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LEGAL PROTECTION OF CUSTODY AND CHILD SUPPORT FOR CHILDREN WITH SPECIAL NEEDS AS A RESULT OF DIVORCE (Study of the Decision of The Yogyakarta District Court No. 156/PDT.G/2022/PN.YYK)

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Abstract

Divorce often has a profound impact on children, especially those with special needs. In this case, the role of the law is vital to ensure that children's rights remain fully protected. The issue in this study is the determination of custody and child support for Children with Special Needs in Decision No. 156/Pdt.G/2022/PN.Yyk is in accordance with the principles of child protection as stipulated in Law No. 35 of 2014 concerning Child Protection, and regarding the form of legal protection for children with special needs in divorce cases, as in the Yogyakarta District Court Decision No. 156/Pdt.G/2022/PN.Yyk. This study uses a normative method with a case approach and a legislative approach using literature study to obtain secondary data sourced from primary, secondary, and tertiary legal materials. The data obtained is analyzed qualitatively. The study results show the decision in case No. 156/Pdt.G/2022/PN.Yyk is in accordance with the principle of child protection, especially for children with special needs. The judge granted custody to the mother and awarded lifelong alimony, per the child's best interests' principle. However, its implementation still requires supervision to effectively protect the child's rights. Implementing legal protection for Children with Special Needs in Decision No. 156/Pdt.G/2022/PN.Yyk was realized through granting custody to the mother and lifetime alimony from the father. This decision reflects substantive justice and the best interests of the child in accordance with the Child Protection Law and the Disability Law.

Keywords: child protection, children with special needs, custody, and child support.

INTRODUCTION

Child custody is an essential aspect of child protection and care. This right includes the authority to educate and supervise, and is closely related to fulfilling the child's basic needs by the father and mother. According to Mansari, custody is the authority and power to care for, educate, and supervise children, both those who are still minors and those who have reached the age of discernment (Arizal Sastra Tjandi et al., 2022). In this context, the responsibility to provide financial support is also a key element, whereby the father and mother, especially the father, are obliged to fulfill the basic needs of the child, such as food, clothing, shelter, education, and health services, until the child can live independently (Devy & Muliadi, 2020). The family is an inseparable element in human life and plays a central role in shaping the social structure. The family is not just a small unit in society, but a central pillar in upholding human values and togetherness (Nurvia, 2023). Therefore, the family is seen as the most fundamental foundation in life. People who live their family life based on commitment, moral values, and social responsibility will create a harmonious, prosperous, and resilient family in facing the dynamics of life (Ade, 2021).

As stated in Article 1 of Law No. 1 of 1974 on Marriage, Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the intention of creating a happy and lasting family based on God Almighty (Waluyo, 2020). Legally, marriage is a binding agreement between a man and a woman who have met specific requirements to live

together in a legal relationship. According to the Marriage Law, the purpose is to create a happy and lasting household. However, a marriage can face various obstacles and problems over time, ultimately leading to the dissolution of the marriage bond (Anwar et al., 2021). In accordance with the provisions of Article 38 of Law No. 1 of 1974 concerning Marriage, a marriage can end for the following reasons: (a) death, (b) divorce, and (c) court decision (Syaifuddin et al., 2022).

Divorce will undoubtedly have legal consequences for the parties regarding the marital relationship and the children born from the marriage. One of the most significant legal consequences is the determination of custody rights and child support obligations, including for children with special needs. In this context, the court has a significant role to ensure that the verdict is not only in accordance with positive law, but also prioritizes the best interests of the child as mandated in laws and regulations, such as Law No. 1 of 1974 on Marriage and Law No. 35 of 2014 on Child Protection. Divorce cases raise issues such as the division of marital property. If the marriage has produced children, this also becomes an issue, even leading to disputes over child custody and child support. In a ruling by the Indonesian Supreme Court (Khair, 2020), it was stated that

Protecting children is the state's responsibility, explicitly regulated in various laws and regulations. The state is obliged to guarantee the fulfillment of children's rights without discrimination, including the right to life, growth and development, education, and protection from violence, neglect, and exploitation. This provision is reflected in Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, which emphasizes that the state, government, and community are responsible and obliged to provide comprehensive child protection.

According to Regulation of the Minister of National Education (Permendiknas) No. 70 of 2009 concerning Inclusive Education for Students with Disabilities and/or Special Talents and/or Abilities, children with special needs are students who experience physical, intellectual, mental, social, and/or emotional barriers, and therefore require special education services. Meanwhile, Law No. 8 of 2016 on Persons with Disabilities uses a different term, namely, children with disabilities, which also substantially falls under the category of Children with Special Needs. In accordance with Article 5 paragraph (2) of Law No. 8 of 2016, it is stated that: "Children with disabilities have the same rights as other children to live, grow, develop, and participate optimally in accordance with human dignity."

The issue of child custody after divorce becomes even more complex when it involves Children with Special Needs who require greater protection and attention, both physically, psychologically, and financially. This complexity is reflected in the Yogyakarta District Court Decision No. 156/Pdt.G/2022/PN.Yyk, which includes a case regarding the determination of child custody, where one of the children is a child with special needs. In this case, custody was granted to the mother despite her limited income. This situation raises legal questions regarding the extent to which the judge considered the child's special needs and the guarantee of adequate financial support in order to ensure that the child's rights are fulfilled after the divorce within the framework of legal protection.

1. Is the judge's decision on custody and maintenance of Children with Special Needs in decision No.156/PDT.G/2022/PN.YYK in? According to the principles of child protection under Law No. 35 of 2014 on Child Protection?
2. How does the implementation of legal protection for children with special needs in divorce cases, as stated in the Yogyakarta District Court Decision No. 156/Pdt.G/2022/PN.Yyk take shape?

To examine this issue in depth, the author uses two legal theories proposed by Gustav Radbruch, namely the Theory of Justice and the Theory of Legal Certainty. These two theories are considered relevant in analyzing child custody and child support after divorce, as they can bridge the need for substantive justice for children and the importance of legal

certainty in court decisions. According to Gustav Radbruch, law must always be oriented towards the values of justice. Justice does not only mean equality before the law, but also fair treatment in accordance with individual rights and universal moral principles. Justice is at the core of the entire legal system, and if the law fails to achieve it, it can be considered invalid (ALI, 2017). Thus, justice is the primary foundation for assessing a legal decision or policy, especially concerning protecting children. Gustav Radbruch's theory of justice provides a framework for evaluating the extent to which a judge's decision is not only legally valid but also morally and functionally fair in the child's best interests.

Meanwhile, the Theory of Legal Certainty examines whether legal norms have been applied consistently, clearly, and predictably in the judicial process, thereby producing decisions that can provide stable legal protection for children after divorce. Meanwhile, the Theory of Legal Certainty assesses how legal norms are applied consistently, clearly, and predictably in the judicial process, thereby ensuring legal clarity and order for the parties, especially children affected by divorce. Legal certainty is the third important law value. Radbruch emphasizes that the law must provide certainty for society. Every legal rule must be clear, understandable, and applied consistently to avoid uncertainty that could harm society (Elizabeth & Adhari, 2024). In the context of child support, legal certainty means that court decisions regarding child custody and child support obligations must be based on clear and consistent laws, provide protection for children, and ensure that the support provided is in accordance with the financial capabilities of the father and mother (Muhamad Nur Rifaldi Rachman et al., 2023). These two theories are used as an analytical framework to assess the judge's considerations in determining custody and support for children with special needs, to ensure that the decision is not only legally valid but also fair and, in the child's, best interests. Thus, the analysis of court decisions does not solely focus on formal legality, but also considers substantive values of justice that protect children's rights.

RESEARCH METHOD

The researcher used normative legal research to compile this journal to obtain accurate and accountable research results on children with special needs. This research was conducted using *a case approach* and *a statute approach* by analyzing concrete cases and legislation related to the studied legal issues. The collection of legal materials by the author aimed to obtain secondary data, using a literature study or document review method, relevant to the research topic. The legal materials were obtained from various sources, including:

1. Primary Legal Materials

Primary legal materials include legal sources with binding legal force because the state has officially established them in legislation. These legal materials form the primary basis of legal research because they contain legal norms that apply directly. In this study, the primary legal materials applied are: Yogyakarta District Court Decision No. 156/Pdt.G/2022/PN.Yyk, Law No. 1 of 1974 concerning Marriage, Government Regulation No. 9 of 1975 concerning the Implementation of Law No. 1 of 1974, and Law No. 35 2014 concerning Child Protection.

2. Secondary Legal Materials

Secondary legal materials are legal materials that serve to explain, elaborate, or analyze primary legal materials. These materials are not obtained directly from legal sources that establish legal norms, but originate from other parties that present, discuss, or evaluate those sources, such as scientific publications, books, articles, or research reports. In this study, the author uses secondary legal materials obtained from many commercial and non-commercial sources to strengthen the analysis and support the interpretation of the primary legal materials used (Zaki & Musyaffa, 2023). The secondary legal materials in this study include: books, scientific journals, and other supporting documents.

3. Tertiary Legal Materials

Tertiary legal materials are legal materials that serve to provide initial guidance or clarify primary and secondary legal materials, including legal dictionaries, legal encyclopedias, legal bibliographies, and legal abstracts. That is to complement the secondary data on unregistered marriages and aspects of their legal protection. The technique for collecting legal materials in this study, which is a normative study, was carried out by tracing primary, secondary, and tertiary legal materials. These three legal materials form the foundation for analyzing legal issues, constructing legal arguments, and drawing legal conclusions rationally and systematically.

In this study, data analysis was conducted using normative qualitative techniques, namely by reviewing and interpreting the legal materials that had been collected, both primary and secondary legal materials, which were then analyzed systematically in accordance with the legal issues being studied. The analysis examined the legal norms contained in legislation, doctrine, and court decisions. The data obtained from the literature study was analyzed using a descriptive-analytical approach, which aimed to describe and assess the application of the applicable law in a law-specific case, in this case, Yogyakarta District Court Decision No. 156/Pdt.G/2022/PN.Yyk. The author describes how the judge considered the aspects of justice and legal protection for Children with Special Needs in the context of divorce, and relates this to Gustav Radbruch's legal theory, particularly regarding the principles of justice and legal certainty. Through this approach, the author seeks to draw normative conclusions on the compatibility between legal practice and written legal norms, considering moral values, humanity, and the child's best interests as stipulated in various laws and regulations.

RESULTS AND DISCUSSION

The Judge's Decision in Determining Custody and Child Support for Children with Special Needs in Decision No. 156/PDT.G/2022/PN.YYK is in Accordance with the Principles of Child Protection under Law No. 35 of 2014 on Child Protection.

The subject of the research in the Yogyakarta District Court decision No. 156/Pdt.G/2022/PN.Yyk concerns custody and child support for a child with special needs due to divorce. The Plaintiff and Defendant were married on June 20, 2000, at the Indonesian Pentecostal Church in Sosrowijayan, Yogyakarta. The Plaintiff and Defendant were blessed with three children from their marriage, namely: the first child is a girl named XXXXX, who was born in Yogyakarta on August 31, 2001, and is currently 21 years old; the second child is a boy named XXXXX Harriyanto, who was born in Yogyakarta on June 24, 2005, and is currently 17 years old, the third child is a girl named XXXXX, who was born in Yogyakarta on December 25, 2006, and is currently 16 years old, and all three currently live with and are under the care of the Plaintiff. Since before the defendant filed the divorce suit until the appeal decision was handed down, which is now legally binding (*inkracht*), a divorce certificate has been issued and received by the Plaintiff, yet to date the defendant has completely neglected the children's living needs, even though the Plaintiff's and Defendant's children still need money for their daily living expenses and educational needs, among other things. Moreover, the Plaintiff's and Defendant's second child has special needs and requires regular and periodic medical expenses, but the defendant seems to be indifferent to all of this. Because, as long as the marriage still binds the defendant, it is evident that the defendant has not thoroughly carried out his obligations and seems to be acting on his own accord, so the Plaintiff needs a guarantee that child support will be paid, as well as a guarantee of a place for the children to live. The judge's decision in divorce cases involving Children with Special Needs includes the principles of child protection stipulated in Law No. 35 of 2014 concerning Child Protection.

In the Yogyakarta District Court Decision No. 156/Pdt.G/2022/PN.Yyk, the panel of

judges ruled as follows: 1) Granting the Plaintiff's lawsuit in part; 2) Declaring that the children born from the Marriage of the Plaintiff and the Defendant are: a) XXXXX xxx, a boy born on xxxxx, as stated in Birth Certificate No. 462/K/2005 dated July 27, 2005, and b) xxxxx, a female child born on xxx, as stated in Birth Certificate No. 4256/DSP/XI/2008 dated November 6, 2008, under the care of the Plaintiff until the children reach adulthood, specifically for XXXXX XXXXX for life; 3) Order the Defendant to provide child support through xxxx of Rp 3,500,000.00 (three million five hundred thousand rupiah) per month or Rp 700,000.00 (seven hundred thousand rupiah) per week until the child reaches adulthood, specifically XXXXX Harriyanto for life; 4) Rejecting the Plaintiff's claim for anything else and beyond that; 5) Ordering the Defendant to pay court costs of Rp 616,000.00 (six hundred sixteen thousand rupiah).

The right of custody of the child is granted to the mother, considering that the child in question has special needs and has been mostly cared for and raised by his mother. The issue considered by the judge in the decision was the demand for alimony for a child with special needs.

Divorce not only affects the married couple, but also has legal consequences for the child, especially children with special needs (*Down Syndrome*). Custody and alimony are two important aspects in ensuring the protection of children after divorce. Children with special needs require special attention regarding care, education, health, and social life. Therefore, through its judicial system and regulations, the state is obligated to provide adequate legal protection.

Children with special needs have specific characteristics that differ from those of typical children, whether in terms of physical, mental, intellectual, emotional, social, or behavioral aspects, and therefore require special attention, services, and education to develop optimally. Children with special needs are recognized in Law No. 8 of 2016 concerning Persons with Disabilities, Article 1, points 1 and 2: "Persons with disabilities are individuals who experience long-term physical, intellectual, mental, and/or sensory limitations that, when interacting with their environment, may experience barriers and difficulties in participating fully and effectively on an equal basis with others."

The characteristics of children with special needs can be identified through the classification of disabilities described in Article 4, paragraph (1), namely physical, intellectual, mental, and/or sensory disabilities. These characteristics include children with physical limitations, such as physical disabilities; intellectual limitations, such as intellectual disability; mental limitations, including children with autism or emotional and behavioral disorders; and sensory limitations, such as blindness and deafness. In addition, this law also recognizes the existence of multiple disabilities, which is a condition in which a child experiences more than one type of disability at the same time.

Children with special needs are legal subjects entitled to special protection, equal educational services, and guarantees to participate fully in social life, as guaranteed by Article 2 of Law No. 8 of 2016 concerning Persons with Disabilities. Furthermore, Article 2 of Law No. 8 of 2016 concerning Persons with Disabilities emphasizes respect for human dignity, equality, and social inclusiveness.

In the event of divorce, the fulfillment of the rights of Children with Special Needs must not be reduced or neglected. Article 2 refers to the special protection rights of children with special needs: justice and legal protection. Protection for children with special needs is explicitly regulated in Law No. 35 of 2014 ~~concerning~~ Child Protection, which includes amendments to Law No. 23 of 2002.

Constitutional Court Decision No. 22/Law-XV/2017 also emphasizes that children are still entitled to both parents' love, care, and financial support, even if they are divorced. Thus, custody and financial support for children with special needs after divorce is not merely a

moral issue, but also a legal responsibility. One of the key articles providing a legal basis for protecting children with special needs is Article 59, which states that the government, local governments, and other state institutions are obliged to provide special protection to children with disabilities. This special protection includes various forms of action, such as treatment appropriate to the child's needs, physical and mental safety guarantees, prevention of discrimination, and provision of rehabilitation and psychosocial assistance.

That confirms that children with special needs are entitled to receive different treatment (*affirmative action*) from children in general, given their conditions that require more attention and their higher potential vulnerability. In addition to Article 59, other provisions that strengthen the legal position of children with special needs can be found in Article 71D, which states that the state is obliged to provide special protection to children in certain circumstances, including children with disabilities, to ensure their survival and optimal growth and development. This legal protection is not only normative in nature, but also includes administrative, social, and rehabilitative protection provided through government policies and programs. In practice, the law of legal protection for Children with Special Needs, as regulated in this law, includes: 1) Provision of inclusive education or special education; 2) Access to appropriate health services; 3) Protection from violence, discrimination, and neglect; 4) The right to disability-friendly public facilities; 5) Equal involvement in society.

This protection aligns with the principle of "*the best interests of the child*," which is the basis for all decisions concerning children, including in legal matters such as divorce, custody, and alimony. Therefore, in particular legal situations such as custody disputes, judges must consider the special needs and interests of children with disabilities, as determined by this law. BLawd on Law. 35 of 2014 concerning child protection, when linked to the protection of Children with Special Needs, Article 59 of Law No. 35 of 2014 states that children with disabilities (*Down Syndrome*) are entitled to special protection from the state, which covers aspects of treatment, rehabilitation, security, and guarantees against discrimination.

Therefore, in determining child custody and support, judges must pay special attention to the needs of children with special needs, such as therapy, inclusive education, medical care, and psychosocial support, so that the principle of *the best interests of the child* is fulfilled. The special protection referred to in Article 59 paragraph (1) of the Child Protection Law is carried out through appropriate treatment per the child's needs and protective measures that guarantee the child's physical, mental, and social safety.

This principle is also enshrined in Article 4 of the Child Protection Law. Every child has the right to live, grow, and develop, as well as the right to protection from violence and discrimination. Article 26 states that "parents have the obligation and responsibility to care for, nurture, educate, and protect their children, to foster their growth and development in accordance with their abilities, talents, and interests, to prevent child marriage, and to provide character education and instill moral values in their children." Article 59, paragraph (1) of Law No. 35 of 2014 states that children have the right to care and protection within the family and community for their survival, growth, and optimal development. Children *with Down Syndrome* certainly need more protection and attention, both psychologically and medically. Therefore, it is essential to grant custody to the most capable party physically and emotionally. The determination of custody of children with disabilities must take into account the caregiver's ability to handle the child's special condition and previous caregiving history" (Arfiani, F. & Agustin, I.S., 2022).

In addition to custody, the judge also stipulated the obligation of the husband (the defendant) to provide child support of IDR 2,000,000 per month until the child reaches adulthood or can live independently. It refers to Article 41 letter (b) of the Marriage Law, which states: A father who does not have custody of a child is obliged to bear the costs of the child's

maintenance and education. The judges assessed that children with special needs require additional costs for therapy, special education, and ongoing health supervision.

Therefore, the amount of alimony was determined by considering the defendant's actual needs and financial capacity. This decision is in line with the principle of *the child's best interest*, as stated in Article 4 of the Child Protection Law, which states that in every activity related to child protection, the primary consideration is the child's best interest.

In terms of fulfilling child support obligations, the judge in the decision also stipulated the father's obligation to provide adequate support for his child. This stipulation is in line with Article 45 of Law No. 1 of 1974 on Marriage, which states that fathers and mothers are obliged to care for and educate their children as best as possible until adulthood. For children with special needs, this responsibility does not even stop when the child reaches adulthood, because there is a possibility that the child cannot live independently. Therefore, the obligation to support children with special needs must consider specific needs such as the costs of therapy, long-term medical care, and education.

Child support for children with special needs is often calculated based on a proportion of the father's income, for example, 1/3 or 1/2 of his fixed income, depending on the evidence presented in court (Muna, K, 2022). In the verdict, the judge ruled that custody of the child should be given to the wife (the Plaintiff), considering the child's emotional closeness to her mother and the child's special needs, which the mother had primarily handled. This decision is in line with Article 41 letter (a) of Law No. 1 of 1974 concerning marriage, which states: As a result of the termination of marriage due to divorce, the care of children remains the obligation of both the father and mother, and in the event of a dispute, the court shall decide. In cases involving children with special needs, mothers tend to be considered more psychologically and emotionally prepared to provide intensive care due to their higher level of daily involvement (Sulastri, 2021).

Although the judge's decision is in accordance with child protection norms, there are still several obstacles in its implementation. Obstacles to the execution of child support are often caused by the low legal awareness of the obligated party (usually the father) and the lack of a strong enforcement mechanism to ensure the fulfillment of this obligation (Marhaeny, P.O., 2023). That indicates the need to establish a post-court decision monitoring system and the active role of state institutions such as the Indonesian Child Protection Commission (KPAI) and the Social Services Agency in ensuring that court decisions are implemented to protect children, especially children with special needs. Thus, the judge's decision as intended reflects the normative application of child protection principles: the principle of non-discrimination, the principle of the best interests of the child, and the principle of special protection for children in certain conditions. However, it is necessary to strengthen implementation, monitoring, and synergy between institutions to ensure the effectiveness of legal protection for Children with Special Needs.

Forms of Legal Protection for Children with Special Needs in Divorce Cases as in the Yogyakarta District Court Decision No. 156/Pdt.G/2022/PN.Yyk

The protection of children with special needs in divorce cases is a tangible form of the state's responsibility as mandated in various laws and regulations. In case No. 156/Pdt.G/2022/PN.Yyk, the panel of judges faced a divorce case involving a child with special needs, namely a child with intellectual disabilities who required special attention. In the decision, the judge awarded custody to the biological mother, even though she was not financially stronger than the father. That shows that the judge's consideration was not only based on financial capacity, but also prioritized the principle of "*the best interest of the child*."

In this ruling, the judge considered the child's emotional and psychological needs, where the mother was deemed more capable of providing intense daily affection and

attention. It is in accordance with Article 26 paragraph (1) letter c of Law No. 35 of 2014 concerning Child Protection, which emphasizes that fathers and mothers have the obligation and responsibility to care for, nurture, educate, and protect children, as well as to foster their growth and development in accordance with their abilities, talents, and interests.

In particular, Article 5, paragraph (2) of Law No. 8 of 2016 concerning Persons with Disabilities states that children with disabilities have the same rights as other children to live, grow, develop, and participate optimally per their human dignity. It means that children with special needs are entitled to equal treatment, including in determining custody and alimony after divorce. In this case, the granting of custody to the mother is a form of active legal protection from the court, which places the child as a subject that must be protected, not merely an object of the divorce between the father and mother.

From a theoretical perspective, the approach used in this decision reflects Gustav Radbruch's Theory of Justice, which states that law is law only measured by legal certainty (*Rechtssicherheit*), but also by the values of justice (*Gerechtigkeit*) and expediency (*Zweckmäßigkeit*). In this case, even though the father was more financially stable, the judge chose to prioritize substantive justice by granting custody to the mother for the sake of the child's welfare and special needs. Radbruch emphasized that if positive law conflicts with justice, justice must be prioritized (*Radbruchsche Formel*).

Furthermore, in Article 59 paragraph (2) letter i of Law No. 35 of 2014, the state must provide special protection to children in emergencies, including children who need special protection, such as children with disabilities. Therefore, granting custody to the party most capable of providing intensive protection, as in this case to the mother, is a concrete implementation of this provision.

In addition to custody, the issue of child support is also an important consideration. In this decision, even though custody was granted to the mother, the father remains obligated to provide child support according to his economic capacity. It is in accordance with the provisions of Article 41, letter c of Law No. 1 of 1974 concerning Marriage, which states that "the court may oblige the former husband to provide for the maintenance and education of the child." It means that the obligation to provide child support does not automatically end with the termination of the marriage.

Thus, the form of legal protection for Children with Special Needs in case No. 156/Pdt.G/2022/PN.Yyk includes:

1. The determination of custody rights to the party most capable of meeting the child's physical and emotional needs.
2. Affirming the obligation of child support to the father and mother who do not have custody.
3. Applying the principle of the child's best interests and substantive justice.

This decision shows that the judge has adopted a progressive approach that considers the special needs of the child as a key factor in guaranteeing their rights after divorce. This approach is part of the implementation of legal protection that is not only legal-formal but also touches on the social and humanitarian aspects of the child.

CONCLUSION

Conclusion

The judge's decision in case No. 156/Pdt.G/2022/PN.Yyk regarding custody and alimony for children with special needs is in accordance with the principles of child protection as stipulated in Law No. 35 of 2014 on Child Protection. The judge granted custody to the mother, who had been directly caring for the child and stipulated a lifetime maintenance obligation for the child with disabilities, reflecting the application of the principle of *the best interests of the child* and special protection in accordance with Articles 59 and 71D of the Child Protection Law. This decision took into account the child's psychological and medical condition and overall needs. It was per the principles of non-

discrimination and affirmative action for children with disabilities, as also affirmed in Law No. 8 of 2016 on Persons with Disabilities. Although this decision normatively reflects justice and legal protection, its implementation still requires intense supervision and support from state institutions to fulfill the rights of Children with Special Needs in practice.

The form of legal protection for Children with Special Needs in divorce cases, as reflected in the Yogyakarta District Court Decision No. 156/Pdt.G/2022/PN. Yyk, is realized through the determination of custody rights to the mother as the party who is emotionally and psychologically more capable of providing intensive care, as well as the affirmation of the father's obligation to provide lifelong financial support in accordance with the principle of *the best interests of the child*, as stipulated in Law No. 35 of 2014 concerning Child Protection and Law No. 8 of 2016 concerning Persons with Disabilities. The judge's approach in this case reflects substantive justice and humanitarian values by treating children as legal subjects that the state must protect. It reflects the application of Gustav Radbruch's theory of justice, which states that when legal certainty conflicts with justice, justice must be prioritized.

RECOMMENDATIONS

The first recommendation to the Supreme Court and judicial training institutions is to provide special training to judges and law enforcement officials on handling cases involving children with special needs. This training is important so that they understand the psychological, social, medical, and educational aspects of children with disabilities, so that the decisions made reflect the child's best interests in accordance with Law No. 35 of 2014 on Child Protection.

The second recommendation to the KPAI, the Ministry of Social Affairs, and the District Court is to strengthen the supervision of implementing court decisions on custody and child support for Children with Special Needs by forming a monitoring unit. This step is important so that legal obligations are carried out and children's rights are effectively protected.

REFERENCES

- Ade, Z. R. (2021). *Permohonan Hak Asuh Anak Dalam Kasus Perceraian*. https://doi.org/https://repository.unissula.ac.id/24675/1/30301509351_fullpdf.pdf
- ALI, A. (2017). *Menguak Teori Hukum (Legal Theory) Dan Teori Peradilan (Judicialprudence)* (cetakan ke7). Kencana. https://doi.org/https://books.google.co.id/books?id=NBZNDwAAQBAJ&pg=PA112&source=gbs_toc_r&cad=2#v=onepage&q&f=true
- Anwar, S., Tinggi, S., Islam, A., Kamal, A., & Rembang, S. (2021). Hak Dan Kewajiban Pasutri Menurut UNDANG-UNDANG No 1 Tahun 1974: -. *Al Kamal*, 1(1).
- Arizal Sastra Tjandi, A., Kasim, A., & Heridah, A. (2022). Kedudukan Hak Asuh Anak Akibat Cerai Hidup. *Jurnal Litigasi Amsir*, 10.
- Devy, S., & Muliadi, D. (2020). Pertimbangan Hakim dalam Menetapkan Nafkah Anak Pasca Perceraian (Studi Putusan Hakim No 0233/Pdt.G/2017/MS-MBO). *El-USRAH: Jurnal Hukum Keluarga*, 2(1). <https://doi.org/10.22373/ujhk.v2i1.7646>
- Elizabeth, V., & Adhari, A. (2024). Kepastian Hukum Akibat Kelalaian Jaksa Penuntut Umum. *Jurisprudensi: Jurnal Ilmu Syariah, PerUndang-Undangan Dan Ekonomi Islam*, 16(1), 99–114. <https://doi.org/10.32505/jurisprudensi.v16i1.5735>
- Haga Elizabeth, V., & Adhari, A. (2024). Kepastian Hukum Akibat Kelalaian Jaksa Penuntut Umum. *Jurisprudensi: Jurnal Ilmu Syariah, PerUndang-Undangan Dan Ekonomi Islam*, 16(1), 99–114. <https://doi.org/10.32505/jurisprudensi.v16i1.5735>
- I Ketut Suardita, SH. M. (2017). Pengenalan Bahan Hukum (PBH). In *Hukum Administrasi Negara Bagi Mahasiswa Semester I Fakultas Hukum Universitas Udayana*.

- Jonaedi, E., & Rijadi, P. (2016). Metode Penelitian Hukum Normatif Dan Empiris (Edisi Kedua). In *Kencana* (Issue Hukum). <https://doi.org/https://books.google.co.id/books?id=5OZeDwAAQBAJ&lpg=PP1&pg=PP1#v=onepage&q&f=true>
- Khair, U. (2020). Pelaksanaan Hak Asuh Anak Sesudah Terjadinya Perceraian. *JCH (Jurnal Cendekia Hukum)*, 5(2). <https://doi.org/10.33760/jch.v5i2.231>
- Khair, U. (2020). Pelaksanaan Hak Asuh Anak Sesudah Terjadinya Perceraian. *JCH (Jurnal Cendekia Hukum)*, 5(2). <https://doi.org/10.33760/jch.v5i2.231>
- Muhaimin. (2020). *Metode Penelitian Hukum*. <https://doi.org/https://eprints.unram.ac.id/20305/1/Metode%20Penelitian%20Hukum.Pdf>
- Muhamad Nur Rifaldi Rachman, Nirwan Junus, Nirwan Junus, & Julius T. Mandjo. (2023). Akibat Hukum Tidak Terlaksananya Hak Asuh Anak Pasca Perceraian Ayah dan ibu Di Pengadilan Agama Gorontalo. *Mandub : Jurnal Politik, Sosial, Hukum Dan Humaniora*, 2(1). <https://doi.org/10.59059/mandub.v2i1.884>
- Muhamad Nur Rifaldi Rachman, Nirwan Junus, & Julius T. Mandjo. (2023). Akibat Hukum Tidak Terlaksananya Hak Asuh Anak Pasca Perceraian Ayah dan ibu Di Pengadilan Agama Gorontalo. *Mandub : Jurnal Politik, Sosial, Hukum Dan Humaniora*, 2(1). <https://doi.org/10.59059/mandub.v2i1.884>
- Nurvia, I. (2023). Ummah Menurut Penafsiran sayyid Quthb Dalam tafsir Fi Zilalil Quran Dan Perbandingannya Dengan Civil Society. *Skripsi*.
- Nurvia, I. (2023). Ummah Menurut Penafsiran sayyid Quthb Dalam tafsir Fi Zilalil Quran Dan Perbandingannya Dengan Civil Society. *Skripsi*.
- Sahrurn M. (2022). Pengantar Metodologi Penelitian Hukum: Kajian Penelitian Normatif, Empiris, Penulisan Proposal, Laporan Skripsi dan Tesis. In *Qiara Media* (Vol. 5, Issue 3).
- Sahrurn M. (2022). Pengantar Metodologi Penelitian Hukum: Kajian Penelitian Normatif, Empiris, Penulisan Proposal, Laporan Skripsi dan Tesis. In *Qiara Media* (Vol. 5, Issue 3).
- Syaifuddin, M., Turatmiyah, S., & Yahanan, A. (2022). *Hukum Perceraian* (D. Chrismansyah, Ed.). Sinar Grafika Offset. https://doi.org/https://books.google.co.id/books?id=Y3GCEAAAQBAJ&pg=PA116&source=gbs_selected_pages&cad=1#v=onepage&q&f=false.org/10.23887/jmpppkn.v2i1.135
- Waluyo, B. (2020). Sahnya Pernikahan Menurut UNDANG-UNDANG No 1 Tahun 1974 Tentang Pernikahan. *Jurnal Media Komunikasi Pendidikan Pancasila Dan Kewarganegaraan*, 2(1).
- Waluyo, B. (2020). Sahnya Pernikahan Menurut UNDANG-UNDANG No 1 Tahun 1974 Tentang Pernikahan. *Jurnal Media Komunikasi Pendidikan Pancasila Dan Kewarganegaraan*, 2(1).