

## Legal Dynamics of Child Determination in Marriage That Are Not Recorded From the Perspective of Islamic Law

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### Abstract

This study discusses legal issues related to the status of children born from marriage that are not recorded at the Office of Religious Affairs (KUA) as described in case Number 15/Pdt.P/2024/PA. Sdn in the Religious Court. This problem can be seen in the gap between the legality of religious marriage and the administrative legality of the state, which has an impact on the ambiguity of the nasab and the protection of children's civil rights. The rights of children that should be guaranteed by the state such as the right to name and identity, the right to obtain a birth certificate, the right to support from the father, the right to inherit, and the right to guardianship are not optimally protected. This study aims to find out the legal considerations of the panel of judges in determining the origin of children in the case and analyze the views of Islamic law regarding the status of children due to unrecorded marriages. This study uses a qualitative method with a normative juridical approach and field research, with primary data sources in the form of copies of court documents and interviews with judges, as well as secondary data from Islamic legal literature and laws and regulations. The results of the study showed that the judge considered evidence such as DNA test results, identity documents, and witness statements as the basis for determining the child to be a legitimate child, based on Article 43 paragraph (1) of Law No. 1 of 1974 and Constitutional Court Decision No. 46/PUU-VIII/2010. In the perspective of Islamic law, the child still has a nasab to his father because the marriage is religiously valid, and in his consideration, the judge is in line with the values of *sharia maqashid*, especially *hifz al-nasl* (protection of offspring), *hifz al-nafs* (protection of life), *hifz al-'ird* (protection of honor), *hifz al-mal* (protection of property) and *hifz al-din* (protection of religion). This research recommendation emphasizes the importance of marriage registration in KUA as a form of legal protection for children's rights and efforts to realize legal certainty for families.

**Keywords: Determination of the Origin of Children, Unregistered Marriage, Judge's Consideration, Islamic Law.**



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### INTRODUCTION

Marriage in Islam is a sacred bond established by Allah SWT as a legitimate and honorable way in forming a family and meeting human biological needs. The main purpose of marriage is to create a family that is *sakinah*, *mawaddah*, and *rahmah*, as well as to produce legitimate offspring as successors to the line of succession. In the context of Islamic law, marriage is understood as a strong contract (*Mitsaqan Ghalidzan*) to obey the commands of Allah SWT, where the implementation is worth worship (Amalyh et al., 2025). Thus, marriage

is not just a relationship between a man and a woman, but an agreement that changes the legal status between two individuals who were previously haram to halal in a conjugal relationship. However, there is a gap between normative provisions and social reality. Juridically, Law Number 1 of 1974 concerning Marriage Article 2 paragraphs (1) and (2) affirms that a marriage is valid if it is carried out according to the laws of religion and their respective beliefs, and recorded by the authorized officials in accordance with the provisions of laws and regulations (Asrofi, 2020). Meanwhile, empirically, there are still many Indonesians who carry out marriages without official registration at the Office of Religious Affairs (KUA) or the Population and Civil Registration Office. Based on a report by the Indonesian Ministry of Religious Affairs, Abu Rokhmad stated that there are as many as 34.6 million unregistered married couples in Indonesia, which has a direct impact on difficulties in child administration, such as the issuance of birth certificates (October, 2025). Especially in East Lampung, this phenomenon is also a serious concern. Based on the official report of the Ministry of Religion of East Lampung Regency (2025), there are still many couples who get married without going through official registration at KUA. There are 197 couples who have just officially received legal recognition of their marriage in July 2025 (Banner, 2025).

This problem is clearly illustrated in case Number 15/Pdt.P/2024/PA. Sdn in the Religious Court. In this case, a couple submitted an application to determine the origin of the child because their previous marriage was carried out religiously but had not been administratively recorded in the KUA. From this marriage, a child was born on June 22, 2023, who legally cannot obtain a birth certificate by including the father's name, or a family card with the father as the head of the family. Only after October 28, 2023, the couple held an official marriage registered in the KUA and submitted an application to determine the origin of the child in order to obtain legal protection for their child's civil rights. This phenomenon raises various legal problems, one of which is related to the legal status of children born from the marriage (Meiryana, 2024). The child is considered unclear in its legal status, because the legal child described in Article 42 of the Undang-Undang No. 1 of 1974 is a child born in or as a result of a legal marriage. On the other hand, a child born outside of wedlock cannot be called a legal child. So that the child only has a civil relationship with his mother and his mother's family in accordance with article 43 paragraph (1) of Undang-Undang No.1 of 1974. This gap has significant social and legal impacts. Children born of unregistered marriages have the potential to lose their civil rights, including access to legal identity, education, health services, alimony, inheritance, and legal guardianship. In the practice of population administration, such children are often unable to include the father's name on the birth certificate, which indirectly affects their rights to social security and state protection (Meilinda, 2021). This phenomenon shows that violations of recording norms are not only administrative problems, but also touch on humanitarian and social justice aspects. This case reflects the dynamics of the relationship between positive law and Islamic law in determining the origin of children resulting from marriage that are not recorded. From the academic side, this case provides an opportunity to examine how the two legal systems can be harmonized, especially related to the goals of sharia such as *hifz Al-Nasl* (protection of offspring), *hifz Al-nafs* (life protection), *Hifz al-IRD* (protection of honor), *Hifz al-Mal* (property protection) and *Hifz al-Din* (religious protection). Socially, the judge's decision in this case reflects the state's efforts to provide protection for

children's rights through the establishment of laws that are fair and beneficial to their future. Therefore, this research is not only important for the development of Islamic family law studies, but also has a major role in increasing public awareness about the importance of marriage registration and the fulfillment of children's rights.

In the context of legal certainty, marriage registration functions as a legal instrument that guarantees the validity of a marital relationship before the state. Legal certainty provides guarantees for the rights and obligations of the parties to the marriage, including the rights of the child born. Without recording, marriage is only recognized religiously but does not have the power of proof under state law, so children born from such relationships have the potential to lose their civil rights. The rights of children that should be guaranteed by the state such as the right to name and identity, the right to obtain a birth certificate, the right to support from the father, the right to inherit, and the right to guardianship are not optimally protected. In the perspective of Islamic law, children still have a position that must be maintained in their honor, because of the principle *Maslahah* placing protection against offspring (*HUFZ al-Nasl*) as one of the main purposes of Islamic law (*Maqashid Syariah*). Therefore, the issue of determining the origin of children due to unrecorded marriages is important to be researched because it concerns the fulfillment and protection of children's civil rights. Children are the next generation of the nation who have the right to obtain a clear legal identity, including birth certificates, family cards, and other basic rights such as alimony, inheritance, and guardianship (SPKLawOffice, 2025). This research is relevant because similar cases are still found in the community. Through the study of this phenomenon, this research is expected to contribute to strengthening legal protection for children out of wedlock, as well as become a reflection material for the public to be more aware of the importance of marriage registration. In addition, the results of this study are expected to enrich the treasures of Islamic family law in an effort to realize legal certainty and child protection in Indonesia.

Several previous studies have discussed the problem of children born from unrecorded marriages, such as research by (Meilinda, 2021) highlighting the legal position and rights of children resulting from unrecorded marriages and the judge's consideration in determining the status of children through case Number 0208/Pdt.P/2018/PAJT, with the result that the court's determination based on Article 103 of the Compilation of Islamic Law provides legal protection and certainty for children. Research (Darin et al., 2025) discussing the legal protection of the status of children out of wedlock in Islamic family law through case Number 676/Pdt.P/2023/PA. Bgl, by focusing on the legal basis and the judge's considerations in determining the origin of children born from a relationship outside of a legal marriage. Meanwhile, research (Istiqomah, 2024) examine the legal basis and considerations of judges in determining the origin of children resulting from serial marriages through case Number 100/Pdt.P/2023/PA. Btl, which shows that marriage is religiously valid but not recorded has an impact on the legal status of children. The three previous studies highlighted aspects of legal protection and judges' consideration of the status of children resulting from marriage that are not recorded, but none have comprehensively examined them through the perspective of Islamic law with the framework *Maqasid Shariah*. In addition, the approach used in previous research is still predominantly normative and has not utilized empirical data such as the results of judges'

interviews, trial evidence, and scientific verification in the form of DNA tests that can strengthen the analysis.

Therefore, this research offers novelty through the use of an integrative approach that combines normative and empirical studies based on the principles of *maqasid sharia*, especially *hifz al-nasl* (protection of posterity), *hifz al-nafs* (protection of life), *hifz al-'ird* (protection of honor), *hifz al-mal* (protection of property) and *hifz al-din* (religious protection). This approach provides a new dimension in the study of Islamic family law because it not only explains the formal legal aspects of determining the origin of children, but also examines the judge's considerations in a substantive and contextual manner according to the purpose of the sharia. Thus, this research presents conceptual, methodological, and practical contributions that strengthen understanding of the application of *sharia maqasid* in religious justice practice in Indonesia and affirm the importance of marriage registration as a form of protection of children's civil rights.

This research was formulated to answer two main issues, namely: (1) How are the legal considerations of the panel of judges in determining the origin of children in case number 15/Pdt.P/2024/PA. Sdn; and (2) How to Internalize Maqashid Syariah regarding the origin of children due to marriages that are not recorded at the Office of Religious Affairs (KUA) in case number 15/Pdt.P/2024/PA.Sdn. The purpose of this research is to find out the basis for the legal considerations of the panel of judges in case number 15/Pdt.P/2024/PA. Sdn, and to find out the views of Islamic law regarding the origin of children due to marriage that are not recorded at the Office of Religious Affairs (KUA) in case number 15/Pdt.P/2024/PA.Sdn. Theoretically, this research is expected to enrich the study of Islamic family law, especially related to the determination of the origin of children out of wedlock through *the maqashid sharia approach*. And practically, this research can be a reference for judges in considering similar cases and increasing public awareness of the importance of marriage registration and the protection of children's legal status.

## METHODS

This research uses a type of field research (*field research*), because the data needed is sourced directly from the location of the legal event, namely the Sukadana Religious Court and through interviews with judges, so that the data obtained is not only normative but also empirical contextual. The method used is qualitative with a normative juridical approach, the reason is because this research wants to understand in depth the compatibility between judicial practice and the basis of normative law to find a common point between positive law and Islamic legal principles based on *Maqashid Syariah*. This is relevant to the explanation by (Scott, 2023), where qualitative research aims to understand phenomena in depth through the perspective of the subject being studied, by emphasizing meaning rather than numbers. The normative juridical approach was chosen because the focus of this research is the study of positive law, Islamic law and the judge's consideration in determining the origin of children No. 15/Pdt.P/2024/PA.Sdn. The selection of the Sukadana Religious Court as the location of the research is based on the consideration that this court is one of the courts with a fairly high number of cases in Lampung, where in the last three years there have been around 11 cases regarding the application for the origin of children in the court Ini. In addition, the Sukadana Religious Court also has good accessibility and openness in providing copies of determinations

and information needed in research, thus supporting the smooth process of accurate data collection. This research was carried out for approximately three months, starting from the collection of determination documents to the interview process with the judge who understood the course of the case.

The primary data source of this study was an interview with a judge of the Sukadana Religious Court, Mrs. Rifqiyatunnisa, who directly handled case Number 15/Pdt.P/2024/PA.Sdn. Only one informant was selected because she possessed legal authority and direct involvement in the decision-making process. Methodologically, this approach follows the Key Informant Interview principle, emphasizing the selection of a resource person with substantive competence and firsthand knowledge of the case. Data reliability was ensured through source triangulation by comparing interview findings with court determination documents and relevant Islamic legal literature. In addition, an official copy of the Sukadana Religious Court Determination Number 15/Pdt.P/2024/PA.Sdn was obtained directly from the court's archival records. Secondary data were derived from Islamic legal sources and Indonesian legislation, including QS. Al-Ahzab verse 5, Law Number 1 of 1974, Constitutional Court Decision Number 46/PUU-VIII/2010, the Civil Code, the Compilation of Islamic Law, classical fiqh literature, and previous studies such as theses, legal journals, and scientific articles (Syahrum, 2022).

Data collection in this study was conducted through documentation and structured interviews. The documentation study focused on examining the Determination Number 15/Pdt.P/2024/PA.Sdn issued by the Sukadana Religious Court, which represents one of the most recent cases in 2024 concerning the determination of a child's origin resulting from an unregistered marriage at the Office of Religious Affairs (KUA). This case is significant as it reflects concrete legal issues occurring in society and introduces new dynamics through the submission of DNA (Deoxyribonucleic Acid) testing as evidentiary support to strengthen the legal status of the child. In-depth interviews were conducted with judges of the Sukadana Religious Court who had direct knowledge of the case proceedings. Judges were selected as key informants due to their central role in the decision-making process, making their perspectives essential for enriching the legal analysis. Data analysis employed a qualitative descriptive approach. The collected data from documents and interviews were first reduced by selecting information relevant to the research focus. The data were then systematically classified into categories, including judges' legal considerations in determining the origin of children and the perspectives of Islamic law regarding children born from unregistered marriages. Subsequently, the data were analyzed normatively to draw conclusions concerning judicial considerations in Determination Number 15/Pdt.P/2024/PA.Sdn from the perspective of Islamic law (Diantha, 2016).

## **RESULTS AND DISCUSSION**

### **The judge's consideration in the determination of number 15/Pdt.P/2024/PA. Sdn on the origin of children due to marriage that is not recorded at the Office of Religious Affairs (KUA)**

Case Number 15/Pdt.P/2024/PA. The SDN began with an application submitted by applicant I and applicant II who are husband and wife from a valid marriage and registered at the Office of Religious Affairs (KUA) on October 28, 2023, regarding the determination of the

origin of their child born on June 22, 2023. The two previously held a religious marriage, but it was not recorded in the KUA so they did not have an official marriage certificate at the time the child was born. Thus, the child is considered a child born outside of a legal marriage, thus raising legal problems because the child born from the marriage does not have certainty of legal status (Asrofi, 2020). In order to protect the children's civil rights, the applicants then applied to the Sukadana Religious Court to determine that the child was a legitimate child of their marriage.

Based on the judge's testimony (Rifqiyatunnisa, 2025), this case is processed in accordance with formal procedures, starting from case registration, payment of fees, appointment of a panel of judges, to summoning the parties to attend the hearing. The trial continued until the reading of the determination, where the panel of judges finally granted the applicants' application to determine the status of the child as the legal child of Applicant I and Applicant II.

In this case, the main evidence considered by the judge includes the identity documents of the applicants, a copy of the marriage certificate that has been recorded at the Office of Religious Affairs (KUA) after the official marriage, the child's birth certificate (which is translated under oath because he was born abroad), and DNA test evidence that shows a 99% probability as a booster of the child's biological status. This letter evidence is assessed in accordance with the provisions of Article 285 RBg, *jo.* 1868 Civil Code after being examined by a panel of judges. In addition to the letter evidence, the testimony of witnesses who meet the legal requirements is also an important basis because it strengthens the fact that the child is indeed the biological child of the applicants.

The judge emphasized that this case was the result of a legally valid marriage but was not administratively recorded at the Office of Religious Affairs (KUA). So that children born from the marriage are considered children whose legal status is unclear. The legal basis used refers to Article 43 paragraph (1) of Law Number 1 of 1974 and the Constitutional Court Decision Number 46/PUU-VIII/2010, which affirms that children born out of wedlock are still entitled to legal protection by proving through science and technology, including DNA tests (*Deoxyribonucleic acid*). The Constitutional Court Decision No. 46/PUU-VIII/2010 serves as a normative fulcrum for the application of scientific evidence in the case of child origin (Saputra, 2024). In case 15/Pdt.P/2024/PA. Sdn, the panel of judges applied the verdict pragmatically by accepting the results of DNA tests as scientific evidence that could corroborate the biological relationship, weighing the probability of DNA (99%) together with the testimony of two witnesses and administrative documents, and then making a decision based on the accumulation of evidence that met the threshold of strong evidence (Rifqiyatunnisa, 2025). The judge's consideration does not only stop at formal aspects such as the completeness of documents, but also includes material aspects in the form of the validity of the marriage, the conditions and harmony met, the relationship between the children's nasab, and the purpose of the sharia to protect offspring. Thus, the judge took advantage of the Constitutional Court Decision No. 46/PUU-VIII/2010 to overcome the administrative vacuum by accommodating the protection of children's rights without ignoring the principles of sharia proof.

In addition, in his consideration, the panel of judges also referred to the opinions of scholars in classical and contemporary books. Like the Book *Bughyatul Mustarsyidin* which

emphasizes the importance of proving the nasab with witnesses, as well as the Book *Islamic Fiqh wa Adillatuhu* the work of Wahbah az-Zuhaili which affirms that nasab is the main pillar of the family and can be established even if the marriage is not officially recorded. The view of the scholar shows that Islamic law places the validity of the contract and the fulfillment of the marriage principle as the main basis for determining nasab. However, in the context of the modern legal system, this view can be a challenge to the marriage registration mechanism, since positive law requires administrative evidence as a condition for the legality of marriage. Thus, the opinion of classical scholars does not directly reject the registration of marriages, but affirms that the legitimacy of religion still precedes administrative formalities. This can actually support the modern recording system when understood as a form of effort to protect the benefit of the people through official documentation that ensures clarity of nasab, protection of children's rights, and certainty of family law (Rahman, 2023).

The judge's consideration is also directed to guarantee the civil rights of children, such as the right to identity, inheritance, and also legal protection. With the granting of the child's application, not only does he get legal certainty regarding the status of the child, but also full protection of his rights as a legitimate child (Munib, 2023). The judge emphasized that this determination is important to ensure the fulfillment of the protection of children so that they can live, grow and develop, which is in line with Law No. 23 of 2002 (Arizona, 2025). This is also in line with research (Meilinda, 2021) which shows that with the determination of the Religious Court regarding the origin of children, children are entitled to legal protection and certainty. This determination also provides legal awareness for the community to carry out marriage legally and be recorded at the Office of Religious Affairs (KUA). The judge also gave recommendations so that the community no longer hold marriages outside the official registration. With correct registration in the KUA, it can provide legal certainty so that children's civil rights can be protected from the beginning and there is no need to go through a lengthy legal process. This determination shows that religious justice plays an important role in protecting children's rights as well as being a reminder to the community of the urgency of obeying the provisions of marriage law in Indonesia (Rifqiyatunnisa, 2025).

### **The Origin of Children Due to Marriage That Are Not Recorded in the Office of Religious Affairs (KUA) Islamic Law Perspective**

The origin of the child is the basis for showing the existence of a nasab relationship with his parents. In Islamic law, nasab has an important meaning for the recognition of the shari'i relationship between children and their parents' lineage, because nasab is a strong foundation that supports the establishment of a family. Through the nasab, a child can be legally recognized as a member of the family and is also entitled to various rights, such as the right to receive maintenance from his father, the right to inherit, the right to guardianship and the right to administration (Parizal et al., 2023). Therefore, Islam emphasizes the importance of maintaining clarity on the status of children's nasab, as affirmed in the Qur'an. Al-Ahzab verse 5

أَدْعُوهُمْ لِأَبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ

*"Call them (the children) by their father's name. That is what is right in the sight of God."*

The interpretation of this verse explains that children must be given only to their father and mother, because children come from their father's sulbi bones and are also conceived by their mothers (*Surah Al-Ahzab Verse 5*, n.d.). This explanation is relevant to the hadith of the Prophet Muhammad PBUH which reads "*Al-Walad lil Firāsy Walil 'Āhir Al-Hajar*" Because both stipulate that a legitimate child can be attributed to his father. However, in cases where the marriage is not administratively recorded, the determination of the nasab must be proven through another instrument. This is where the relevance of the fiqh approach which explains that marriages that are carried out customarily, which occur in certain (traditional) contractual ways without being officially registered in the marriage certificate can still give birth to a nasab relationship as long as the harmony and conditions are met. As explained by Wahbah Az-Zuhaili in the Book *Islamic Fiqh Wa Adillatuhu*

الزواج الصحيح أو الفاسد سبب لا ثبات النسب، وطريق لثبوته في الواقع، فمتى ثبت الزواج ولو كان فاسداً، أو كان زواجا عرفياً، أي منعقداً بطريق عند خاص دون تسجيل في سجلات الزواج الرسمية، ثبت نسب كل ما تأتي به المرأة من الأولاد

*"Marriage, both legal and fasid, is a cause for determining the fate in a case. So if there is a real occurrence of a marriage, even if the marriage is fasid (damaged) or a marriage that is carried out in a customary manner, which occurs in certain (traditional) contractual ways without being officially registered in the marriage certificate, it can be determined that the birth of the child born by the woman is the child of the husband and wife (the person concerned)"* (Az-Zuhaili, 2011, p. 27).

This means that the validity of the child's nasab does not only depend on the administrative record at the KUA, but on the validity of the contract that has fulfilled the principles and conditions of marriage. However, marriage registration still has an important function to provide legal and social security for couples and children who are born.

In case No. 15/Pdt.P/2024/PA. Shari'i marriage has occurred before the child is born, so from the point of view of Islamic law, the relationship between the child and his father is valid. The problem arises because there is no administrative record, so it is necessary to determine the court to provide legal certainty at the state level (Fathia & Septiandani, 2022). Thus, the applicants' marital status according to Islamic law is eligible, but still requires formal state legitimacy. On the other hand, the petitioners argue that it is inappropriate and unfair for a child born in such a condition to only have a civil relationship with his mother, as stated in Article 43 paragraph (1) of Law No. 1 of 1974. However, after the Constitutional Court Decision No. 46/PUU-VIII/2010 provides a gap for biological fathers to recognize their children through advanced science and technology as long as there is scientific evidence, such as DNA tests. The Constitutional Court Decision No. 46/PUU-VIII/2010 serves as a normative fulcrum for the application of scientific evidence in the case of child origin (Saputra, 2024). In case 15/Pdt.P/2024/PA. Sdn, the panel of judges applied the verdict pragmatically by accepting the results of DNA tests as scientific evidence that could corroborate the biological relationship, weighing the probability of DNA (99%) together with the testimony of two witnesses and administrative documents, and then making a decision based on the accumulation of evidence that met the threshold of strong evidence (Rifqiyatunnisa, 2025). Thus, the judge took advantage of the Constitutional Court Decision No. 46/PUU-VIII/2010 to overcome the administrative

vacuum by accommodating the protection of children's rights without ignoring the principles of sharia proof.

However, this must also be supported by various evidence to strengthen the legal status of the child, as in this case the applicants submitted letter evidence and also witnesses. Letter evidence here includes the identity documents of the applicants, a copy of the marriage certificate that has been recorded at the Office of Religious Affairs (KUA) after the official marriage, the child's birth certificate (which is translated under oath because he was born abroad), and DNA test evidence which shows a 99% probability as a booster of the biological status of the child based on the Constitutional Court Decision No. 46/PUU-VIII/2010. The decision is a reinforcement in proving the origin of children, because in the decision it is emphasized that children born out of a valid marriage can be proven by their biological father through advanced science and technology such as DNA test evidence (Fitriyah et al., 2023). Islam emphasizes the importance of documenting an event that occurs among humans, for example through writing or letters. Therefore, a writing or letter is very reasonable to be used as one of the evidence in court, either to establish or deny a right (Azwar, 2018).

In addition to the letter evidence, the testimony of witnesses who meet the legal requirements is also an important basis because it strengthens the fact that the child is indeed the biological child of the applicants. The witnesses presented were two adult men who gave testimony under oath. This is in line with the explanation in the Book of *Bughyatul Mustarsyidin* page 155

ولا يثبت النسب إلا بالبيئة الكاملة وهي رجلان فقط

"It is not valid for nasab (descendants), except with perfect evidence, namely 2 male witnesses."

This explanation was then used as a legal basis for the consideration of the panel of judges (Rifqiyatunnisa, 2025). The evidence here strengthens legal certainty in the judge's consideration, because the acceptance or rejection of a case depends on the evidence submitted (Rosyada et al., 2024).

Because the consideration based on the evidence submitted at the trial has proven that the child born from a marriage is not registered at the Office of Religious Affairs (KUA) and it is also admitted by Applicant I (his biological father). Where the applicants have carried out a legal marriage both material and formal before the submission of the application for the origin of this child, the panel of judges stated that it granted the applicants' application based on Law No. 23 of 2002 to protect the rights of the child and designate the child as the legal child of the applicants. With the determination of the origin of children Number 15/Pdt.P/2024/PA. This SDN will have an impact on the protection and legal certainty of the status of children.

The determination of the origin of the child in case Number 15/Pdt.P/2024/PA. Sdn shows that the panel of judges has implicitly applied the principles *Maqashid Syariah*, in particular *hifz Al-Nasl* (protection of offspring), *hifz Al-nafs* (life protection), *Hifz al-IRD* (protection of honor), *Hifz al-Mal* (property protection) and *Hifz al-Din* (religious protection). In the verdict, the judge assessed the evidence in the form of statements of the parties, administrative documents, and DNA test results as the main basis for determining the biological relationship

between the child and his father. The use of this scientific evidence shows that the judge seeks to ensure the truth of the nasab objectively so that the rights of children can be enforced. This step is a real implementation of maqasid, because the determination of nasab aims to prevent confusion of lineages and provide certainty of legal status for children (Refliandi & Eliza, 2023).

In addition, the panel of judges considered that the unclear nasab could have a direct impact on the fulfillment of children's rights in the fulfillment of children's rights in the future, such as identity rights, inheritance rights, and the right to obtain protection from parents (Kasim et al., 2022). In this context, hakim decisions also reflect the principle of *Hifz al-Mal*, because the determination of the origin of children is the juridical basis for the fulfillment of children's civil rights, especially economic rights such as alimony and inheritance rights. Without clarity on the status of the nasab, the child has the potential to lose the right to property that according to sharia and positive law he should be able to obtain. Therefore, the determination of children's origins is not only administrative, but also serves to protect the economic interests of children as legal subjects whose sustainability must be guaranteed. On the other hand, the recognition of the origin of children is also closely related to the principle of *Hifz ad-din*. In Islamic law, the clarity of nasab has religious implications, especially in determining the relationship of mahram, parental obligations to children, and the formation of children's religious identity in the family. Furthermore, by acknowledging the position of the child based on strong evidence, the judge indirectly also applies the principle of *Hifz al-'IRD* and *hifz Al-nafs*, because this decision protects the dignity and soul of children in order to avoid social stigma as a "child without a father". This consideration is in line with the purpose of the shari'a to maintain the dignity of the soul and ensure that every child is treated fairly regardless of the marital condition of his or her parents (Auda, 2007). This shows that Islamic law is dynamic and adaptive to the needs of the times, as long as its purpose is to maintain the five basic principles of human life (Milhan, 2022). Therefore, with the determination of the origin of children, this aims to restore the rights of children due to their parents' marriage to obtain legal certainty.

Thus, the determination of the judge in case No. 15/Pdt.P/2024/PA. Sdn not only reflects the application of Islamic law in a formal sense, but also contains the value of *sharia maqasid* in a substantive sense. The decision safeguards the welfare of children through legal protection, prevents social damage due to unclear fate, and emphasizes that parental responsibility does not fall just because of administrative negligence. In terms of positive law, this determination strengthens the importance of marriage registration in the KUA as a means of legalization that guarantees the protection of children and families. Meanwhile, in terms of Islamic law, it strengthens the meaning that a valid marriage contract is the main source of legitimacy of nasab. The relevance of this research lies in the importance of the relationship between Islamic law and positive law in realizing legal certainty as well as protecting children's civil rights.

## CONCLUSION

Based on the results of research on case Number 15/Pdt.P/2024/PA. Sdn at the Sukadana Religious Court, the panel of judges considered the validity of a religious marriage that meets the principles and requirements of marriage, even though it had not been recorded in the KUA when the child was born on June 22, 2023. The main evidence includes DNA test results with a 99% probability, identity documents, post-registration marriage certificates on October 28,

2023, child birth certificates, and the testimony of two adult male witnesses who meet the legal requirements. This consideration is based on Article 43 paragraph 1 of Law No. 1 of 1974, Article 285 RBg jo. 1868 of the Civil Code, and Constitutional Court Decision No. 46/PUU-VIII/2010, which opens up space to prove the origin of children through technology and scientific evidence. Thus, the judge's consideration does not stop at the administrative aspect of marriage registration, but emphasizes substantive justice and the protection of children's rights.

Islamic law stipulates the birth of a child to the biological father if the marriage is legal according to shari'i based on a contract that fulfills the pillars and conditions, without relying on administrative records in the KUA, as explained in QS. Al-Ahzab verse 5 and the hadith "al-walad lil firsy walir al-hajar". The opinion of scholars such as Wahbah az-Zuhaili in *Fiqh Islam wa Adillatuhu* and the *Book of Bughyatul Mustarsyidin* affirm that nasab is determined through the evidence of perfect witnesses and the validity of the akad. This determination is in line with *the maqasid of sharia*, especially *hifz al-nasl* (protection of lineage), *hifz al-nafs* (protection of life), *hifz al-ard* (protection of honor), *hifz al-mal* (protection of property) and *hifz al-din* (protection of religion), to prevent confusion and social stigma for children. However, in the modern context, marriage registration in the KUA is a form of restriction for the sake of ensuring legal protection, clarity of identity, and civil rights of children. Thus, Islamic law and positive law complement each other, where Islamic law guarantees the validity of nasab based on the contract, while state law guarantees administrative and social protection.

Practically, this study emphasizes the importance of Islamic law and positive law in the protection of children's rights. For the Religious Court, this result is the basis for the application of scientific evidence and the value *of sharia maqashid* in determining the origin of children. For KUA, this study emphasizes that marriage registration functions as a form of legal protection and not just an administrative formality, and recommends that massive socialization be held in vulnerable areas such as East Lampung. For the community, this research encourages awareness that marriage registration is a legal and moral responsibility to ensure clarity of the child's fate. The study was limited to one case in one court, so it did not describe the variation in practice in other regions. In the future, similar research can be expanded with a comparative approach between regions or an exploration of the relationship between *sharia maqashid* and the digital marriage registration system in Indonesia.

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