings are expected to provide new insights into how the principles of Maqasid Syariah can be integrated into the Indonesian legal system, as well as the importance of adjustments in the application of the law to better accommodate the rights of children and families based on Islamic teachings.*

Keywords: *Children's Paternity, Maqasid Sharia, Nasab, Islamic Family Hukum, Integration of Sharia Lawh*

Introduction

In the modern era, various social problems related to the status of children in society are increasingly complex (Geovani et al., 2021; Pangrazio & Sefton-Green, 2021). One of the issues of concern is the rampant practice of *nikah sirri*, which is often not legally recorded and causes uncertainty about the legal status of children born (Afary & Friedland, 2023; Erkoc Baydar, 2023; Hudodo et al., 2023). In addition, the practice of polyandry, although rare, remains a phenomenon that sparks debate in Islamic law and state legislation (Azis et al., 2023; Karimullah, 2024). In addition, the increasing cases of children out of wedlock add to the social burden, both from the psychological aspects of children, families, and communities (Hamsah & Rahmi, 2023). These phenomena describe social realities that require special attention, especially because they have a direct impact on the fulfillment of children's basic rights, such as the recognition of *nasab* (Umar et al., 2023), legal protection, and social welfare (Maswandi, 2023). Meanwhile, in Probolinggo Regency, there were 89

cases of applications and lawsuits regarding the origin of children starting from 2022 to 2024 as shown in Table 1.

Table 1. Number of Cases of Child Origin in the Probolinggo Religious Court

Year	Number of Cases
2024	38
2023	25
2022	26

Source: PA Case Tracking Information System. Probolinggo

So it can be concluded that there is a fluctuation in the number of cases, with a clear upward trend in 2024 compared to 2023 and 2022. The number of cases may be influenced by various social factors or changes in regulations that encourage the public to file more cases related to the determination of the origin of children. This may reflect greater social dynamics or changes in policies that affect legal decisions related to the origin of children in Probolinggo Regency.

Islamic law has clearly and ideally regulated the status of legitimate and illegitimate children according to *nasab*. In an Islamic perspective, children born from a valid marriage according to sharia have full rights to *nasab*, inheritance, and maintenance (Abdullah et al., 2023; Mohadi, 2023; Pitaloka et al., 2024). On the other hand, children born out of legal marriage face various restrictions, including not having their fate recognized by their biological father (Farid et al., 2023; Fitriah, 2021). In this context, sharia *maqashid*, especially in the aspect of *hifdz al-nafs* (life protection), provides an important foothold to protect children's rights without overriding sharia principles (Nurfitriyani Siregar & Nur Hakima Akhirani Nasution, 2023; Tahir, 2024). On the other hand, positive law in Indonesia also provides a legal framework related to the status of children through Law Number 1 of 1974 concerning Marriage and its amendments (Moelyono et al., 2022; Nosita & Zuhdi, 2022). This regulation aims to provide legal clarity for children, whether from legal marriage or not, in order to guarantee children's rights to protection, education, and welfare.

Previous studies have discussed this issue from various perspectives. Research by Rahmatillah & Bustamam (2023) examines the status of children in *nikah sirri* from the perspective of Islamic and social law. Hussain et al. (2022) highlight the legal challenges in providing recognition for children out of wedlock in Indonesia. Another study by Yusefri et al. (2024) discusses the application of sharia *maqashid* in the protection of children's rights. The practice of polyandry can affect the validity of a child's destiny. Research by Disantara et

al. (2024) also highlights the importance of legal reform to accommodate the need for child protection outside of wedlock. In another version, the study of the origin of children in Islamic law on the interpretation of *hifdz al-nafs* in modern cases has become a discussion of judges (Azwar et al., 2024; Maulana et al., 2024). Research by Abubakar et al. (2021) provides an overview of the importance of harmonization between Islamic law and positive law related to the status of children.

Although various studies have discussed the legal aspects of children's origin in the context of the integration of Islamic law and state law, there are still research gaps that need to be explored further, especially in examining the determination of children's origin based on the perspective of *maqasid sharia* (sharia goals). Existing research generally focuses on the application of positive law in determining the status of children and its influence on inheritance rights, but there are still few that integrate *maqasid sharia* as a philosophical basis in determining the legal status of children. Therefore, the gap lies in the lack of studies that specifically link sharia goals (such as the protection of life, intellect, offspring, and property) with the determination of the origin of children in the context of positive law. The novelty of this research lies in the development of an integrative model that accommodates sharia goals in determining the origin of children, which is not only limited to formal law, but also pays attention to ethical values and social justice, and offers a new perspective on the development of family law policies in countries with Muslim-majority populations.

This study aims to explore in depth the status of children born from polyandry marriages, a practice that is rarely discussed but has complex legal implications. In addition, this study will examine how sharia *maqashid* can be applied to provide solutions that are fair and in accordance with sharia principles. This research is expected to contribute to the development of Islamic law and positive law in providing clarity and legal protection for children born from complex situations.

From the researcher's point of view, this issue is important to study because it concerns fundamental principles in the protection of human rights and legal justice. The status of children born from illicit relationships must be viewed not only as a legal issue, but also as a social issue that requires a multidisciplinary approach. In the context of sharia *maqashid*, the protection of children is part of an effort to maintain human life and dignity. Therefore, this study seeks to provide a comprehensive argument in formulating legal policies that are not only fair in sharia, but also applicable in the context of positive law. The results of this

research are expected to make an important contribution by proposing that *the maqasid sharia* approach can provide a more solid moral and ethical basis in determining the child's destiny, which not only pays attention to the aspects of legal formalities, but also welfare and social justice for the child.

Method

This study uses a qualitative approach with the type of empirical juridical research, which focuses on field research (Noor, 2023). The approach aims to dig up in-depth information about the decision of the Probolinggo Regency Religious Court Number: 123/Pdt.P/2024/PA. Prob related to child paternity cases in the perspective of *Maqasid Sharia*. This study looks at how these decisions are applied in legal practice in Indonesia, especially in terms of fulfilling children's rights related to *nasab*, inheritance, and protection of offspring (*hifz al-nasl*). In this case, the decision was analyzed to see its conformity with the principles of *Maqasid Sharia*, including the protection of property (*hifz al-mal*), reason (*hifz al-'aql*), and *nasab* (*hifz al-nasl*). By analyzing the practice of concrete legal decisions, this study seeks to provide a clearer understanding of the application of *Maqasid Syariah* in Indonesia's positive legal system, especially in the context of family law.

The data collection techniques used in this study include interviews, observations, and documentation (Heri et al., 2022). Interviews were conducted with relevant parties involved in the court process, including judges, lawyers, and legal experts who have an understanding of *Maqasid Syariah* and family law. This interview aims to reveal the views and thoughts of legal actors regarding the application of *Maqasid Syariah* principles in the decisions taken. In addition to interviews, observations were also made to see firsthand how the court process was carried out, as well as how the judge interpreted and decided the case in relation to Sharia principles. Documentation techniques are used to collect data from copies of court decisions and legal documents related to the case as well as primary and secondary law books and legal publications that are in accordance with the focus of the research. All data collected from these techniques are then analyzed to gain a deeper understanding of the application of *Maqasid Syariah* principles in court decisions (Hamzani et al., 2023).

The data analysis in this study uses an interactive analysis model developed by Miles & Huberman (Maxwell, 2020). The model consists of three main steps: data collection, data reduction, and data presentation. In the data collection stage, researchers collect various

information through interviews, observations, and documentation. The data obtained is then reduced by sorting, selecting, and grouping information that is relevant to the focus of the research. This data reduction aims to filter out irrelevant information and highlight findings that are directly related to the research objectives. After that, the reduced data will be presented in the form of narratives or tables to facilitate further analysis. The last stage is the drawing of conclusions and interpretation of the data, which is carried out to connect the research findings with existing legal theories and *Maqasid Sharia*. Using this approach, the researcher hopes to clearly describe how the principles of *Maqasid Syariah* are applied in legal practice and the extent to which court decisions are in accordance with the main objectives of Sharia in maintaining justice, social welfare, and protection of offspring.

Result

Judge's Considerations in Granting and Rejecting Applications

The Probolinggo Regency Religious Court has determined a judicial decision with Number: 123/Pdt.P/2024/PA. Prob on the determination of *nasab* or the case of the origin of the child as a form of reliance on the rights of the child both in parenting, guardian and heirs which states that the child born is still in the custody of the applicant II (the mother of the child), on the basis of being accepted by a part of the applicant based on the consideration of the judges.

This case was triggered by an application for a birth certificate by a couple who were bound in a *sirri* marriage, but there was a fact that applicant II, the mother of the child, still had another legal husband, which legally caused the marital status between applicant I (*sirri's* husband) and applicant II to be invalid according to state law and Islamic law. With such a complex legal background, this study aims to analyze the judges' considerations in responding to the status of children's *nasab*, as well as how these considerations relate to the *maqasid* of shariah, which aims to protect the honor and sustainability of *nasab*. This research will also discuss the application of Islamic law in the context of paternity cases of children born from relationships that are not valid according to state law, as well as how the judge's decision affects the status of the child's destiny.

The judge considered the case two main aspects that affect the decision, namely the validity of the marriage and the validity of the child's fate. First, the judge assessed the validity of the marriage between applicant I and applicant II. Based on Islamic law and state

regulations, the marriage between applicant I and applicant II is invalid, because applicant II is still bound in marriage with her legal husband, which in this case has implications for the status of the child. According to Islamic law, a *sirri* marriage does not meet the legal requirements according to religion, which results in children born from the relationship cannot be given to the applicant I. The validity of this marriage is the basis for the judge to assess the legal status of the child, which based on the conditions of marriage in Islamic law must be carried out in accordance with the provisions of religion and state law. Furthermore, the judge assessed the evidence submitted to prove the blood relationship between the child and applicant I, but no evidence was found strong enough, so that the child's fate could only be given to applicant II, his biological mother.

Based on decision Number 123/Pdt.P/2024/PA. Prob, the judge decided to reject the application for a birth certificate submitted by applicants I and II. This decision is based on the invalidity of the marriage between applicant I and applicant II, which causes the child born to be innately assigned to applicant I as his biological father. The fact that applicant II is still tied to a marriage with a legal husband that causes her pregnancy to have the potential of a previous husband also clarifies the unclear destiny of the child. The judge used Article 42 of Law Number 1 of 1974 and the Compilation of Islamic Law as the legal basis in assessing the validity of marriage and children. In addition, the judge referred to the principles of Islamic law that govern the *nasab* of the child, namely that the *nasab* of the child can only be legalized if there is a valid marriage according to religion and state, and in this case, the status of the child can only be passed on to the biological mother. Therefore, the judge ruled that children born on May 7, 2021 can only be given to applicant II.

Table 1. Judges' Considerations

Aspects Considered	Judge's Assessment	Legal Basis
Validity of Marriage	The marriage between Petitioner I and Petitioner II is invalid according to state law and Islamic law (nikah sirri)	Article 42 of Law No. 1/1974, Compilation of Islamic Law
Child Validity	The child cannot be given to Applicant I because of the invalidity of the marriage involving Applicant II	Hadith of the Prophet, Article 42 of Law No. 1/1974, Compilation of Islamic Law
Proving Blood Relations	There is no scientific evidence or other evidence that can prove the legal blood relationship between Applicant I and the	Article 43 of Law No. 1/1974, Constitutional Court Decision No.

	Child	46/PUU-VIII/2010
Children's Destiny	The child can only be given to Applicant II (biological mother) as the woman who gave birth to her	Hadith of the Prophet, Article 186 Compilation of Islamic Law

Table 1 is an overview of the judges' considerations, based on the analysis carried out on the judges' considerations in this decision, it can be concluded that the judge's decision is based on very deep legal considerations related to the validity of marriage and the status of children born from illegitimate relationships. Although applicant II filed an application to register the child as the legal child of applicant I, the judge considered that there was not enough evidence to prove the blood relationship between applicant I and the child. Therefore, the child can only be given to his biological mother (applicant II) as the only legal parent according to the law. This shows that in Islamic law and state regulations, the principle of maintaining the validity of *nasab* (*hifdzun nasl*) is the top priority to protect children's rights, especially in relation to inheritance, maintenance, and guardianship rights.

Several previous studies have addressed the legal implications of children born out of legal wedlock. The determination of a child's destiny in Islam is highly dependent on the validity of the marriage. Children born from illicit relationships according to Islamic law do not have the right to be born to their biological father (Moelyono et al., 2022; Nurfitriyani Siregar & Nur Hakima Akhirani Nasution, 2023). This is in line with the principle applied by the judge in the judge's decision in this study, where a child can only be given to his biological mother. Research by Fitriah (2021), explained that Islamic law emphasizes the protection of children so that they do not become victims of unclear destiny. The application of clear and firm laws is very important to avoid negative impacts on the child (Abdullah et al., 2023). Research by Umar et al. (2023) shows that in cases like this, the purpose of sharia *maqasid* to maintain the heredity and honor of the family becomes very relevant. The judge's decision in this study that rejected the application for a birth certificate shows the application of the principle of sharia *maqasid* to maintain the integrity of the child's destiny. Thus, the decision is not only in line with positive law, but also with the noble values in Islamic law that protect children's rights.

Multi-Dimensional Aspects of Judges' Considerations

Decision Number 123/Pdt.P/2024/PA. Prob which leads to legal problems related to the recognition of *nasab* and children's rights. In this case, the judge considered various aspects of Islamic law related to the validity of marriage, the validity of children, and the proof of a legal blood relationship. This decision is important because it involves the submission of a birth certificate for a child born after Applicant II divorced from her first husband, who at that time was still undergoing the *iddah* period. In this case, the legal issue that arises is whether the child can be married to Applicant I (married couple) or can only be married to his biological mother. The judge's deliberations will be analyzed from three main perspectives: philosophical, juridical, and sociological, in order to get a more comprehensive picture of the legal decisions taken.

From a philosophical point of view, the judge's decision in this case reflects the application of the basic principles of justice and protection of the rights of individuals, especially children as subjects of law. The philosophy of Islamic law prioritizes the main goal (*maqasid al-shariah*), namely the protection of offspring (*hifdzun nasl*), which is the main basis for judges' considerations. In this context, the judge's decision to reject the application for the creation of a birth certificate for a child from a *sirri* marriage that is invalid according to Islamic law and the state is a form of protection for the child's destiny.

The philosophy is to ensure that the *nasab* or descendants of children are maintained in their authenticity in accordance with the principles of justice in Islamic law. In the context of *maqasid sharia*, the protection of offspring is not only about protecting the right of children to be legally recognized, but also to prevent confusion regarding their legal status, such as inheritance rights, alimony, and social status. Therefore, while this situation may have an impact on the desire of parents to grant legal rights to their children, the judge's decision is an effort to ensure that each individual has clear rights in the context of law and sharia, so that justice can be upheld.

Juridically, the judge's consideration in this case has referred to various legal norms that apply both in Indonesian positive law and Islamic law. On a positive legal level, Article 42 of Law Number 1 of 1974 concerning Marriage states that a child born out of a valid marriage only has a civil relationship with his mother and his mother's family. In addition, the Constitutional Court in decision No. 46/PUU-VIII/2010 strengthened this understanding by

emphasizing that the civil relationship between a child and the biological father must be proven through science and technology, as well as other evidence.

In this case, the judge considered that there was no sufficient evidence that could connect the child with applicant I as his biological father, so there was no basis to state that the child could be born to applicant I. Based on this, the judge considered that the child could only be given to his biological mother, in accordance with the applicable legal provisions. This decision is in line with the provisions in Islamic law which requires that the child's destiny must come from a valid marriage, so that in this case, the child cannot be recognized as the legitimate child of applicant I.

From a sociological perspective, this judge's decision touches on broader social dynamics related to the issue of *sirri* marriage and the status of children in society. In Indonesia, although the practice of *sirri* marriage still occurs, especially in the context of relationships involving couples who cannot legally marry according to the country's law, the practice can cause unclear social and legal status for children born from the relationship. In society, children born from illegitimate marriages often face social stigma, especially if their destiny is not recognized or cannot be legally proven.

The judge's decision to reject the application for a birth certificate is not only a legal issue, but also related to social justice issues. Although the child may have the right to be recognized as a legitimate child by both parents, this decision could affect the child's social relationship with the family of the father who should have the obligation to provide for support, education, and other rights. This decision reflects an effort to maintain the clarity of the child's social status, considering that if the relationship of destiny remains unclear, this can have an impact on the child's social rights in community life. Thus, the sociological aspect of this decision shows how legal norms relate not only to individual justice, but also to the larger social order.

Table 2. Approach to the Judge's Decision

Aspects	Explanation
Philosophical	The philosophical aspect of this ruling focuses on the basic principles of Islamic law which emphasizes the importance of maintaining the <i>nasab</i> and clarity of the child's social status. In the context of <i>Maqasid Syariah</i> , the judge's decision should reflect the purpose of safeguarding the welfare of children and protecting their rights.
Juridical	The juridical aspect involves the interpretation of relevant laws, such as Article 42 of Law Number 1 of 1974 and Article 99 of the Compilation of

	Islamic Law. This decision is also influenced by the Constitutional Court Decision Number 46/PUU-VIII/2010 which provides space for children born out of wedlock to get recognition of their civil rights.
Sociological	The sociological aspect looks at the social impact of this decision, especially related to the status of children in society and social rights that may arise due to unclear <i>nasab</i> relationships. The judge's decision also takes into account the social reality that marriage and polygamy often cause complications in determining the legal status of children.

In analyzing the findings of this study, it can be concluded that the judge's considerations in Decision Number 123/Pdt.P/2024/PA. Prob is greatly influenced by three main factors: the validity of marriage, the validity of the child's destiny, and the proof of blood relations. Philosophically, the judge's decision reflects the basic principles of Islam which emphasizes the importance of safeguarding the welfare of children, with the aim that children's rights are protected and their destiny is clear. From the juridical aspect, judges adhere to existing legal rules, including Law Number 1 of 1974 and the Compilation of Islamic Law, which affirms that children born from relationships outside of legal marriage still have civil rights against their biological father if it can be proven through scientific and technological evidence. However, in this case, the judge considered that the legal requirements had not been met, so the child could only be given to his biological mother. From a sociological point of view, this decision has a significant impact on the social status of the child, because the unclear status of the *nasab* can affect the social identity of the child in society. Thus, the judge's consideration is not only based on legal aspects, but also pays attention to the social values that apply in society.

This research can be further analyzed based on various relevant research results. The determination of *nasab* in the context of Islamic law is very important to ensure that children's rights are related to inheritance and maintenance (Afary & Friedland, 2023; Hudodo et al., 2023). Even if a child is born from an illegitimate marriage, if the blood relationship can be scientifically proven, the child still has rights that must be recognized by law. This opinion is in line with the results of research by Nosita & Zuhdi (2022), which emphasizes that Islamic law provides space for children born out of legal marriage to obtain civil rights, but only if there is supporting evidence. The application of the law in such cases must also pay attention to the social aspects of society, especially in societies that are very concerned about social status and legal marriage. Research by Farid et al. (2023) also shows that clear legal decisions regarding *nasab* status can reduce social conflicts that may arise, as

well as strengthen family and community stability. Thus, it can be concluded that the judge's decision in this case has considered various legal and social dimensions that are relevant to the context of Indonesian society, and tried to maintain the welfare of children in the long term.

Analysis of the Suitability of Judicial Decisions with the Principles of Maqasid Syariah

The judge ruled that the child could only be given to his biological mother, considering the unclear blood relationship between the child and Petitioner I, his biological father, who was also a married couple. This study aims to examine the extent to which this decision is in line with the principles of *Maqasid Sharia*, especially related to the protection of descendants (*hifz al-nasl*), property (*hifz al-mal*), and guardian rights (*hifz al-'aql*). The findings of the study show that this decision reflects the protection of offspring, but there is a discrepancy in terms of protection of the child's assets and guardian rights.

Maqasid Syariah is the purpose of Islamic law that aims to safeguard five main elements: religion (*hifz al-din*), soul (*hifz al-nafs*), heredity (*hifz al-nasl*), property (*hifz al-mal*), and reason (*hifz al-'aql*). In this case, the determination of the child's destiny by the court can be analyzed in the context of the principle of *hifz al-nasl*, namely the protection of offspring which is one of the basic principles in *Maqasid Sharia*. By rejecting the application to record the biological father of the child in the birth certificate, the judge prefers to maintain the clarity of the child's *nasab* in order to protect the legal status of the child in accordance with Islamic teachings, which prioritize the clarity of the *nasab* as a step to maintain family relationships and legitimate inheritance. However, in terms of the protection of property (*hifz al-mal*), there is a potential for incompatibility, because by not recognizing the biological father in the legal status of the child, the inheritance rights of the child from the biological father become vague and cannot be ascertained. In addition, although the principle of *hifz al-'aql* (protection of reason) is seen in an effort to safeguard the rights of children legally, the regulation of guardianship rights over children, which is also part of the protection of reason, is not clearly regulated in this ruling. The guardian's rights in marriage, especially in the *nasab* relationship, can affect the future of the child, but this does not receive enough attention in the decision.

The findings are in Decision Number 123/Pdt.P/2024/PA. Prob pointed out that although the judge has tried to uphold the principle of *hifz al-nasl* by ensuring the status of

the child's *nasab*, there is still uncertainty regarding the division of children's rights in terms of inheritance and maintenance, which is part of the protection of property (*hifz al-mal*). Article 42 of Law Number 1 of 1974 states that a child born in a legal marriage has the right to be inherited from his father and is entitled to inheritance from his father. However, in this case, because the child cannot be legally inherited by his biological father, the inheritance rights from the father's side are not recognized. Meanwhile, from the perspective of *Maqasid Sharia*, even though the protection of offspring has been carried out, the protection of property (*hifz al-mal*) is the main problem because the child does not obtain inheritance rights from his biological father. In terms of the protection of guardian rights, as mentioned in Article 19 of the Compilation of Islamic Law, the right of the guardian of marriage usually lies with the biological father or guardian of the child. However, because the status of the marriage is not legally recognized by law, the guardian's rights over the child are transferred to the guardian of the judge. This shows that there is a discrepancy between the judge's decision and the principles of *Maqasid Syariah* in terms of protection of property and guardian rights.

Table 3. Suitability of the Decision with the Principle of Maqasid Syariah

Principles of Maqasid Syariah	Related to Cases	Conformity with the Judgment
<i>Hifz al-Din</i> (Religious Protection)	It is not directly related, but this principle reflects that Islamic law is used in regulating the status of children's <i>nasab</i> .	Appropriate. Courts use Islamic principles to determine the status of children.
<i>Hifz al-Nasl</i> (Protection of the Offspring)	The judge's decision seeks to protect the child's destiny by ensuring that the child is only given to his biological mother.	Appropriate. The judge takes care of the offspring by setting a clear <i>nasab</i> .
<i>Hifz al-Mal</i> (Property Protection)	The distribution of the inheritance of the child from the biological father is not recognized.	Not suitable. The child does not get inheritance rights from his biological father.
<i>Hifz al-'Aql</i> (Protection of Reason)	The right of guardianship of the child is not given to the biological father.	Not suitable. The guardian's rights are left to the guardian judge, not the biological father.

Based on Table 3, it can be concluded that even though the judge's decision in Decision Number 123/Pdt.P/2024/PA. Prob has paid attention to the principle of *hifz al-nasl* by ensuring a clear destiny of the child, there is a discrepancy in the aspect of protection of

property and guardian rights. Although the judge's decision protects the child's offspring by ensuring the clarity of the *nasab*, the child does not get inheritance rights from his biological father, which is part of the principle of property protection in *Maqasid Sharia*. In addition, the rights of the child's guardian should be with the biological father in such a situation, but it is handed over to the guardian of the judge, which illustrates the existence of a vacuum of protection for the child's social rights. Thus, although this decision reflects part of the principles of *Maqasid Sharia*, there is room to improve its conformity with the purpose of protecting the property and rights of the legitimate guardian of the child.

This research can be further analyzed based on various views from previous research. According to Yusefri et al. (2024), in the case of the origin of the child, it is important for the judge to consider not only the aspect of *nasab*, but also the rights of the child related to inheritance and maintenance. The clarity of the child's destiny must be accompanied by recognition of inheritance rights so that the principle of property protection (*hifz al-mal*) is still implemented. This opinion is supported by Khosyi'ah & Rusyana (2022) emphasizing that inheritance is a child's right that should not be ignored, even in the case of children born outside of a valid marriage. Court decisions must pay attention to the protection of children's social rights, including guardian rights, which are part of children's rights in Islam. According to Abubakar et al. (2021), court decisions that do not recognize the rights of biological guardians of their children can create social injustice, because guardians are the parties responsible for the welfare of children. Based on these views, this study shows that although the judge's decision already reflects the principle of hereditary protection, there is a discrepancy in the application of the principles of *Maqasid Syariah* in terms of the protection of children's property and guardian rights.

Conclusion

Religious Court Decision Number 123/Pdt.P/2024/PA. The prob, which is related to the origin of the child of the married couple, reflects the court's efforts in upholding the principles of *Maqasid Sharia*, especially in terms of the protection of offspring (*hifz al-nasl*). The judge tries to ensure the clarity of the child's destiny so as not to cause confusion in the legal status of the child. However, there is a discrepancy in the application of the principles of property protection (*hifz al-mal*) and guardian rights (*hifz al-'aql*), because the child is not recognized as having inherited rights from his biological father, as well as the guardian's

rights over the child are handed over to the guardian judge, not the biological father. The decision shows that although the principle of protection for offspring has been implemented, there are still gaps that need to be corrected to be more in line with the more comprehensive goals of *Maqasid Sharia*, which is to protect children's property, guardian rights, and social welfare fairly.

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